87R24833 KJE-D

By:  Huffman, et al. S.B. No. 568

(Wu)

Substitute the following for S.B. No. 568:

By:  Cook C.S.S.B. No. 568

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for the criminal offense of hindering the investigation or prosecution of certain sexual offenses committed against a child; increasing criminal penalties.

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

SECTION 1.  Section 38.17, Penal Code, is amended to read as follows:

Sec. 38.17.  HINDERING INVESTIGATION OR PROSECUTION OF CERTAIN [~~FAILURE TO STOP OR REPORT AGGRAVATED~~] SEXUAL OFFENSES COMMITTED AGAINST A [~~ASSAULT OF~~] CHILD. (a) In this section, "sexual offense against a child" means conduct that constitutes an offense under:

(1)  Section 20A.02(a)(7) or (8) (Trafficking of Persons);

(2)  Section 20A.03 (Continuous Trafficking of Persons), if the offense is based partly or wholly on conduct that constitutes an offense under Section 20A.02(a)(7) or (8);

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

(4)  Section 21.11(a)(1) (Indecency with a Child);

(5)  Section 22.011(a)(2) (Sexual Assault of a Child);

(6)  Section 22.021(a)(1)(B) (Aggravated Sexual Assault of a Child);

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

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

(b)  A person 17 years of age or older[~~, other than a person who has a relationship with a child described by Section 22.04(b),~~] commits an offense if the person:

(1)  commits an offense under Section 261.109, Family Code, by failing to report a sexual offense against a child as provided by Chapter 261 of that code [~~the actor observes the commission or attempted commission of an offense prohibited by Section 21.02 or 22.021(a)(2)(B) under circumstances in which a reasonable person would believe that an offense of a sexual or assaultive nature was being committed or was about to be committed against the child~~]; and

(2)  engages in conduct intended to hinder the investigation or prosecution of the sexual offense against a child, including by:

(A)  altering, destroying, or concealing any record, document, or thing to impair its verity, legibility, or availability as evidence in the investigation or prosecution;

(B)  interfering with the willingness of a witness to the sexual offense to report that offense to, or cooperate in the investigation or prosecution of the offense with, a law enforcement agency or the Department of Family and Protective Services or otherwise preventing the report by or cooperation of the witness;

(C)  harboring or concealing the person who committed the sexual offense;

(D)  providing or aiding in providing the person who committed the sexual offense with a means to avoid investigation or arrest, including by assisting the person in relocating to another area; or

(E)  providing false information regarding the sexual offense to a law enforcement agency or to the Department of Family and Protective Services [~~the actor fails to assist the child or immediately report the commission of the offense to a peace officer or law enforcement agency; and~~

[~~(3)  the actor could assist the child or immediately report the commission of the offense without placing the actor in danger of suffering serious bodily injury or death~~].

(c) [~~(b)~~]  An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if:

(1)  the person who committed the sexual offense against a child commits a subsequent sexual offense against a child; and

(2)  the actor's failure to report the sexual offense against a child enabled or facilitated the person's commission of the subsequent offense [~~Class A misdemeanor~~].

(d)  Except as otherwise provided by this subsection, the following information may not be released to the public and is not public information under Chapter 552, Government Code:

(1)  the name of the child who is the victim of the sexual offense described by Subsection (b);

(2)  the name of the actor, until the actor is charged with an offense under this section; and

(3)  the name of the person whom the actor believes to have committed the sexual offense described by Subsection (b), until the person is charged with the applicable offense.

SECTION 2.  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 on the date 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 3.  This Act takes effect September 1, 2021.