

By: Menéndez

S.B. No. 2403

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the criminal offense of aggravated kidnapping.

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

SECTION 1. Section 20.04(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if the actor ~~[he]~~ intentionally or knowingly abducts another person with the intent to:

- (1) hold the person ~~[him]~~ for ransom or reward;
- (2) use the person ~~[him]~~ as a shield or hostage;
- (3) facilitate the commission of a felony or the flight after the attempt or commission of a felony;
- (4) inflict bodily injury on the person ~~[him or violate or abuse him sexually]~~;
- (5) terrorize the person ~~[him]~~ or a third person; ~~[or]~~
- (6) interfere with the performance of any governmental or political function; or
- (7) violate or abuse the person sexually.

SECTION 2. Article 12.01, Code of Criminal Procedure, is amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

- 1 (1) no limitation:
- 2 (A) murder and manslaughter;
- 3 (B) sexual assault under Section 22.011(a)(2),
- 4 Penal Code, or aggravated sexual assault under Section
- 5 22.021(a)(1)(B), Penal Code;
- 6 (C) sexual assault, if:
- 7 (i) during the investigation of the offense
- 8 biological matter is collected and subjected to forensic DNA
- 9 testing and the testing results show that the matter does not match
- 10 the victim or any other person whose identity is readily
- 11 ascertained; or
- 12 (ii) probable cause exists to believe that
- 13 the defendant has committed the same or a similar sexual offense
- 14 against five or more victims;
- 15 (D) continuous sexual abuse of young child or
- 16 children under Section 21.02, Penal Code;
- 17 (E) indecency with a child under Section 21.11,
- 18 Penal Code;
- 19 (F) an offense involving leaving the scene of an
- 20 accident under Section 550.021, Transportation Code, if the
- 21 accident resulted in the death of a person;
- 22 (G) trafficking of persons under Section
- 23 20A.02(a)(7) or (8), Penal Code;
- 24 (H) continuous trafficking of persons under
- 25 Section 20A.03, Penal Code; or
- 26 (I) compelling prostitution under Section
- 27 43.05(a)(2), Penal Code;

1 (2) ten years from the date of the commission of the
2 offense:

3 (A) theft of any estate, real, personal or mixed,
4 by an executor, administrator, guardian or trustee, with intent to
5 defraud any creditor, heir, legatee, ward, distributee,
6 beneficiary or settlor of a trust interested in such estate;

7 (B) theft by a public servant of government
8 property over which he exercises control in his official capacity;

9 (C) forgery or the uttering, using or passing of
10 forged instruments;

11 (D) injury to an elderly or disabled individual
12 punishable as a felony of the first degree under Section 22.04,
13 Penal Code;

14 (E) sexual assault, except as provided by
15 Subdivision (1);

16 (F) arson;

17 (G) trafficking of persons under Section
18 20A.02(a)(1), (2), (3), or (4), Penal Code; or

19 (H) compelling prostitution under Section
20 43.05(a)(1), Penal Code;

21 (3) seven years from the date of the commission of the
22 offense:

23 (A) misapplication of fiduciary property or
24 property of a financial institution;

25 (B) securing execution of document by deception;

26 (C) a felony violation under Chapter 162, Tax
27 Code;

1 (D) false statement to obtain property or credit
2 under Section 32.32, Penal Code;

3 (E) money laundering;

4 (F) credit card or debit card abuse under Section
5 32.31, Penal Code;

6 (G) fraudulent use or possession of identifying
7 information under Section 32.51, Penal Code;

8 (H) exploitation of a child, elderly individual,
9 or disabled individual under Section 32.53, Penal Code;

10 (I) Medicaid fraud under Section 35A.02, Penal
11 Code; or

12 (J) bigamy under Section 25.01, Penal Code,
13 except as provided by Subdivision (6);

14 (4) five years from the date of the commission of the
15 offense:

16 (A) theft or robbery;

17 (B) except as provided by Subdivision (5),
18 kidnapping or burglary;

19 (C) injury to an elderly or disabled individual
20 that is not punishable as a felony of the first degree under Section
21 22.04, Penal Code;

22 (D) abandoning or endangering a child; or

23 (E) insurance fraud;

24 (5) if the investigation of the offense shows that the
25 victim is younger than 17 years of age at the time the offense is
26 committed, 20 years from the 18th birthday of the victim of one of
27 the following offenses:

1 (A) sexual performance by a child under Section
2 [43.25](#), Penal Code;

3 (B) aggravated kidnapping under Section
4 [20.04\(a\)\(7\)](#) [~~[20.04\(a\)\(4\)](#)~~], Penal Code [~~, if the defendant committed~~
5 ~~the offense with the intent to violate or abuse the victim~~
6 ~~sexually~~]; or

7 (C) burglary under Section [30.02](#), Penal Code, if
8 the offense is punishable under Subsection (d) of that section and
9 the defendant committed the offense with the intent to commit an
10 offense described by Subdivision (1)(B) or (D) of this article or
11 Paragraph (B) of this subdivision;

12 (6) ten years from the 18th birthday of the victim of
13 the offense:

14 (A) trafficking of persons under Section
15 [20A.02\(a\)\(5\)](#) or (6), Penal Code;

16 (B) injury to a child under Section [22.04](#), Penal
17 Code; or

18 (C) bigamy under Section [25.01](#), Penal Code, if
19 the investigation of the offense shows that the person, other than
20 the legal spouse of the defendant, whom the defendant marries or
21 purports to marry or with whom the defendant lives under the
22 appearance of being married is younger than 18 years of age at the
23 time the offense is committed; or

24 (7) three years from the date of the commission of the
25 offense: all other felonies.

26 SECTION 3. Article [42A.056](#), Code of Criminal Procedure, is
27 amended to read as follows:

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

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

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

9 (3) is adjudged guilty of an offense under Section
10 19.02, Penal Code;

11 (4) is convicted of an offense under Section
12 21.11(a)(1), 22.011, or 22.021, Penal Code, if the victim of the
13 offense was younger than 14 years of age at the time the offense was
14 committed;

15 (5) is convicted of an offense under Section
16 20.04(a)(7) [~~20.04~~], Penal Code, if [~~+~~

17 [~~(A)~~] the victim of the offense was younger than
18 14 years of age at the time the offense was committed [~~+~~ and

19 [~~(B) the actor committed the offense with the~~
20 ~~intent to violate or abuse the victim sexually~~];

21 (6) is convicted of an offense under Section 20A.02,
22 43.05, or 43.25, Penal Code; or

23 (7) is convicted of an offense for which punishment is
24 increased under Section 481.134(c), (d), (e), or (f), Health and
25 Safety Code, if it is shown that the defendant has been previously
26 convicted of an offense for which punishment was increased under
27 any of those subsections.

1 SECTION 4. Article 42A.251(2), Code of Criminal Procedure,
2 is amended to read as follows:

3 (2) "Sex offender" means a person who has been
4 convicted of, or has entered a plea of guilty or nolo contendere
5 for, an offense under any one of the following provisions of the
6 Penal Code:

7 (A) Section 20.04(a)(7) [~~20.04(a)(4)~~]
8 (Aggravated Kidnapping) [~~, if the person committed the offense with~~
9 ~~the intent to violate or abuse the victim sexually]~~;

10 (B) Section 21.08 (Indecent Exposure);

11 (C) Section 21.11 (Indecency with a Child);

12 (D) Section 22.011 (Sexual Assault);

13 (E) Section 22.021 (Aggravated Sexual Assault);

14 (F) Section 25.02 (Prohibited Sexual Conduct);

15 (G) Section 30.02 (Burglary), if:

16 (i) the offense is punishable under
17 Subsection (d) of that section; and

18 (ii) the person committed the offense with
19 the intent to commit a felony listed in this subdivision;

20 (H) Section 43.25 (Sexual Performance by a
21 Child); or

22 (I) Section 43.26 (Possession or Promotion of
23 Child Pornography).

24 SECTION 5. Article 42A.453(b), Code of Criminal Procedure,
25 is amended to read as follows:

26 (b) This article applies to a defendant placed on community
27 supervision for an offense under:

1 (1) Section 20.04(a)(7) [~~20.04(a)(4)~~], Penal Code [~~7~~
2 ~~if the defendant committed the offense with the intent to violate or~~
3 ~~abuse the victim sexually~~];

4 (2) Section 20A.02, Penal Code, if the defendant:

5 (A) trafficked the victim with the intent or
6 knowledge that the victim would engage in sexual conduct, as
7 defined by Section 43.25, Penal Code; or

8 (B) benefited from participating in a venture
9 that involved a trafficked victim engaging in sexual conduct, as
10 defined by Section 43.25, Penal Code;

11 (3) Section 21.08, 21.11, 22.011, 22.021, or 25.02,
12 Penal Code;

13 (4) Section 30.02, Penal Code, punishable under
14 Subsection (d) of that section, if the defendant committed the
15 offense with the intent to commit a felony listed in Subdivision (1)
16 or (3); or

17 (5) Section 43.05(a)(2), 43.25, or 43.26, Penal Code.

18 SECTION 6. Articles 62.001(5) and (6), Code of Criminal
19 Procedure, are amended to read as follows:

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

25 (A) a violation of Section 21.02 (Continuous
26 sexual abuse of young child or children), 21.09 (Bestiality), 21.11
27 (Indecency with a child), 22.011 (Sexual assault), 22.021

1 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct),
2 Penal Code;

3 (B) a violation of Section 43.05 (Compelling
4 prostitution), 43.25 (Sexual performance by a child), or 43.26
5 (Possession or promotion of child pornography), Penal Code;

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

9 (C) a violation of Section 20.04(a)(7)
10 [~~20.04(a)(4)~~] (Aggravated kidnapping), Penal Code[~~, if the actor~~
11 ~~committed the offense or engaged in the conduct with intent to~~
12 ~~violate or abuse the victim sexually~~];

13 (D) a violation of Section 30.02 (Burglary),
14 Penal Code, if the offense or conduct is punishable under
15 Subsection (d) of that section and the actor committed the offense
16 or engaged in the conduct with intent to commit a felony listed in
17 Paragraph (A) or (C);

18 (E) a violation of Section 20.02 (Unlawful
19 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),
20 Penal Code, if, as applicable:

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

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

26 (F) the second violation of Section 21.08
27 (Indecent exposure), Penal Code, but not if the second violation

1 results in a deferred adjudication;

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

5 (H) a violation of the laws of another state,
6 federal law, the laws of a foreign country, or the Uniform Code of
7 Military Justice for or based on the violation of an offense
8 containing elements that are substantially similar to the elements
9 of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E),
10 (G), (J), (K), or (L), but not if the violation results in a
11 deferred adjudication;

12 (I) the second violation of the laws of another
13 state, federal law, the laws of a foreign country, or the Uniform
14 Code of Military Justice for or based on the violation of an offense
15 containing elements that are substantially similar to the elements
16 of the offense of indecent exposure, but not if the second violation
17 results in a deferred adjudication;

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

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

22 (L) a violation of Section 20A.03 (Continuous
23 trafficking of persons), Penal Code, if the offense is based partly
24 or wholly on conduct that constitutes an offense under Section
25 20A.02(a)(3), (4), (7), or (8) of that code.

26 (6) "Sexually violent offense" means any of the
27 following offenses committed by a person 17 years of age or older:

1 (A) an offense under Section 21.02 (Continuous
2 sexual abuse of young child or children), 21.11(a)(1) (Indecency
3 with a child), 22.011 (Sexual assault), or 22.021 (Aggravated
4 sexual assault), Penal Code;

5 (B) an offense under Section 43.25 (Sexual
6 performance by a child), Penal Code;

7 (C) an offense under Section 20.04(a)(7)
8 [~~20.04(a)(4)~~] (Aggravated kidnapping), Penal Code [~~, if the~~
9 ~~defendant committed the offense with intent to violate or abuse the~~
10 ~~victim sexually~~];

11 (D) an offense under Section 30.02 (Burglary),
12 Penal Code, if the offense is punishable under Subsection (d) of
13 that section and the defendant committed the offense with intent to
14 commit a felony listed in Paragraph (A) or (C) of Subdivision (5);
15 or

16 (E) an offense under the laws of another state,
17 federal law, the laws of a foreign country, or the Uniform Code of
18 Military Justice if the offense contains elements that are
19 substantially similar to the elements of an offense listed under
20 Paragraph (A), (B), (C), or (D).

21 SECTION 7. Article 66.102(h), Code of Criminal Procedure,
22 is amended to read as follows:

23 (h) In addition to the information described by this
24 article, information in the computerized criminal history system
25 must include the age of the victim of the offense if the offender
26 was arrested for or charged with an offense under the following
27 provisions of the Penal Code:

1 (1) Section 20.04(a)(7) [~~20.04(a)(4)~~] (Aggravated
2 Kidnapping) [~~, if the offender committed the offense with the intent~~
3 ~~to violate or abuse the victim sexually~~];

4 (2) Section 20A.02 (Trafficking of Persons), if the
5 offender:

6 (A) trafficked a person with the intent or
7 knowledge that the person would engage in sexual conduct, as
8 defined by Section 43.25, Penal Code; or

9 (B) benefited from participating in a venture
10 that involved a trafficked person engaging in sexual conduct, as
11 defined by Section 43.25, Penal Code;

12 (3) Section 21.02 (Continuous Sexual Abuse of Young
13 Child or Children);

14 (4) Section 21.11 (Indecency with a Child);

15 (5) Section 22.011 (Sexual Assault) or 22.021
16 (Aggravated Sexual Assault);

17 (6) Section 30.02 (Burglary), if the offense is
18 punishable under Subsection (d) of that section and the offender
19 committed the offense with the intent to commit an offense
20 described by Subdivision (1), (4), or (5);

21 (7) Section 43.05(a)(2) (Compelling Prostitution); or

22 (8) Section 43.25 (Sexual Performance by a Child).

23 SECTION 8. Section 411.1471(a), Government Code, is amended
24 to read as follows:

25 (a) This section applies to a defendant who is:

26 (1) indicted or waives indictment for a felony
27 prohibited or punishable under any of the following Penal Code

1 sections:

- 2 (A) Section 20.04(a)(4) or (7);
- 3 (B) Section 21.11;
- 4 (C) Section 22.011;
- 5 (D) Section 22.021;
- 6 (E) Section 25.02;
- 7 (F) Section 30.02(d);
- 8 (G) Section 43.05;
- 9 (H) Section 43.25;
- 10 (I) Section 43.26;
- 11 (J) Section 21.02; or
- 12 (K) Section 20A.03;

13 (2) arrested for a felony described by Subdivision (1)
14 after having been previously convicted of or placed on deferred
15 adjudication for an offense described by Subdivision (1) or an
16 offense punishable under Section 30.02(c)(2), Penal Code; or

17 (3) convicted of an offense:

18 (A) under Title 5, Penal Code, other than an
19 offense described by Subdivision (1), that is punishable as a Class
20 A misdemeanor or any higher category of offense, except for an
21 offense punishable as a Class A misdemeanor under Section 20.02,
22 22.01, or 22.05, Penal Code; or

23 (B) under Section 21.08, 25.04, 43.02(b), 43.03,
24 or 43.24, Penal Code.

25 SECTION 9. Section 508.187(a), Government Code, is amended
26 to read as follows:

27 (a) This section applies only to a releasee serving a

1 sentence for an offense under:

2 (1) Section 43.25 or 43.26, Penal Code;

3 (2) Section 21.02, 21.11, 22.011, 22.021, or 25.02,
4 Penal Code;

5 (3) Section 20.04(a)(7) [~~20.04(a)(4)~~], Penal Code [~~7~~
6 ~~if the releasee committed the offense with the intent to violate or~~
7 ~~abuse the victim sexually~~];

8 (4) Section 30.02, Penal Code, punishable under
9 Subsection (d) of that section, if the releasee committed the
10 offense with the intent to commit a felony listed in Subdivision (2)
11 or (3);

12 (5) Section 43.05(a)(2), Penal Code; or

13 (6) Section 20A.02, Penal Code, if the defendant:

14 (A) trafficked the victim with the intent or
15 knowledge that the victim would engage in sexual conduct, as
16 defined by Section 43.25, Penal Code; or

17 (B) benefited from participating in a venture
18 that involved a trafficked victim engaging in sexual conduct, as
19 defined by Section 43.25, Penal Code.

20 SECTION 10. Section 841.002(8), Health and Safety Code, is
21 amended to read as follows:

22 (8) "Sexually violent offense" means:

23 (A) an offense under Section 21.02, 21.11(a)(1),
24 22.011, or 22.021, Penal Code;

25 (B) an offense under Section 20.04(a)(7)
26 [~~20.04(a)(4)~~], Penal Code [~~7~~
27 ~~if the person committed the offense~~
~~with the intent to violate or abuse the victim sexually~~];

1 (C) an offense under Section 30.02, Penal Code,
2 if the offense is punishable under Subsection (d) of that section
3 and the person committed the offense with the intent to commit an
4 offense listed in Paragraph (A) or (B);

5 (D) an offense under Section 19.02 or 19.03,
6 Penal Code, that, during the guilt or innocence phase or the
7 punishment phase for the offense, during the adjudication or
8 disposition of delinquent conduct constituting the offense, or
9 subsequently during a civil commitment proceeding under Subchapter
10 D, is determined beyond a reasonable doubt to have been based on
11 sexually motivated conduct;

12 (E) an attempt, conspiracy, or solicitation, as
13 defined by Chapter 15, Penal Code, to commit an offense listed in
14 Paragraph (A), (B), (C), or (D);

15 (F) an offense under prior state law that
16 contains elements substantially similar to the elements of an
17 offense listed in Paragraph (A), (B), (C), (D), or (E); or

18 (G) an offense under the law of another state,
19 federal law, or the Uniform Code of Military Justice that contains
20 elements substantially similar to the elements of an offense listed
21 in Paragraph (A), (B), (C), (D), or (E).

22 SECTION 11. Section 12.42(c)(2), Penal Code, is amended to
23 read as follows:

24 (2) Notwithstanding Subdivision (1), a defendant
25 shall be punished by imprisonment in the Texas Department of
26 Criminal Justice for life if:

27 (A) the defendant is convicted of an offense:

1 (i) under Section 20A.02(a)(7) or (8),
2 21.11(a)(1), 22.021, or 22.011 [~~Penal Code~~];

3 (ii) under Section 20.04(a)(7)
4 [~~20.04(a)(4), Penal Code, if the defendant committed the offense~~
5 ~~with the intent to violate or abuse the victim sexually~~]; or

6 (iii) under Section 30.02, [~~Penal Code~~],
7 punishable under Subsection (d) of that section, if the defendant
8 committed the offense with the intent to commit a felony described
9 by Subparagraph (i) or (ii) or a felony under Section 21.11 [~~Penal~~
10 ~~Code~~]; and

11 (B) the defendant has been previously convicted
12 of an offense:

13 (i) under Section 43.25 or 43.26 [~~Penal~~
14 ~~Code~~], or [~~an offense~~] under Section 43.23 if [~~Penal Code~~],
15 punishable under Subsection (h) of that section;

16 (ii) under Section 20A.02(a)(7) or (8),
17 21.02, 21.11, 22.011, 22.021, or 25.02 [~~Penal Code~~];

18 (iii) under Section 20.04(a)(7)
19 [~~20.04(a)(4), Penal Code, if the defendant committed the offense~~
20 ~~with the intent to violate or abuse the victim sexually~~];

21 (iv) under Section 30.02, [~~Penal Code~~],
22 punishable under Subsection (d) of that section, if the defendant
23 committed the offense with the intent to commit a felony described
24 by Subparagraph (ii) or (iii); or

25 (v) under the laws of another state
26 containing elements that are substantially similar to the elements
27 of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

1 SECTION 12. Section 21.02(c), Penal Code, is amended to
2 read as follows:

3 (c) For purposes of this section, "act of sexual abuse"
4 means any act that is a violation of one or more of the following
5 penal laws:

6 (1) aggravated kidnapping under Section 20.04(a)(7)
7 [~~20.04(a)(4), if the actor committed the offense with the intent to~~
8 ~~violate or abuse the victim sexually~~];

9 (2) indecency with a child under Section 21.11(a)(1),
10 if the actor committed the offense in a manner other than by
11 touching, including touching through clothing, the breast of a
12 child;

13 (3) sexual assault under Section 22.011;

14 (4) aggravated sexual assault under Section 22.021;

15 (5) burglary under Section 30.02, if the offense is
16 punishable under Subsection (d) of that section and the actor
17 committed the offense with the intent to commit an offense listed in
18 Subdivisions (1)-(4);

19 (6) sexual performance by a child under Section 43.25;

20 (7) trafficking of persons under Section 20A.02(a)(7)
21 or (8); and

22 (8) compelling prostitution under Section
23 43.05(a)(2).

24 SECTION 13. The change in law made by this Act applies only
25 to an offense committed on or after the effective date of this Act.
26 An offense committed before the effective date of this Act is
27 governed by the law in effect on the date the offense was committed,

1 and the former law is continued in effect for that purpose. For
2 purposes of this section, an offense was committed before the
3 effective date of this Act if any element of the offense occurred
4 before that date.

5 SECTION 14. This Act takes effect September 1, 2019.