

By: Miller

H.B. No. 2731

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for certain trafficking and prostitution offenses and to certain other consequences of those offenses; changing eligibility for community supervision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 42A.054(a), Code of Criminal Procedure, is amended to read as follows:

(a) Article 42A.053 does not apply to a defendant adjudged guilty of an offense under:

(1) Section 15.03, Penal Code, if the offense is punishable as a felony of the first degree;

(2) Section 19.02, Penal Code (Murder);

(3) Section 19.03, Penal Code (Capital Murder);

(4) Section 20.04, Penal Code (Aggravated Kidnapping);

(5) Section 20A.02, Penal Code (Trafficking of Persons);

(6) Section 21.11(a)(1), Penal Code (Indecency with a Child);

(7) Section 22.011, Penal Code (Sexual Assault);

(8) Section 22.021, Penal Code (Aggravated Sexual Assault);

(9) Section 22.04(a)(1), Penal Code (Injury to a

Child, Elderly Individual, or Disabled Individual), if:

(A) the offense is punishable as a felony of the first degree; and

(B) the victim of the offense is a child;

(10) Section 29.03, Penal Code (Aggravated Robbery);

(11) Section 30.02, Penal Code (Burglary), if:

(A) the offense is punishable under Subsection (d) of that section; and

(B) the actor committed the offense with the intent to commit a felony under Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;

(12) Section 43.03, Penal Code (Promotion of Prostitution);

(13) Section 43.04, Penal Code (Aggravated Promotion of Prostitution);

(14) Section 43.05, Penal Code (Compelling Prostitution);

(15) [~~13~~] Section 43.25, Penal Code (Sexual Performance by a Child); or

(16) [~~14~~] Chapter 481, Health and Safety Code, for which punishment is increased under:

(A) Section 481.140 of that code (Use of Child in Commission of Offense); or

(B) Section 481.134(c), (d), (e), or (f) of that code (Drug-free Zones) if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections.

SECTION 2. Article 42A.056, Code of Criminal Procedure, is amended to read as follows:

Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY SUPERVISION. A defendant is not eligible for community supervision under Article 42A.055 if the defendant:

(1) is sentenced to a term of imprisonment that exceeds 10 years;

(2) is convicted of a state jail felony for which suspension of the imposition of the sentence occurs automatically under Article 42A.551;

(3) is adjudged guilty of an offense under Section 19.02, Penal Code;

(4) is convicted of an offense under Section 21.11(a)(1), 22.011, or 22.021, Penal Code, if the victim of the offense was younger than 14 years of age at the time the offense was committed;

(5) is convicted of an offense under Section 20.04, Penal Code, if:

(A) the victim of the offense was younger than 14 years of age at the time the offense was committed; and

(B) the actor committed the offense with the intent to violate or abuse the victim sexually;

(6) is convicted of an offense under Section 20A.02, 43.03, 43.04, 43.05, or 43.25, Penal Code; or

(7) is convicted of an offense for which punishment is increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously

convicted of an offense for which punishment was increased under any of those subsections.

SECTION 3. Article 62.001(5), Code of Criminal Procedure, is amended to read as follows:

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

(A) a violation of Section 21.02 (Continuous sexual abuse of young child or children), 21.09 (Bestiality), 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B) a violation of Section 43.03 (Promotion of prostitution), 43.04 (Aggravated promotion of prostitution), 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(B-1) a violation of Section 43.02 (Prostitution), Penal Code, if the offense is punishable under Subsection (c-1)(3) of that section;

(C) a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor committed the offense or engaged in the conduct with intent to violate or abuse the victim sexually;

(D) a violation of Section 30.02 (Burglary),

1 Penal Code, if the offense or conduct is punishable under  
2 Subsection (d) of that section and the actor committed the offense  
3 or engaged in the conduct with intent to commit a felony listed in  
4 Paragraph (A) or (C);

5 (E) a violation of Section 20.02 (Unlawful  
6 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),  
7 Penal Code, if, as applicable:

8 (i) the judgment in the case contains an  
9 affirmative finding under Article 42.015; or

10 (ii) the order in the hearing or the papers  
11 in the case contain an affirmative finding that the victim or  
12 intended victim was younger than 17 years of age;

13 (F) the second violation of Section 21.08  
14 (Indecent exposure), Penal Code, but not if the second violation  
15 results in a deferred adjudication;

16 (G) an attempt, conspiracy, or solicitation, as  
17 defined by Chapter 15, Penal Code, to commit an offense or engage in  
18 conduct listed in Paragraph (A), (B), (C), (D), (E), (K), or (L);

19 (H) a violation of the laws of another state,  
20 federal law, the laws of a foreign country, or the Uniform Code of  
21 Military Justice for or based on the violation of an offense  
22 containing elements that are substantially similar to the elements  
23 of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E),  
24 (G), (J), (K), or (L), but not if the violation results in a  
25 deferred adjudication;

26 (I) the second violation of the laws of another  
27 state, federal law, the laws of a foreign country, or the Uniform

Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication;

(J) a violation of Section 33.021 (Online solicitation of a minor), Penal Code;

(K) a violation of Section 20A.02(a)(3), (4), (7), or (8) (Trafficking of persons), Penal Code; or

(L) a violation of Section 20A.03 (Continuous trafficking of persons), Penal Code, if the offense is based partly or wholly on conduct that constitutes an offense under Section 20A.02(a)(3), (4), (7), or (8) of that code.

SECTION 4. Section 773.0614(c), Health and Safety Code, is amended to read as follows:

(c) A certificate holder's certificate shall be revoked if the certificate holder has been convicted of or placed on deferred adjudication community supervision or deferred disposition for:

(1) an offense listed in Article 42A.054(a)(2), (3), (4), (6), (7), (8), (10), or (16) [~~(14)~~], Code of Criminal Procedure; or

(2) an offense, other than an offense described by Subdivision (1), committed on or after September 1, 2009, for which the person is subject to registration under Chapter 62, Code of Criminal Procedure.

SECTION 5. Section 773.06141(a), Health and Safety Code, is amended to read as follows:

(a) The department may suspend, revoke, or deny an emergency

1 medical services provider license on the grounds that the  
2 provider's administrator of record, employee, or other  
3 representative:

4 (1) has been convicted of, or placed on deferred  
5 adjudication community supervision or deferred disposition for, an  
6 offense that directly relates to the duties and responsibilities of  
7 the administrator, employee, or representative, other than an  
8 offense for which points are assigned under Section 708.052,  
9 Transportation Code;

10 (2) has been convicted of or placed on deferred  
11 adjudication community supervision or deferred disposition for an  
12 offense, including:

13 (A) an offense listed in Article 42A.054(a)(2),  
14 (3), (4), (6), (7), (8), (10), or (16) [~~(14)~~], Code of Criminal  
15 Procedure; or

16 (B) an offense, other than an offense described  
17 by Subdivision (1), for which the person is subject to registration  
18 under Chapter 62, Code of Criminal Procedure; or

19 (3) has been convicted of Medicare or Medicaid fraud,  
20 has been excluded from participation in the state Medicaid program,  
21 or has a hold on payment for reimbursement under the state Medicaid  
22 program under Subchapter C, Chapter 531, Government Code.

23 SECTION 6. Section 20A.02(a-1), Penal Code, is amended to  
24 read as follows:

25 (a-1) For purposes of Subsection (a)(3), "coercion" as  
26 defined by Section 1.07 includes:

27 (1) destroying, concealing, confiscating, or

1 withholding from a ~~[the]~~ trafficked person, or threatening to  
2 destroy, conceal, confiscate, or withhold from a ~~[the]~~ trafficked  
3 person, the ~~[trafficked]~~ person's actual or purported:

4 (A) ~~[(1)]~~ government records; or

5 (B) ~~[(2)]~~ identifying information or documents;

6 (2) causing a trafficked person, without the person's  
7 consent, to become intoxicated, as defined by Section 49.01, to a  
8 degree that impairs the person's ability to appraise the nature of  
9 the prohibited conduct or to resist engaging in that conduct; or

10 (3) withholding alcohol or a controlled substance to a  
11 degree that impairs the ability of a trafficked person with a  
12 chemical dependency, as defined by Section 462.001, Health and  
13 Safety Code, to appraise the nature of the prohibited conduct or to  
14 resist engaging in that conduct.

15 SECTION 7. Section 43.05, Penal Code, is amended by  
16 amending Subsection (a) and adding Subsection (d) to read as  
17 follows:

18 (a) A person commits an offense if the person knowingly:

19 (1) causes another by force, threat, coercion, or  
20 fraud to commit prostitution; or

21 (2) causes by any means a child younger than 18 years  
22 to commit prostitution, regardless of whether the actor knows the  
23 age of the child at the time of the offense.

24 (d) For purposes of this section, "coercion" as defined by  
25 Section 1.07 includes:

26 (1) destroying, concealing, confiscating, or  
27 withholding from a person, or threatening to destroy, conceal,



1 confiscate, or withhold from a person, the person's actual or  
2 purported:

3 (A) government records; or

4 (B) identifying information or documents;

5 (2) causing a person, without the person's consent, to  
6 become intoxicated, as defined by Section 49.01, to a degree that  
7 impairs the person's ability to appraise the nature of the person's  
8 conduct that constitutes prostitution or to resist engaging in that  
9 conduct; or

10 (3) withholding alcohol or a controlled substance to a  
11 degree that impairs the ability of a person with a chemical  
12 dependency, as defined by Section 462.001, Health and Safety Code,  
13 to appraise the nature of the person's conduct that constitutes  
14 prostitution or to resist engaging in that conduct.

15 SECTION 8. (a) The change in law made by this Act to Article  
16 62.001(5), Code of Criminal Procedure, applies only to a person who  
17 is required to register under Chapter 62, Code of Criminal  
18 Procedure, on the basis of a conviction or adjudication for or based  
19 on an offense committed on or after the effective date of this Act.  
20 A person who is required to register under Chapter 62, Code of  
21 Criminal Procedure, solely on the basis of a conviction or  
22 adjudication for or based on an offense committed before the  
23 effective date of this Act is governed by the law in effect on the  
24 date the offense was committed, and the former law is continued in  
25 effect for that purpose.

26 (b) The changes in law made by this Act to Articles 42A.054  
27 and 42A.056, Code of Criminal Procedure, and Sections 20A.02 and

1 43.05, Penal Code, apply only to an offense committed on or after  
2 the effective date of this Act. An offense committed before the  
3 effective date of this Act is governed by the law in effect on the  
4 date the offense was committed, and the former law is continued in  
5 effect for that purpose.

6 (c) For purposes of this section, an offense was committed  
7 before the effective date of this Act if any element of the offense  
8 occurred before that date.

9 SECTION 9. This Act takes effect September 1, 2019.