87R7729 JSC-D

By:  Crockett H.B. No. 2568

A BILL TO BE ENTITLED

AN ACT

relating to the manufacture, delivery, and possession of certain tetrahydrocannabinols under the Texas Controlled Substances Act.

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

SECTION 1.  Sections 481.002(5) and (6), Health and Safety Code, are amended to read as follows:

(5)  "Controlled substance" means a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 2-B, 3, or 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance. The term does not include hemp, as defined by Section 121.001, Agriculture Code, or the tetrahydrocannabinols in hemp.

(6)  "Controlled substance analogue" means:

(A)  a substance with a chemical structure substantially similar to the chemical structure of a controlled substance in Schedule I or II or Penalty Group 1, 1-A, 2, [~~or~~] 2-A, or 2-B; or

(B)  a substance specifically designed to produce an effect substantially similar to, or greater than, the effect of a controlled substance in Schedule I or II or Penalty Group 1, 1-A, 2, [~~or~~] 2-A, or 2-B.

SECTION 2.  Section 481.103(a), Health and Safety Code, is amended to read as follows:

(a)  Penalty Group 2 consists of:

(1)  any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

5-(2-aminopropyl)benzofuran (5-APB);

6-(2-aminopropyl)benzofuran (6-APB);

5-(2-aminopropyl)-2,3-dihydrobenzofuran (5-APDB);

6-(2-aminopropyl)-2,3-dihydrobenzofuran (6-APDB);

5-(2-aminopropyl)indole (5-IT,5-API);

6-(2-aminopropyl)indole (6-IT,6-API);

1-(benzofuran-5-yl)-N-methylpropan-2-amine (5-MAPB);

1-(benzofuran-6-yl)-N-methylpropan-2-amine (6-MAPB);

Benzothiophenylcyclohexylpiperidine (BTCP);

8-bromo-alpha-methyl-benzo[1,2-b:4,5-b']difuran- 4-ethanamine (trade or other name: Bromo-DragonFLY);

Desoxypipradrol (2-benzhydrylpiperidine);

2, 5-dimethoxyamphetamine (some trade or other names:  2, 5-dimethoxy-alpha-methylphenethylamine; 2, 5-DMA);

Diphenylprolinol (diphenyl(pyrrolidin-2-yl) methanol, D2PM);

Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product (some trade or other names for Dronabinol:  (a6aR-trans)-6a,7,8,10a-tetrahydro- 6,6, 9- trimethyl-3-pentyl-6H- dibenzo [b,d]pyran-1-ol or (-)-delta-9- (trans)- tetrahydrocannabinol);

Ethylamine Analog of Phencyclidine (some trade or other names:  N-ethyl-1-phenylcyclohexylamine, (1- phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

2-ethylamino-2-(3-methoxyphenyl)cyclohexanone (trade or other name: methoxetamine);

Ibogaine (some trade or other names:  7-Ethyl-6, 6, beta 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H- pyrido [1', 2':1, 2] azepino [5, 4-b] indole; tabernanthe iboga.);

5-iodo-2-aminoindane (5-IAI);

Mescaline;

5-methoxy-3, 4-methylenedioxy amphetamine;

4-methoxyamphetamine (some trade or other names:  4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);

4-methoxymethamphetamine (PMMA);

2-(2-methoxyphenyl)-2-(methylamino)cyclohexanone (some trade and other names: 2-MeO-ketamine; methoxyketamine);

1-methyl- 4-phenyl-4-propionoxypiperidine (MPPP, PPMP);

4-methyl-2, 5-dimethoxyamphetamine (some trade and other names:  4-methyl-2, 5-dimethoxy-alpha- methylphenethylamine; "DOM"; "STP");

3,4-methylenedioxy methamphetamine (MDMA, MDM);

3,4-methylenedioxy amphetamine;

3,4-methylenedioxy N-ethylamphetamine (Also known as N-ethyl MDA);

5,6-methylenedioxy-2-aminoindane (MDAI);

Nabilone (Another name for nabilone:  (+)-trans- 3-(1,1-dimethylheptyl)- 6,6a, 7,8,10,10a-hexahydro-1-hydroxy- 6, 6-dimethyl-9H-dibenzo[b,d] pyran-9-one;

N-benzylpiperazine (some trade or other names:  BZP; 1-benzylpiperazine);

N-ethyl-3-piperidyl benzilate;

N-hydroxy-3,4-methylenedioxyamphetamine (Also known as N-hydroxy MDA);

4-methylaminorex;

N-methyl-3-piperidyl benzilate;

Parahexyl (some trade or other names:  3-Hexyl-1- hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo [b, d] pyran; Synhexyl);

1-Phenylcyclohexylamine;

1-Piperidinocyclohexanecarbonitrile (PCC);

Pyrrolidine Analog of Phencyclidine (some trade or other names:  1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP);

[~~Tetrahydrocannabinols, other than marihuana, and synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as:~~

[~~delta-1 cis or trans tetrahydrocannabinol, and their optical isomers;~~

[~~delta-6 cis or trans tetrahydrocannabinol, and their optical isomers;~~

[~~delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers; or~~

[~~compounds of these structures, regardless of numerical designation of atomic positions, since nomenclature of these substances is not internationally standardized;~~]

Thiophene Analog of Phencyclidine (some trade or other names:  1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl Analog of Phencyclidine; TPCP, TCP);

1-pyrrolidine (some trade or other name:  TCPy);

1-(3-trifluoromethylphenyl)piperazine (trade or other name:  TFMPP); and

3,4,5-trimethoxy amphetamine;

(2)  Phenylacetone (some trade or other names:  Phenyl-2-propanone; P2P, Benzymethyl ketone, methyl benzyl ketone);

(3)  unless specifically excepted or unless listed in another Penalty Group, a material, compound, mixture, or preparation that contains any quantity of the following substances having a potential for abuse associated with a depressant or stimulant effect on the central nervous system:

Aminorex (some trade or other names:  aminoxaphen; 2-amino-5-phenyl-2-oxazoline; 4,5-dihydro-5- phenyl-2-oxazolamine);

Amphetamine, its salts, optical isomers, and salts of optical isomers;

Cathinone (some trade or other names:  2-amino-1- phenyl-1-propanone, alpha-aminopropiophenone, 2- aminopropiophenone);

Etaqualone and its salts;

Etorphine Hydrochloride;

Fenethylline and its salts;

Lisdexamfetamine, including its salts, isomers, and salts of isomers;

Mecloqualone and its salts;

Methaqualone and its salts;

Methcathinone (some trade or other names:  2- methylamino-propiophenone; alpha-(methylamino)propriophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N- methylaminopropriophenone; monomethylpropion; ephedrone, N- methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR 1431);

N-Ethylamphetamine, its salts, optical isomers, and salts of optical isomers; and

N,N-dimethylamphetamine (some trade or other names: N,N,alpha-trimethylbenzeneethanamine; N,N,alpha-trimethylphenethylamine), its salts, optical isomers, and salts of optical isomers;

(4)  any compound structurally derived from 2-aminopropanal by substitution at the 1-position with any monocyclic or fused-polycyclic ring system, including:

(A)  compounds further modified by:

(i)  substitution in the ring system to any extent (including alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents), whether or not further substituted in the ring system by other substituents;

(ii)  substitution at the 3-position with an alkyl substituent; or

(iii)  substitution at the 2-amino nitrogen atom with alkyl, benzyl, dialkyl, or methoxybenzyl groups, or inclusion of the 2-amino nitrogen atom in a cyclic structure; and

(B)  by example, compounds such as:

4-Methylmethcathinone (Also known as Mephedrone);

3,4-Dimethylmethcathinone (Also known as 3,4-DMMC);

3-Fluoromethcathinone (Also known as 3-FMC);

4-Fluoromethcathinone (Also known as Flephedrone);

3,4-Methylenedioxy-N-methylcathinone (Also known as Methylone);

3,4-Methylenedioxypyrovalerone (Also known as MDPV);

alpha-Pyrrolidinopentiophenone (Also known as alpha-PVP);

Naphthylpyrovalerone  (Also known as Naphyrone);

alpha-Methylamino-valerophenone (Also known as Pentedrone);

beta-Keto-N-methylbenzodioxolylpropylamine (Also known as Butylone);

beta-Keto-N-methylbenzodioxolylpentanamine (Also known as Pentylone);

beta-Keto-Ethylbenzodioxolylbutanamine (Also known as Eutylone); and

3,4-methylenedioxy-N-ethylcathinone (Also known as Ethylone);

(5)  any compound structurally derived from tryptamine (3-(2-aminoethyl)indole) or a ring-hydroxy tryptamine:

(A)  by modification in any of the following ways:

(i)  by substitution at the amine nitrogen atom of the sidechain to any extent with alkyl or alkenyl groups or by inclusion of the amine nitrogen atom of the side chain (and no other atoms of the side chain) in a cyclic structure;

(ii)  by substitution at the carbon atom adjacent to the nitrogen atom of the side chain (alpha-position) with an alkyl or alkenyl group;

(iii)  by substitution in the 6-membered ring to any extent with alkyl, alkoxy, haloalkyl, thioaklyl, alkylenedioxy, or halide substituents; or

(iv)  by substitution at the 2-position of the tryptamine ring system with an alkyl substituent; and

(B)  including:

(i)  ethers and esters of the controlled substances listed in this subdivision; and

(ii)  by example, compounds such as:

alpha-ethyltryptamine;

alpha-methyltryptamine;

Bufotenine (some trade and other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)- 5- indolol; N, N-dimethylserotonin; 5-hydroxy-N, N- dimethyltryptamine; mappine);

Diethyltryptamine (some trade and other names: N, N-Diethyltryptamine, DET);

Dimethyltryptamine (trade or other name: DMT);

5-methoxy-N, N-diisopropyltryptamine (5-MeO-DiPT);

O-Acetylpsilocin (Trade or other name: 4-Aco-DMT);

Psilocin; and

Psilocybin;

(6)  2,5-Dimethoxyphenethylamine and any compound structurally derived from 2,5-Dimethoxyphenethylamine by substitution at the 4-position of the phenyl ring to any extent (including alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents), including, by example, compounds such as:

4-Bromo-2,5-dimethoxyphenethylamine (trade or other name: 2C-B);

4-Chloro-2,5-dimethoxyphenethylamine (trade or other name: 2C-C);

2,5-Dimethoxy-4-methylphenethylamine (trade or other name: 2C-D);

4-Ethyl-2,5-dimethoxyphenethylamine (trade or other name: 2C-E);

4-Iodo-2,5-dimethoxyphenethylamine (trade or other name: 2C-I);

2,5-Dimethoxy-4-nitrophenethylamine (trade or other name: 2C-N);

2,5-Dimethoxy-4-(n)-propylphenethylamine (trade or other name: 2C-P);

4-Ethylthio-2,5-dimethoxyphenethylamine (trade or other name: 2C-T-2);

4-Isopropylthio-2,5-dimethoxyphenethylamine (trade or other name: 2C-T-4); and

2,5-Dimethoxy-4-(n)-propylthiophenethylamine (trade or other name:  2C-T-7); and

(7)  2,5-Dimethoxyamphetamine and any compound structurally derived from 2,5-Dimethoxyamphetamine by substitution at the 4-position of the phenyl ring to any extent (including alkyl, alkoxy, alkylenedioxy, haloalkyl, or halide substituents), including, by example, compounds such as:

4-Ethylthio-2,5-dimethoxyamphetamine (trade or other name: Aleph-2);

4-Isopropylthio-2,5-dimethoxyamphetamine (trade or other name: Aleph-4);

4-Bromo-2,5-dimethoxyamphetamine (trade or other name: DOB);

4-Chloro-2,5-dimethoxyamphetamine (trade or other name: DOC);

2,5-Dimethoxy-4-ethylamphetamine (trade or other name: DOET);

4-Iodo-2,5-dimethoxyamphetamine (trade or other name: DOI);

2,5-Dimethoxy-4-methylamphetamine (trade or other name: DOM);

2,5-Dimethoxy-4-nitroamphetamine (trade or other name: DON);

4-Isopropyl-2,5-dimethoxyamphetamine (trade or other name: DOIP); and

2,5-Dimethoxy-4-(n)-propylamphetamine (trade or other name: DOPR).

SECTION 3.  Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1032 to read as follows:

Sec. 481.1032.  PENALTY GROUP 2-B. (a) Penalty Group 2-B consists of any quantity of the following substances, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Tetrahydrocannabinols, other than marihuana, and synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as:

delta-1 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-6 cis or trans tetrahydrocannabinol, and their optical isomers;

delta-3, 4 cis or trans tetrahydrocannabinol, and its optical isomers; or

compounds of these structures, regardless of numerical designation of atomic positions, since nomenclature of these substances is not internationally standardized.

(b)  For the purposes of this section, the term "isomer" includes an optical, position, or geometric isomer.

SECTION 4.  Section 481.106, Health and Safety Code, is amended to read as follows:

Sec. 481.106.  CLASSIFICATION OF CONTROLLED SUBSTANCE ANALOGUE. For the purposes of the prosecution of an offense under this subchapter involving the manufacture, delivery, or possession of a controlled substance, Penalty Groups 1, 1-A, 2, [~~and~~] 2-A, and 2-B include a controlled substance analogue that:

(1)  has a chemical structure substantially similar to the chemical structure of a controlled substance listed in the applicable penalty group; or

(2)  is specifically designed to produce an effect substantially similar to, or greater than, a controlled substance listed in the applicable penalty group.

SECTION 5.  Section 481.111(c), Health and Safety Code, is amended to read as follows:

(c)  A person does not violate Section 481.113, 481.1132, 481.116, 481.1161, 481.1162, 481.121, or 481.125 if the person possesses or delivers tetrahydrocannabinols or their derivatives, or drug paraphernalia to be used to introduce tetrahydrocannabinols or their derivatives into the human body, for use in a federally approved therapeutic research program.

SECTION 6.  Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1132 to read as follows:

Sec. 481.1132.  OFFENSE: MANUFACTURE OR DELIVERY OF SUBSTANCE IN PENALTY GROUP 2-B. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly manufactures, delivers, or possesses with intent to deliver a controlled substance listed in Penalty Group 2-B.

(b)  An offense under Subsection (a) is a Class A misdemeanor if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, less than 50 grams.

(c)  An offense under Subsection (a) is a state jail felony of the second degree if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, 50 grams or more but less than 100 grams.

(d)  An offense under Subsection (a) is a felony of the third degree if the amount of the controlled substance to which the offense applies is, by aggregate weight, including adulterants or dilutants, 100 grams or more.

SECTION 7.  Subchapter D, Chapter 481, Health and Safety Code, is amended by adding Section 481.1162 to read as follows:

Sec. 481.1162.  POSSESSION OF SUBSTANCE IN PENALTY GROUP 2-B. (a) Except as authorized by this chapter, a person commits an offense if the person knowingly possesses a controlled substance listed in Penalty Group 2-B, unless the person obtained the substance directly from or under a valid prescription or order of a practitioner acting in the course of professional practice.

(b)  An offense under this section is:

(1)  a Class B misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 50 grams or less;

(2)  a Class A misdemeanor if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, 100 grams or less but more than 50 grams; and

(3)  a state jail felony if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, more than 100 grams.

SECTION 8.  Section 481.122(a), Health and Safety Code, is amended to read as follows:

(a)  A person commits an offense if the person knowingly delivers a controlled substance listed in Penalty Group 1, 1-A, 2, 2-A, 2-B, or 3 or knowingly delivers marihuana and the person delivers the controlled substance or marihuana to a person:

(1)  who is a child;

(2)  who is enrolled in a public or private primary or secondary school; or

(3)  who the actor knows or believes intends to deliver the controlled substance or marihuana to a person described by Subdivision (1) or (2).

SECTION 9.  Sections 481.134(b), (c), (d), (e), and (f), Health and Safety Code, are amended to read as follows:

(b)  An offense otherwise punishable as a state jail felony under Section 481.112, 481.1121, 481.113, 481.1132, 481.114, or 481.120 is punishable as a felony of the third degree, an offense otherwise punishable as a felony of the third degree is punishable as a felony of the second degree, and an offense otherwise punishable as a felony of the second degree under any of those sections is punishable as a felony of the first degree, if it is shown at the punishment phase of the trial of the offense that the offense was committed:

(1)  in, on, or within 1,000 feet of premises owned, rented, or leased by an institution of higher education [~~learning~~], the premises of a public or private youth center, or a playground; or

(2)  in, on, or within 300 feet of the premises of a public swimming pool or video arcade facility.

(c)  The minimum term of confinement or imprisonment for an offense otherwise punishable under Section 481.112(c), (d), (e), or (f), 481.1121(b)(2), (3), or (4), 481.113(c), (d), or (e), 481.1132(d), 481.114(c), (d), or (e), 481.115(c), (d), (e), or (f) [~~481.115(c)-(f)~~], 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e), 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or (6) is increased by five years and the maximum fine for the offense is doubled if it is shown on the trial of the offense that the offense was committed:

(1)  in, on, or within 1,000 feet of the premises of a school, the premises of a public or private youth center, or a playground; or

(2)  on a school bus.

(d)  An offense otherwise punishable under Section 481.112(b), 481.1121(b)(1), 481.113(b), 481.1132(c), 481.114(b), 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.1162(b)(3), 481.120(b)(3), or 481.121(b)(3) is a felony of the third degree if it is shown on the trial of the offense that the offense was committed:

(1)  in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, the premises of a public or private youth center, or a playground; or

(2)  on a school bus.

(e)  An offense otherwise punishable under Section 481.1132(b), 481.1162(b)(2), 481.117(b), 481.119(a), 481.120(b)(2), or 481.121(b)(2) is a state jail felony if it is shown on the trial of the offense that the offense was committed:

(1)  in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, the premises of a public or private youth center, or a playground; or

(2)  on a school bus.

(f)  An offense otherwise punishable under Section 481.1162(b)(1), 481.118(b), 481.119(b), 481.120(b)(1), or 481.121(b)(1) is a Class A misdemeanor if it is shown on the trial of the offense that the offense was committed:

(1)  in, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school or school board, the premises of a public or private youth center, or a playground; or

(2)  on a school bus.

SECTION 10.  Section 481.140(a), Health and Safety Code, is amended to read as follows:

(a)  If it is shown at the punishment phase of the trial of an offense otherwise punishable as a state jail felony, felony of the third degree, or felony of the second degree under Section 481.112, 481.1121, 481.113, 481.1132, 481.114, 481.120, or 481.122 that the defendant used or attempted to use a child younger than 18 years of age to commit or assist in the commission of the offense, the punishment is increased by one degree, unless the defendant used or threatened to use force against the child or another to gain the child's assistance, in which event the punishment for the offense is a felony of the first degree.

SECTION 11.  Section 481.141(b), Health and Safety Code, is amended to read as follows:

(b)  This section applies to an offense otherwise punishable as a state jail felony, felony of the third degree, or felony of the second degree under Section 481.112, 481.1121, 481.113, 481.1132, 481.114, or 481.122.

SECTION 12.  Article 14.06(d), Code of Criminal Procedure, is amended to read as follows:

(d)  Subsection (c) applies only to a person charged with committing an offense under:

(1)  Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(1-a) Section 481.1161, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(1-b) Section 481.1162, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(2)  Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(3)  Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(2) or (3) of that section;

(4)  Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;

(5)  Section 31.04, Penal Code, if the offense is punishable under Subsection (e)(2) of that section;

(6)  Section 38.114, Penal Code, if the offense is punishable as a Class B misdemeanor; or

(7)  Section 521.457, Transportation Code.

SECTION 13.  Article 42A.514(a), Code of Criminal Procedure, is amended to read as follows:

(a)  If a judge grants community supervision to a defendant younger than 18 years of age convicted of an alcohol-related offense under Section 106.02, 106.025, 106.04, 106.041, 106.05, or 106.07, Alcoholic Beverage Code, or Section 49.02, Penal Code, or an offense involving possession of a controlled substance or marihuana under Section 481.115, 481.1151, 481.116, 481.1161, 481.1162, 481.117, 481.118, or 481.121, Health and Safety Code, the judge may require the defendant as a condition of community supervision to attend, as appropriate:

(1)  an alcohol awareness program approved under Section 106.115, Alcoholic Beverage Code; or

(2)  a drug education program that is designed to educate persons on the dangers of drug abuse and is approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code.

SECTION 14.  Article 42A.551(a), Code of Criminal Procedure, is amended to read as follows:

(a)  Except as otherwise provided by Subsection (b) or (c), on conviction of a state jail felony under Section 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3), 481.1162(b)(3), 481.121(b)(3), or 481.129(g)(1), Health and Safety Code, that is punished under Section 12.35(a), Penal Code, the judge shall suspend the imposition of the sentence and place the defendant on community supervision.

SECTION 15.  Article 42A.555(a), Code of Criminal Procedure, is amended to read as follows:

(a)  A judge assessing punishment in a state jail felony case may impose as a condition of community supervision that a defendant submit at the beginning of the period of community supervision to a term of confinement in a state jail felony facility for a term of:

(1)  not less than 90 days or more than 180 days; or

(2)  not less than 90 days or more than one year, if the defendant is convicted of an offense punishable as a state jail felony under Section 481.112, 481.1121, 481.113, 481.1132, or 481.120, Health and Safety Code.

SECTION 16.  Section 53.03(h-1), Family Code, is amended to read as follows:

(h-1)  If the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision that violates Section 481.115, 481.1151, 481.116, 481.1161, 481.1162, 481.117, 481.118, or 481.121, Health and Safety Code, deferred prosecution under this section may include a condition that the child attend a drug education program that is designed to educate persons on the dangers of drug abuse and is approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code.

SECTION 17.  Section 54.047(a), Family Code, is amended to read as follows:

(a)  If the court or jury finds at an adjudication hearing for a child that the child engaged in delinquent conduct or conduct indicating a need for supervision that constitutes a violation of Section 481.115, 481.1151, 481.116, 481.1161, 481.1162, 481.117, 481.118, or 481.121, Health and Safety Code, the court may order that the child attend a drug education program that is designed to educate persons on the dangers of drug abuse and is approved by the Department of State Health Services in accordance with Section 521.374, Transportation Code.

SECTION 18.  Sections 551.003(11) and (12), Occupations Code, are amended to read as follows:

(11)  "Controlled substance" means a substance, including a drug:

(A)  listed in Schedule I, II, III, IV, or V, as established by the commissioner of public health under Chapter 481, Health and Safety Code, or in Penalty Group 1, 1-A, 2, 2-A, 2-B, 3, or 4, Chapter 481; or

(B)  included in Schedule I, II, III, IV, or V of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. Section 801 et seq.).

(12)  "Dangerous drug" means a drug or device that:

(A)  is not included in Penalty Group 1, 1-A, 2, 2-A, 2-B, 3, or 4, Chapter 481, Health and Safety Code, and is unsafe for self-medication; or

(B)  bears or is required to bear the legend:

(i)  "Caution: federal law prohibits dispensing without prescription" or "Rx only" or another legend that complies with federal law; or

(ii)  "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."

SECTION 19.  The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 20.  This Act takes effect September 1, 2021.