

By: Moody

H.B. No. 1086

A BILL TO BE ENTITLED

AN ACT

relating to the criminal penalties for certain criminal offenses.

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

SECTION 1. Section 502.001(c), Business & Commerce Code, is amended to read as follows:

(c) A restaurant or bar owner shall display in a prominent place on the premises of the restaurant or bar a sign stating in letters at least one-half inch high: "UNDER SECTION 32.51, PENAL CODE, IT IS A [~~STATE JAIL~~] FELONY OF THE FOURTH DEGREE (PUNISHABLE BY IMPRISONMENT IN THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE [~~CONFINEMENT IN A STATE JAIL~~] FOR NOT MORE THAN TWO YEARS) TO OBTAIN, POSSESS, TRANSFER, OR USE A CUSTOMER'S DEBIT CARD OR CREDIT CARD NUMBER WITHOUT THE CUSTOMER'S CONSENT OR EFFECTIVE CONSENT."

SECTION 2. Section 101.029, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 101.029. LIABILITY FOR CERTAIN CONDUCT OF STATE PRISON INMATES. (a) The Texas Department of Criminal Justice is liable for property damage, personal injury, and death proximately caused by the wrongful act or omission or the negligence of an inmate [~~or state jail defendant~~] housed in a facility operated by the department if:

(1) the property damage, personal injury, or death arises from the operation or use of a motor-driven vehicle or motor-driven equipment;

1           (2) the inmate [~~or defendant~~] would be personally  
2 liable to the claimant for the property damage, personal injury, or  
3 death according to Texas law were the inmate [~~or defendant~~] a  
4 private person acting in similar circumstances; and

5           (3) the act, omission, or negligence was committed by  
6 the inmate [~~or defendant~~] acting in the course and scope of a task  
7 or activity that:

8           (A) the inmate [~~or defendant~~] performed at the  
9 request of an employee of the department; and

10           (B) the inmate [~~or defendant~~] performed under the  
11 control or supervision of the department.

12           (b) A claimant may not name the inmate [~~or state jail~~  
13 ~~defendant~~] whose act or omission gave rise to the claim as a  
14 codefendant in an action brought under this section.

15           (c) A judgment in an action or a settlement of a claim  
16 against the Texas Department of Criminal Justice under this section  
17 bars any action involving the same subject matter by the claimant  
18 against the inmate [~~or state jail defendant~~] whose act or omission  
19 gave rise to the claim. A judgment in an action or a settlement of a  
20 claim against an inmate [~~or state jail defendant~~] bars any action  
21 involving the same subject matter by the claimant against the Texas  
22 Department of Criminal Justice under this section.

23           (d) This section does not apply to property damage, personal  
24 injury, or death sustained by an inmate [~~or state jail defendant~~].

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

27           Art. 42A.056. LIMITATION ON JURY-RECOMMENDED COMMUNITY

1 SUPERVISION. A defendant is not eligible for community  
2 supervision under Article 42A.055 if the defendant:

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

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

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

10 (3) ~~(4)]~~ is convicted of an offense under Section  
11 21.11, 22.011, or 22.021, Penal Code, if the victim of the offense  
12 was younger than 14 years of age at the time the offense was  
13 committed;

14 (4) ~~(5)]~~ is convicted of an offense under Section  
15 20.04, Penal Code, if:

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

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

20 (5) ~~(6)]~~ is convicted of an offense under Section  
21 20A.02, 20A.03, 43.04, 43.05, or 43.25, Penal Code; or

22 (6) ~~(7)]~~ is convicted of an offense for which  
23 punishment is increased under Section 481.134(c), (d), (e), or (f),  
24 Health and Safety Code, if it is shown that the defendant has been  
25 previously convicted of an offense for which punishment was  
26 increased under any of those subsections.

27 SECTION 4. Articles 42A.515(a) and (c), Code of Criminal

1 Procedure, as added by Chapter 413 (S.B. 20), Acts of the 86th  
2 Legislature, Regular Session, 2019, are amended to read as follows:

3 (a) Except as provided by Subsection (e), on a defendant's  
4 conviction of a Class A or B misdemeanor under Section 43.02(a),  
5 Penal Code, the judge shall suspend imposition of the sentence and  
6 place the defendant on community supervision.

7 (c) A judge who places a defendant on community supervision  
8 under Subsection (a) [~~or (b)~~] shall require as a condition of  
9 community supervision that the defendant participate in a  
10 commercially sexually exploited persons court program established  
11 under Chapter 126, Government Code, if a program has been  
12 established for the county or municipality where the defendant  
13 resides. Sections 126.002(b) and (c), Government Code, do not apply  
14 with respect to a defendant required to participate in the court  
15 program under this subsection.

16 SECTION 5. Article 56A.552, Code of Criminal Procedure, is  
17 amended to read as follows:

18 Art. 56A.552. NOTIFICATION OF VICTIM. The department shall  
19 immediately notify the victim of an offense, the victim's guardian,  
20 or the victim's close relative if the victim is deceased, if the  
21 victim, victim's guardian, or victim's close relative has notified  
22 the department as provided by Article 56A.554, when the defendant:

23 (1) escapes from a facility operated by the department  
24 for the imprisonment of individuals convicted of felonies [~~other~~  
25 ~~than state jail felonies~~]; or

26 (2) is transferred from the custody of a facility  
27 described by Subdivision (1) to the custody of a peace officer under

1 a writ of attachment or a bench warrant.

2 SECTION 6. Article 56A.553, Code of Criminal Procedure, is  
3 amended to read as follows:

4 Art. 56A.553. NOTIFICATION OF WITNESS. The department  
5 shall immediately notify a witness who testified against a  
6 defendant at the trial for the offense for which the defendant is  
7 imprisoned, the witness's guardian, or the witness's close  
8 relative, if the witness, witness's guardian, or witness's close  
9 relative has notified the department as provided by Article  
10 56A.554, when the defendant:

11 (1) escapes from a facility operated by the department  
12 for the imprisonment of individuals convicted of felonies [~~other~~  
13 ~~than state jail felonies~~]; or

14 (2) is transferred from the custody of a facility  
15 described by Subdivision (1) to the custody of a peace officer under  
16 a writ of attachment or a bench warrant.

17 SECTION 7. Article 58.106, Code of Criminal Procedure, is  
18 amended to read as follows:

19 Art. 58.106. DISCLOSURE OF INFORMATION OF CONFINED VICTIM.  
20 This subchapter does not prohibit the inspector general of the  
21 Texas Department of Criminal Justice from disclosing a victim's  
22 identifying information to an employee of the department or the  
23 department's ombudsperson if the victim is an inmate [~~or state jail~~  
24 ~~defendant~~] confined in a facility operated by or under contract  
25 with the department.

26 SECTION 8. Article 58.107(d), Code of Criminal Procedure,  
27 is amended to read as follows:

1 (d) It is an exception to the application of this article  
2 that:

3 (1) the person who discloses the name, address, or  
4 telephone number of a victim is the inspector general of the Texas  
5 Department of Criminal Justice;

6 (2) the victim is an inmate [~~or state jail defendant~~]  
7 confined in a facility operated by or under contract with the  
8 department; and

9 (3) the person to whom the disclosure is made is an  
10 employee of the department or the department's ombudsperson.

11 SECTION 9. Article 62.001(5), Code of Criminal Procedure,  
12 is amended to read as follows:

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

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

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

27 (B-1) a violation of Section 43.02

1 (Prostitution), Penal Code, if the offense is punishable as a  
2 felony of the second degree under Subsection (c-1) [~~(c-1)(2)~~] of  
3 that section;

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

8 (D) a violation of Section 30.02 (Burglary),  
9 Penal Code, if the offense or conduct is punishable under  
10 Subsection (d) of that section and the actor committed the offense  
11 or engaged in the conduct with intent to commit a felony listed in  
12 Paragraph (A) or (C);

13 (E) a violation of Section 20.02 (Unlawful  
14 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),  
15 Penal Code, if, as applicable:

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

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

21 (F) the second violation of Section 21.08  
22 (Indecent exposure), Penal Code, but not if the second violation  
23 results in a deferred adjudication;

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

27 (H) a violation of the laws of another state,

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

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

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

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

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

21 SECTION 10. Sections 76.010(a), (c), (d), (e), and (f),  
22 Government Code, are amended to read as follows:

23 (a) In this section, "community [+

24 [~~(1) "Community~~] corrections facility" has the  
25 meaning assigned by Section 509.001.

26 [~~(2) "State jail felony facility" means a facility~~  
27 ~~operated or contracted for by the Texas Department of Criminal~~



1 ~~Justice under Subchapter A, Chapter 507, for the confinement of~~  
2 ~~individuals convicted of state jail felonies.]~~

3 (c) The department may authorize expenditures of funds  
4 provided by the division to the department for the purposes of  
5 providing facilities, equipment, and utilities for community  
6 corrections facilities [~~or state jail felony facilities~~] if:

7 (1) the judges described by Section 76.002 recommend  
8 the expenditures; and

9 (2) the division [~~, or the correctional institutions~~  
10 ~~division of the Texas Department of Criminal Justice in the case of~~  
11 ~~a state jail felony facility,~~] provides funds for the purpose of  
12 assisting in the establishment or improvement of the facilities.

13 (d) A department may acquire, hold title to, and own real  
14 property for the purpose of establishing a community corrections  
15 facility [~~or a state jail felony facility~~].

16 (e) A department, county, municipality, or a combination  
17 involving more than one of those entities may not use a facility or  
18 real property purchased, acquired, or improved with state funds  
19 unless the division [~~, or the correctional institutions division of~~  
20 ~~the Texas Department of Criminal Justice in the case of a state jail~~  
21 ~~felony facility,~~] first approves the use.

22 (f) The division [~~or the correctional institutions division~~  
23 ~~of the Texas Department of Criminal Justice, in the case of a state~~  
24 ~~jail felony facility,~~] is entitled to reimbursement from an entity  
25 described by Subsection (e) of all state funds used by the entity  
26 without the approval required by Subsection (e).

27 SECTION 11. Section 402.035(d), Government Code, is amended

1 to read as follows:

2 (d) The task force shall:

3 (1) collaborate, as needed to fulfill the duties of  
4 the task force, with:

5 (A) United States attorneys' offices for all of  
6 the federal districts of Texas; and

7 (B) special agents or customs and border  
8 protection officers and border patrol agents of:

9 (i) the Federal Bureau of Investigation;

10 (ii) the United States Drug Enforcement  
11 Administration;

12 (iii) the Bureau of Alcohol, Tobacco,  
13 Firearms and Explosives;

14 (iv) United States Immigration and Customs  
15 Enforcement; or

16 (v) the United States Department of  
17 Homeland Security;

18 (2) collect, organize, and periodically publish  
19 statistical data on the nature and extent of human trafficking in  
20 this state, including data described by Subdivisions (4)(A), (B),  
21 (C), (D), and (E);

22 (3) solicit cooperation and assistance from state and  
23 local governmental agencies, political subdivisions of the state,  
24 nongovernmental organizations, and other persons, as appropriate,  
25 for the purpose of collecting and organizing statistical data under  
26 Subdivision (2);

27 (4) ensure that each state or local governmental

1 agency and political subdivision of the state and each state or  
2 local law enforcement agency, district attorney, or county attorney  
3 that assists in the prevention of human trafficking collects  
4 statistical data related to human trafficking, including, as  
5 appropriate:

6 (A) the number of investigations concerning,  
7 arrests and prosecutions for, and convictions of:

8 (i) the offense of trafficking of persons;

9 (ii) the offense of forgery or an offense  
10 under Chapter 43, Penal Code, if the offense was committed as part  
11 of a criminal episode involving the trafficking of persons; and

12 (iii) an offense punishable as a felony of  
13 the second degree under Section 43.02(c-1) [~~43.02(c-1)(2)~~], Penal  
14 Code, regardless of whether the offense was committed as part of a  
15 criminal episode involving the trafficking of persons;

16 (B) demographic information on persons who are  
17 convicted of offenses described by Paragraph (A) and persons who  
18 are the victims of those offenses;

19 (C) geographic routes by which human trafficking  
20 victims are trafficked, including routes by which victims are  
21 trafficked across this state's international border, and  
22 geographic patterns in human trafficking, including the country or  
23 state of origin and the country or state of destination;

24 (D) means of transportation and methods used by  
25 persons who engage in trafficking to transport their victims; and

26 (E) social and economic factors that create a  
27 demand for the labor or services that victims of human trafficking

1 are forced to provide;

2 (5) work with the Texas Commission on Law Enforcement  
3 to develop and conduct training for law enforcement personnel,  
4 victim service providers, and medical service providers to identify  
5 victims of human trafficking;

6 (6) work with the Texas Education Agency, the  
7 Department of Family and Protective Services, and the Health and  
8 Human Services Commission to:

9 (A) develop a list of key indicators that a  
10 person is a victim of human trafficking;

11 (B) develop a standardized curriculum for  
12 training doctors, nurses, emergency medical services personnel,  
13 teachers, school counselors, school administrators, and personnel  
14 from the Department of Family and Protective Services and the  
15 Health and Human Services Commission to identify and assist victims  
16 of human trafficking;

17 (C) train doctors, nurses, emergency medical  
18 services personnel, teachers, school counselors, school  
19 administrators, and personnel from the Department of Family and  
20 Protective Services and the Health and Human Services Commission to  
21 identify and assist victims of human trafficking;

22 (D) develop and conduct training for personnel  
23 from the Department of Family and Protective Services and the  
24 Health and Human Services Commission on methods for identifying  
25 children in foster care who may be at risk of becoming victims of  
26 human trafficking; and

27 (E) develop a process for referring identified

1 human trafficking victims and individuals at risk of becoming  
2 victims to appropriate entities for services;

3 (7) on the request of a judge of a county court, county  
4 court at law, or district court or a county attorney, district  
5 attorney, or criminal district attorney, assist and train the judge  
6 or the judge's staff or the attorney or the attorney's staff in the  
7 recognition and prevention of human trafficking;

8 (8) examine training protocols related to human  
9 trafficking issues, as developed and implemented by federal, state,  
10 and local law enforcement agencies;

11 (9) collaborate with state and local governmental  
12 agencies, political subdivisions of the state, and nongovernmental  
13 organizations to implement a media awareness campaign in  
14 communities affected by human trafficking;

15 (10) develop recommendations on how to strengthen  
16 state and local efforts to prevent human trafficking, protect and  
17 assist human trafficking victims, curb markets and other economic  
18 avenues that facilitate human trafficking and investigate and  
19 prosecute human trafficking offenders;

20 (11) examine the extent to which human trafficking is  
21 associated with the operation of sexually oriented businesses, as  
22 defined by Section [243.002](#), Local Government Code, and the  
23 workplace or public health concerns that are created by the  
24 association of human trafficking and the operation of sexually  
25 oriented businesses;

26 (12) develop recommendations for addressing the  
27 demand for forced labor or services or sexual conduct involving

1 victims of human trafficking, including recommendations for  
2 increased penalties for individuals who engage or attempt to engage  
3 in prostitution with victims younger than 18 years of age; and

4 (13) identify and report to the governor and  
5 legislature on laws, licensure requirements, or other regulations  
6 that can be passed at the state and local level to curb trafficking  
7 using the Internet and in sexually oriented businesses.

8 SECTION 12. Section 411.172(b), Government Code, is amended  
9 to read as follows:

10 (b) For the purposes of this section, an offense under the  
11 laws of this state, another state, or the United States is:

12 (1) except as provided by Subsection (b-1), a felony  
13 if the offense, at the time the offense is committed:

14 (A) is designated by a law of this state as a  
15 felony;

16 (B) contains all the elements of an offense  
17 designated by a law of this state as a felony; or

18 (C) is punishable by confinement for one year or  
19 more in a penitentiary; and

20 (2) a Class A misdemeanor if the offense is not a  
21 felony and confinement in a jail [~~other than a state jail felony~~  
22 ~~facility~~] is affixed as a possible punishment.

23 SECTION 13. Section 493.002(a), Government Code, is amended  
24 to read as follows:

25 (a) The following divisions are within the department:

26 (1) the community justice assistance division;

27 (2) the institutional division;

- 1 (3) the pardons and paroles division;
- 2 (4) ~~[the state jail division,~~
- 3 ~~[(5)]~~ the internal audit division; and
- 4 (5) ~~[(6)]~~ the programs and services division.

5 SECTION 14. Section 493.0021(a), Government Code, is  
6 amended to read as follows:

7 (a) Notwithstanding Sections 493.002, 493.003, 493.004,  
8 493.005, ~~[493.0051,]~~ 493.0052, ~~[as added by Chapter 1360, Acts of~~  
9 ~~the 75th Legislature, Regular Session, 1997,]~~ and 493.0053  
10 ~~[493.0052, as added by Chapter 490, Acts of the 75th Legislature,~~  
11 ~~Regular Session, 1997]~~, the executive director, with the approval  
12 of the board, may:

13 (1) create divisions in addition to those listed in  
14 Section 493.002 and assign to the newly created divisions any  
15 duties and powers imposed on or granted to an existing division or  
16 to the department generally;

17 (2) eliminate any division listed in Section 493.002  
18 or created under this section and assign any duties or powers  
19 previously assigned to the eliminated division to another division  
20 listed in Section 493.002 or created under this section; or

21 (3) eliminate all divisions listed in Section 493.002  
22 or created under this section and reorganize the distribution of  
23 powers and duties granted to or imposed on a division in any manner  
24 the executive director determines is best for the proper  
25 administration of the department.

26 SECTION 15. Chapter 493, Government Code, is amended by  
27 adding Section 493.0095 to read as follows:

1        Sec. 493.0095. USE OF FORMER STATE JAIL FELONY FACILITIES.

2        Notwithstanding any other law, the department may use a state jail  
3        felony facility established under former Chapter 507 for any  
4        purpose the department determines appropriate, including the  
5        confinement of inmates serving a sentence for a felony of the fourth  
6        degree.

7        SECTION 16. Section 493.015(b), Government Code, is amended  
8        to read as follows:

9        (b) The department shall identify those inmates who are  
10       imprisoned in the institutional division or confined in a transfer  
11       facility, a substance abuse treatment facility, [~~a state jail~~  
12       ~~felony facility,~~] or a county jail awaiting transfer to the  
13       institutional division and for whom the department is unable to  
14       reasonably ascertain whether or not the person is an illegal  
15       criminal alien.

16       SECTION 17. Section 493.032(a), Government Code, as added  
17       by Chapter 1163 (H.B. 3227), Acts of the 86th Legislature, Regular  
18       Session, 2019, is amended to read as follows:

19       (a) The department shall adopt a policy to increase the  
20       availability of formal and informal peer support services,  
21       including certified peer specialist services, to a person confined  
22       in a facility operated by or under contract with the department,  
23       including a [~~state jail felony facility,~~] substance abuse felony  
24       punishment facility and [~~or~~] intermediate sanction facility.

25       SECTION 18. Section 496.007, Government Code, is amended to  
26       read as follows:

27       Sec. 496.007. LOCATION OF NEW FACILITIES. In determining



1 the location of a facility to be built, the department, in  
2 evaluating the advantages and disadvantages of the proposed  
3 location, shall consider whether the proposed location is:

4 (1) close enough to a county with 100,000 or more  
5 inhabitants to provide access to services and other resources  
6 provided in such a county;

7 (2) cost-effective with respect to its proximity to  
8 other facilities of the department;

9 (3) close to an area that would facilitate release of  
10 inmates [~~or persons confined in state jail felony facilities~~] to  
11 their area of residence; and

12 (4) close to an area that provides adequate  
13 educational opportunities and medical care.

14 SECTION 19. Section 497.010(d), Government Code, is amended  
15 to read as follows:

16 (d) It is an exception to the application of this section  
17 that the actor was an inmate [~~or state jail defendant~~] confined in a  
18 facility operated by or under contract with the department who sold  
19 or offered to sell an art or craft in the manner authorized under  
20 Section 501.013(b).

21 SECTION 20. Section 497.094(b), Government Code, is amended  
22 to read as follows:

23 (b) The department and the Texas Workforce Investment  
24 Council by rule shall adopt a memorandum of understanding that  
25 establishes the respective responsibility of those entities to  
26 provide through local workforce development boards job training and  
27 employment assistance to persons formerly sentenced to the

1 institutional division [~~or the state jail division~~] and information  
2 on services available to employers or potential employers of those  
3 persons. The department shall coordinate the development of the  
4 memorandum of understanding.

5 SECTION 21. Section 499.155(a), Government Code, is amended  
6 to read as follows:

7 (a) Except as provided by Subsection (b), the institutional  
8 division may not confine an inmate described by Section 499.152 in a  
9 transfer facility authorized by this subchapter for a period that  
10 exceeds the maximum period for which a person [~~state jail felon~~] may  
11 be confined [~~in a state jail felony facility~~] under Section 12.35,  
12 Penal Code.

13 SECTION 22. Section 501.015(f), Government Code, is amended  
14 to read as follows:

15 (f) Subsection (a)(3) does not apply to an inmate [~~who on  
16 discharge or release on parole, mandatory supervision, or  
17 conditional pardon is transferred from the custody of the  
18 institutional division to a state jail felony facility or~~] who is  
19 subject to a felony detainer and is released to the custody of  
20 another jurisdiction.

21 SECTION 23. Section 501.054(g), Government Code, is amended  
22 to read as follows:

23 (g) The department shall maintain the confidentiality of  
24 test results of an inmate indicating HIV infection at all times,  
25 including after the inmate's discharge [~~release from a state  
26 jail,~~] or release on parole or mandatory supervision. The  
27 department may not honor the request of an agency of the state or

1 any person who requests a test result as a condition of housing or  
2 supervising the inmate while the inmate is on community supervision  
3 or parole or mandatory supervision, unless honoring the request  
4 would improve the ability of the inmate to obtain essential health  
5 and social services.

6 SECTION 24. Section 501.091, Government Code, as added by  
7 Chapter 643 (H.B. 1711), Acts of the 81st Legislature, Regular  
8 Session, 2009, is reenacted and amended to read as follows:

9 Sec. 501.091. DEFINITIONS. In this subchapter:

10 (1) "Correctional facility" means a facility operated  
11 by or under contract with the department.

12 (2) "Offender" means an inmate [~~or state jail~~  
13 ~~defendant~~] confined in a correctional facility.

14 SECTION 25. Section 501.171(2), Government Code, is amended  
15 to read as follows:

16 (2) "Inmate" means an inmate [~~or state jail defendant~~]  
17 confined in a facility operated by or under contract with the  
18 department.

19 SECTION 26. Section 1232.114(b), Government Code, is  
20 amended to read as follows:

21 (b) This section does not apply to a minor renovation,  
22 repair, or construction project at a facility operated by the Texas  
23 Department of Criminal Justice for the imprisonment of individuals  
24 convicted of felonies [~~other than state jail felonies~~], as defined  
25 by the department in cooperation with the commission. Instead of  
26 submitting a project analysis, the department may substitute the  
27 master plan required to be submitted by Section 1401.121 if the

1 master plan contains information substantially equivalent to the  
2 information required to be in a project analysis under Sections  
3 2166.151-2166.155.

4 SECTION 27. Section 2166.003(b), Government Code, is  
5 amended to read as follows:

6 (b) Only Sections 2166.151, 2166.152, 2166.153, 2166.154,  
7 2166.155, 2166.251, and 2166.252 and Subchapter H apply to a  
8 construction project undertaken by or for the Texas Department of  
9 Criminal Justice for the imprisonment of individuals convicted of  
10 felonies [~~other than state jail felonies~~].

11 SECTION 28. Section 2303.402(c), Government Code, is  
12 amended to read as follows:

13 (c) For the purposes of this section, an economically  
14 disadvantaged individual is an individual who:

15 (1) was unemployed for at least three months before  
16 obtaining employment with the qualified business;

17 (2) receives public assistance benefits, including  
18 welfare payments or food stamps, based on need and intended to  
19 alleviate poverty;

20 (3) is a low-income individual, as defined by Section  
21 101, Workforce Investment Act of 1998 (29 U.S.C. Section 2801(25));

22 (4) is an individual with a disability, as defined  
23 by 29 U.S.C. Section 705(20)(A);

24 (5) is an inmate, as defined by Section 498.001;

25 (6) is entering the workplace after being confined in  
26 a facility operated by or under contract with the Texas Department  
27 of Criminal Justice for the imprisonment of individuals convicted

1 of felonies [~~other than state jail felonies~~];

2 (7) has been released by the Texas Juvenile Justice  
3 Department and is on parole, if state law provides for such a person  
4 to be on parole;

5 (8) meets the current low income or moderate income  
6 limits developed under Section 8, United States Housing Act of 1937  
7 (42 U.S.C. Section 1437f et seq.); or

8 (9) was under the permanent managing conservatorship  
9 of the Department of Family and Protective Services on the day  
10 preceding the individual's 18th birthday.

11 SECTION 29. Section 481.115(b), Health and Safety Code, is  
12 amended to read as follows:

13 (b) An offense under Subsection (a) is a Class A misdemeanor  
14 [~~state jail felony~~] if the amount of the controlled substance  
15 possessed is, by aggregate weight, including adulterants or  
16 dilutants, less than one gram.

17 SECTION 30. Section 481.1151(b), Health and Safety Code, is  
18 amended to read as follows:

19 (b) An offense under this section is:

20 (1) a Class A misdemeanor [~~state jail felony~~] if the  
21 number of abuse units of the controlled substance is fewer than 20;

22 (2) a felony of the third degree if the number of abuse  
23 units of the controlled substance is 20 or more but fewer than 80;

24 (3) a felony of the second degree if the number of  
25 abuse units of the controlled substance is 80 or more but fewer than  
26 4,000;

27 (4) a felony of the first degree if the number of abuse

1 units of the controlled substance is 4,000 or more but fewer than  
2 8,000; and

3 (5) punishable by imprisonment in the Texas Department  
4 of Criminal Justice for life or for a term of not more than 99 years  
5 or less than 15 years and a fine not to exceed \$250,000, if the  
6 number of abuse units of the controlled substance is 8,000 or more.

7 SECTION 31. Section 481.116(b), Health and Safety Code, is  
8 amended to read as follows:

9 (b) An offense under Subsection (a) is a Class A misdemeanor  
10 [~~state jail felony~~] if the amount of the controlled substance  
11 possessed is, by aggregate weight, including adulterants or  
12 dilutants, less than one gram.

13 SECTION 32. Section 481.1161(b), Health and Safety Code, is  
14 amended to read as follows:

15 (b) An offense under this section is:

16 (1) a Class B misdemeanor if the amount of the  
17 controlled substance possessed is, by aggregate weight, including  
18 adulterants or dilutants, four [~~two~~] ounces or less;

19 (2) [~~a Class A misdemeanor if the amount of the~~  
20 ~~controlled substance possessed is, by aggregate weight, including~~  
21 ~~adulterants or dilutants, four ounces or less but more than two~~  
22 ~~ounces,~~

23 [~~(3)~~] a Class A misdemeanor [~~state jail felony~~] if the  
24 amount of the controlled substance possessed is, by aggregate  
25 weight, including adulterants or dilutants, five pounds or less but  
26 more than four ounces;

27 (3) [~~(4)~~] a felony of the third degree if the amount of

1 the controlled substance possessed is, by aggregate weight,  
2 including adulterants or dilutants, 50 pounds or less but more than  
3 5 pounds;

4 (4) [~~(5)~~] a felony of the second degree if the amount  
5 of the controlled substance possessed is, by aggregate weight,  
6 including adulterants or dilutants, 2,000 pounds or less but more  
7 than 50 pounds; and

8 (5) [~~(6)~~] punishable by imprisonment in the Texas  
9 Department of Criminal Justice for life or for a term of not more  
10 than 99 years or less than 5 years, and a fine not to exceed \$50,000,  
11 if the amount of the controlled substance possessed is, by  
12 aggregate weight, including adulterants or dilutants, more than  
13 2,000 pounds.

14 SECTION 33. Section [481.121\(b\)](#), Health and Safety Code, is  
15 amended to read as follows:

16 (b) An offense under Subsection (a) is:

17 (1) a Class B misdemeanor if the amount of marihuana  
18 possessed is four [~~two~~] ounces or less;

19 (2) [~~a Class A misdemeanor if the amount of marihuana~~  
20 ~~possessed is four ounces or less but more than two ounces,~~

21 [~~(3)~~] a Class A misdemeanor [~~state jail felony~~] if the  
22 amount of marihuana possessed is five pounds or less but more than  
23 four ounces;

24 (3) [~~(4)~~] a felony of the third degree if the amount of  
25 marihuana possessed is 50 pounds or less but more than 5 pounds;

26 (4) [~~(5)~~] a felony of the second degree if the amount  
27 of marihuana possessed is 2,000 pounds or less but more than 50

1 pounds; and

2 (5) [~~(6)~~] punishable by imprisonment in the Texas  
3 Department of Criminal Justice for life or for a term of not more  
4 than 99 years or less than 5 years, and a fine not to exceed \$50,000,  
5 if the amount of marihuana possessed is more than 2,000 pounds.

6 SECTION 34. Section 481.126(a), Health and Safety Code, is  
7 amended to read as follows:

8 (a) A person commits an offense if the person:

9 (1) barter property or expends funds the person knows  
10 are derived from the commission of an offense under this chapter  
11 punishable by imprisonment in the Texas Department of Criminal  
12 Justice for life;

13 (2) barter property or expends funds the person knows  
14 are derived from the commission of an offense under Section  
15 481.121(a) that is punishable under Section 481.121(b)(4)  
16 [~~481.121(b)(5)~~];

17 (3) barter property or finances or invests funds the  
18 person knows or believes are intended to further the commission of  
19 an offense for which the punishment is described by Subdivision  
20 (1); or

21 (4) barter property or finances or invests funds the  
22 person knows or believes are intended to further the commission of  
23 an offense under Section 481.121(a) that is punishable under  
24 Section 481.121(b)(4) [~~481.121(b)(5)~~].

25 SECTION 35. Section 481.129(g), Health and Safety Code, is  
26 amended to read as follows:

27 (g) An offense under Subsection (c)(2) is:



1           (1) a Class A misdemeanor [~~state jail felony~~] if the  
2 defendant possesses:

3                   (A) a prescription form; or

4                   (B) a prescription for a controlled substance  
5 listed in Schedule II or III; and

6           (2) a Class B misdemeanor if the defendant possesses a  
7 prescription for a controlled substance listed in Schedule IV or V.

8           SECTION 36. Sections [481.134\(c\)](#), (d), and (e), Health and  
9 Safety Code, are amended to read as follows:

10           (c) The minimum term of confinement or imprisonment for an  
11 offense otherwise punishable under Section [481.112\(c\)](#), (d), (e), or  
12 (f), [481.1121\(b\)\(2\)](#), (3), or (4), [481.113\(c\)](#), (d), or (e),  
13 [481.114\(c\)](#), (d), or (e), [481.115\(c\)-\(f\)](#), [481.1151\(b\)\(2\)](#), (3), (4),  
14 or (5), [481.116\(c\)](#), (d), or (e), [481.1161\(b\)\(3\)](#), (4), or (5)  
15 [~~[481.1161\(b\)\(4\)](#), (5), or (6)~~], [481.117\(c\)](#), (d), or (e), [481.118\(c\)](#),  
16 (d), or (e), [481.120\(b\)\(4\)](#), (5), or (6), or [481.121\(b\)\(3\)](#), (4), or  
17 (5) [~~[481.121\(b\)\(4\)](#), (5), or (6)~~] is increased by five years and the  
18 maximum fine for the offense is doubled if it is shown on the trial  
19 of the offense that the offense was committed:

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

23                   (2) on a school bus.

24           (d) An offense otherwise punishable under Section  
25 [481.112\(b\)](#), [481.1121\(b\)\(1\)](#), [481.113\(b\)](#), [481.114\(b\)](#), or  
26 [~~[481.115\(b\)](#), [481.1151\(b\)\(1\)](#), [481.116\(b\)](#), [481.1161\(b\)\(3\)](#),~~  
27 [481.120\(b\)\(3\)](#) [~~or [481.121\(b\)\(3\)](#)~~] is a felony of the third degree

1 if it is shown on the trial of the offense that the offense was  
2 committed:

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

6 (2) on a school bus.

7 (e) An offense otherwise punishable under Section  
8 481.115(b), 481.1151(b)(1), 481.116(b), 481.117(b), 481.119(a),  
9 481.120(b)(2), or 481.121(b)(2) is a [~~state jail~~] felony of the  
10 fourth degree if it is shown on the trial of the offense that the  
11 offense was committed:

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

15 (2) on a school bus.

16 SECTION 37. Section 614.0032(a), Health and Safety Code, is  
17 amended to read as follows:

18 (a) The office shall[~~+~~

19 [~~(1)~~] perform duties imposed on the office by Section  
20 508.146, Government Code[~~, and~~

21 [~~(2) periodically identify state jail felony~~  
22 ~~defendants suitable for release under Article 42A.561, Code of~~  
23 ~~Criminal Procedure, and perform other duties imposed on the office~~  
24 ~~by that article].~~

25 SECTION 38. Section 306.007(b), Labor Code, is amended to  
26 read as follows:

27 (b) The commission shall adopt a memorandum of

1 understanding with each of the following agencies that establishes  
2 the respective responsibilities of the commission and the agencies  
3 in providing information described by Subsection (a) to persons  
4 formerly sentenced to the institutional division [~~or the state jail~~  
5 ~~division~~] of the Texas Department of Criminal Justice, to employers  
6 or potential employers of those persons, and to local workforce  
7 development boards:

8 (1) the Department of State Health Services;

9 (2) the Texas Department of Housing and Community  
10 Affairs;

11 (3) the Texas Veterans Commission; and

12 (4) the Health and Human Services Commission.

13 SECTION 39. Section 244.006, Local Government Code, is  
14 amended to read as follows:

15 Sec. 244.006. EXEMPTIONS. This subchapter does not apply  
16 to the operation of a correctional or rehabilitation facility at a  
17 location subject to this subchapter if:

18 (1) on September 1, 1997, the correctional or  
19 rehabilitation facility was in operation, under construction,  
20 under contract for operation or construction, or planned for  
21 construction at the location on land owned or leased by an agency or  
22 political subdivision of the state and designated for use as a  
23 correctional or rehabilitation facility;

24 (2) the correctional or rehabilitation facility was in  
25 operation or under construction before the establishment of a  
26 residential area the location of which makes the facility subject  
27 to this subchapter;

1           (3) the correctional or rehabilitation facility is a  
2 temporary correctional or rehabilitation facility that will be  
3 operated at the location for less than one year;

4           (4) the correctional or rehabilitation facility is  
5 required to obtain a special use permit or a conditional use permit  
6 from the municipality in which the facility is located before  
7 beginning operation;

8           (5) the correctional or rehabilitation facility is an  
9 expansion of a facility operated by the correctional institutions  
10 division of the Texas Department of Criminal Justice for the  
11 imprisonment of individuals convicted of felonies [~~other than state~~  
12 ~~jail felonies~~] or by the Texas Juvenile Justice Department;

13           (6) the correctional or rehabilitation facility is a  
14 county jail or a pre-adjudication or post-adjudication juvenile  
15 detention facility operated by a county or county juvenile board;

16           (7) the facility is:

17                   (A) a juvenile probation office located at, and  
18 operated in conjunction with, a juvenile justice alternative  
19 education center; and

20                   (B) used exclusively by students attending the  
21 juvenile justice alternative education center;

22           (8) the facility is a public or private institution of  
23 higher education or vocational training to which admission is open  
24 to the general public;

25           (9) the facility is operated primarily as a treatment  
26 facility for juveniles under contract with the Health and Human  
27 Services Commission, [~~Department of Aging and Disability Services~~

1 ~~or~~] the Department of State Health Services, a local intellectual  
2 and developmental disability authority, or a local mental health  
3 [~~or mental retardation~~] authority;

4 (10) the facility is operated as a juvenile justice  
5 alternative education program;

6 (11) the facility:

7 (A) is not operated primarily as a correctional  
8 or rehabilitation facility; and

9 (B) only houses persons or children described by  
10 Section 244.001(1)(B) for a purpose related to treatment or  
11 education; or

12 (12) the facility is a probation or parole office  
13 located in a commercial use area.

14 SECTION 40. Section 331.010(b), Local Government Code, is  
15 amended to read as follows:

16 (b) The governor and the Texas Board of Criminal Justice may  
17 permit the use of state inmates [~~and defendants confined in state~~  
18 ~~jail felony facilities~~] for the improvement and maintenance of  
19 parks acquired under this chapter under agreements made by the  
20 Parks and Wildlife Department and the municipality or county.

21 SECTION 41. Section 12.4061, Parks and Wildlife Code, is  
22 amended to read as follows:

23 Sec. 12.4061. PARKS AND WILDLIFE CODE FOURTH DEGREE [~~STATE~~  
24 ~~JAIL~~] FELONY. (a) An individual adjudged guilty of a Parks and  
25 Wildlife Code [~~state jail~~] felony of the fourth degree shall be  
26 punished by imprisonment in the Texas Department of Criminal  
27 Justice [~~confinement in a state jail~~] for a term of not more than

1 two years or less than 180 days.

2 (b) In addition to imprisonment [~~confinement~~], an  
3 individual adjudged guilty of a Parks and Wildlife Code [~~state~~  
4 ~~jail~~] felony of the fourth degree may be punished by a fine of not  
5 less than \$1,500 and not more than \$10,000.

6 (c) For purposes of this code, "Parks and Wildlife Code  
7 state jail felony" means a Parks and Wildlife Code felony of the  
8 fourth degree.

9 SECTION 42. Section 76.118(e-1), Parks and Wildlife Code,  
10 is amended to read as follows:

11 (e-1) If it is shown at the trial of a defendant for a  
12 violation of Section 76.116 that the defendant has been convicted  
13 once within five years before the trial date of a violation of  
14 Section 76.116, the defendant is guilty of a Class A Parks and  
15 Wildlife Code misdemeanor [~~state jail felony~~].

16 SECTION 43. Section 12.04, Penal Code, is amended to read as  
17 follows:

18 Sec. 12.04. CLASSIFICATION OF FELONIES. (a) Felonies are  
19 classified according to the relative seriousness of the offense  
20 into five categories:

- 21 (1) capital felonies;
- 22 (2) felonies of the first degree;
- 23 (3) felonies of the second degree;
- 24 (4) felonies of the third degree; and
- 25 (5) [~~state jail~~] felonies of the fourth degree.

26 (b) An offense designated a felony in this code without  
27 specification as to category is a [~~state jail~~] felony of the fourth

1 degree.

2 (c) For purposes of this code and any other laws of this  
3 state, "state jail felony" means a felony of the fourth degree.

4 (d) For purposes of enhancing a penalty under this code or  
5 any other laws of this state:

6 (1) a person is considered to have been previously  
7 convicted of a felony of the fourth degree if the person has a final  
8 conviction for a state jail felony; and

9 (2) a person is considered to have previously received  
10 a dismissal and discharge under Article 42A.111, Code of Criminal  
11 Procedure, for a felony of the fourth degree if the person received  
12 a dismissal and discharge under that article for a state jail  
13 felony.

14 SECTION 44. Section 12.35, Penal Code, is amended to read as  
15 follows:

16 Sec. 12.35. FOURTH DEGREE [~~STATE JAIL~~] FELONY PUNISHMENT.

17 (a) Except as provided by Subsection (c), an individual adjudged  
18 guilty of a [~~state jail~~] felony of the fourth degree shall be  
19 punished by imprisonment in the Texas Department of Criminal  
20 Justice [~~confinement in a state jail~~] for any term of not more than  
21 two years or less than 180 days.

22 (b) In addition to imprisonment [~~confinement~~], an  
23 individual adjudged guilty of a [~~state jail~~] felony of the fourth  
24 degree may be punished by a fine not to exceed \$10,000.

25 (c) An individual adjudged guilty of a [~~state jail~~] felony  
26 of the fourth degree shall be punished for a third degree felony if  
27 it is shown on the trial of the offense that:

1           (1) a deadly weapon as defined by Section 1.07 was used  
2 or exhibited during the commission of the offense or during  
3 immediate flight following the commission of the offense, and that  
4 the individual used or exhibited the deadly weapon or was a party to  
5 the offense and knew that a deadly weapon would be used or  
6 exhibited; or

7           (2) the individual has previously been finally  
8 convicted of any felony:

9           (A) under Section 20A.03 or 21.02 or listed in  
10 Article 42A.054(a), Code of Criminal Procedure; or

11           (B) for which the judgment contains an  
12 affirmative finding under Article 42A.054(c) or (d), Code of  
13 Criminal Procedure.

14           SECTION 45. Sections 12.42(a), (b), and (d), Penal Code,  
15 are amended to read as follows:

16           (a) Except as provided by Subsection (c)(2), if it is shown  
17 on the trial of a felony of the third degree that the defendant has  
18 previously been finally convicted of a felony other than a [~~state~~  
19 ~~jail~~] felony of the fourth degree punishable under Section  
20 12.35(a), on conviction the defendant shall be punished for a  
21 felony of the second degree.

22           (b) Except as provided by Subsection (c)(2) or (c)(4), if it  
23 is shown on the trial of a felony of the second degree that the  
24 defendant has previously been finally convicted of a felony other  
25 than a [~~state jail~~] felony of the fourth degree punishable under  
26 Section 12.35(a), on conviction the defendant shall be punished for  
27 a felony of the first degree.



1           (d) Except as provided by Subsection (c)(2) or (c)(4), if it  
2 is shown on the trial of a felony offense other than a [~~state jail~~]  
3 felony of the fourth degree punishable under Section 12.35(a) that  
4 the defendant has previously been finally convicted of two felony  
5 offenses, and the second previous felony conviction is for an  
6 offense that occurred subsequent to the first previous conviction  
7 having become final, on conviction the defendant shall be punished  
8 by imprisonment in the Texas Department of Criminal Justice for  
9 life, or for any term of not more than 99 years or less than 25  
10 years. A previous conviction for a [~~state jail~~] felony of the fourth  
11 degree punishable under Section 12.35(a) may not be used for  
12 enhancement purposes under this subsection.

13           SECTION 46. Sections 12.42(c)(1) and (5), Penal Code, are  
14 amended to read as follows:

15           (1) If it is shown on the trial of a felony of the first  
16 degree that the defendant has previously been finally convicted of  
17 a felony other than a [~~state jail~~] felony of the fourth degree  
18 punishable under Section 12.35(a), on conviction the defendant  
19 shall be punished by imprisonment in the Texas Department of  
20 Criminal Justice for life, or for any term of not more than 99 years  
21 or less than 15 years. In addition to imprisonment, an individual  
22 may be punished by a fine not to exceed \$10,000.

23           (5) A previous conviction for a [~~state jail~~] felony of  
24 the fourth degree punishable under Section 12.35(a) may not be used  
25 for enhancement purposes under Subdivision (2).

26           SECTION 47. Section 12.425, Penal Code, is amended to read  
27 as follows:

1           Sec. 12.425. PENALTIES FOR REPEAT AND HABITUAL FELONY  
2 OFFENDERS ON TRIAL FOR FOURTH DEGREE [~~STATE JAIL~~] FELONY. (a) If  
3 it is shown on the trial of a [~~state jail~~] felony of the fourth  
4 degree punishable under Section 12.35(a) that the defendant has  
5 previously been finally convicted of two [~~state jail~~] felonies of  
6 the fourth degree punishable under Section 12.35(a), on conviction  
7 the defendant shall be punished for a felony of the third degree.

8           (b) If it is shown on the trial of a [~~state jail~~] felony of  
9 the fourth degree punishable under Section 12.35(a) that the  
10 defendant has previously been finally convicted of two felonies  
11 other than a [~~state jail~~] felony of the fourth degree punishable  
12 under Section 12.35(a), and the second previous felony conviction  
13 is for an offense that occurred subsequent to the first previous  
14 conviction having become final, on conviction the defendant shall  
15 be punished for a felony of the second degree.

16           (c) If it is shown on the trial of a [~~state jail~~] felony of  
17 the fourth degree for which punishment may be enhanced under  
18 Section 12.35(c) that the defendant has previously been finally  
19 convicted of a felony other than a [~~state jail~~] felony of the fourth  
20 degree punishable under Section 12.35(a), on conviction the  
21 defendant shall be punished for a felony of the second degree.

22           SECTION 48. Section 12.44, Penal Code, is amended to read as  
23 follows:

24           Sec. 12.44. REDUCTION OF FOURTH DEGREE [~~STATE JAIL~~] FELONY  
25 PUNISHMENT TO MISDEMEANOR PUNISHMENT. (a) A court may punish a  
26 defendant who is convicted of a [~~state jail~~] felony of the fourth  
27 degree by imposing the confinement permissible as punishment for a

1 Class A misdemeanor if, after considering the gravity and  
2 circumstances of the felony committed and the history, character,  
3 and rehabilitative needs of the defendant, the court finds that  
4 such punishment would best serve the ends of justice.

5 (b) At the request of the prosecuting attorney, the court  
6 may authorize the prosecuting attorney to prosecute a [~~state jail~~  
7 felony of the fourth degree as a Class A misdemeanor.

8 SECTION 49. Section 22.11(b), Penal Code, is amended to  
9 read as follows:

10 (b) An offense under this section is a Class A misdemeanor  
11 [~~felony of the third degree~~].

12 SECTION 50. Section 31.03(e), Penal Code, is amended to  
13 read as follows:

14 (e) Except as provided by Subsection (f), an offense under  
15 this section is:

16 (1) a Class C misdemeanor if the value of the property  
17 stolen is less than \$100;

18 (2) a Class B misdemeanor if:

19 (A) the value of the property stolen is \$100 or  
20 more but less than \$750;

21 (B) the value of the property stolen is less than  
22 \$100 and the defendant has previously been convicted of any grade of  
23 theft; or

24 (C) the property stolen is a driver's license,  
25 commercial driver's license, or personal identification  
26 certificate issued by this state or another state;

27 (3) a Class A misdemeanor if:

1            (A) the value of the property stolen is \$750 or  
2 more but less than \$2,500; or

3            (B) the value of the property stolen is less than  
4 \$750 and the defendant has been previously convicted two or more  
5 times of any grade of theft;

6            (4) a [~~state jail~~] felony of the fourth degree if:

7            (A) the value of the property stolen is \$2,500 or  
8 more but less than \$30,000, or the property is less than 10 head of  
9 sheep, swine, or goats or any part thereof under the value of  
10 \$30,000;

11            (B) regardless of value, the property is stolen  
12 from the person of another or from a human corpse or grave,  
13 including property that is a military grave marker;

14            (C) the property stolen is a firearm, as defined  
15 by Section 46.01;

16            (D) [~~the value of the property stolen is less~~  
17 ~~than \$2,500 and the defendant has been previously convicted two or~~  
18 ~~more times of any grade of theft;~~

19            [~~(E)~~] the property stolen is an official ballot  
20 or official carrier envelope for an election; or

21            (E) [~~(F)~~] the value of the property stolen is  
22 less than \$20,000 and the property stolen is:

23                    (i) aluminum;

24                    (ii) bronze;

25                    (iii) copper; or

26                    (iv) brass;

27            (5) a felony of the third degree if the value of the

1 property stolen is \$30,000 or more but less than \$150,000, or the  
2 property is:

3 (A) cattle, horses, or exotic livestock or exotic  
4 fowl as defined by Section 142.001, Agriculture Code, stolen during  
5 a single transaction and having an aggregate value of less than  
6 \$150,000;

7 (B) 10 or more head of sheep, swine, or goats  
8 stolen during a single transaction and having an aggregate value of  
9 less than \$150,000; or

10 (C) a controlled substance, having a value of  
11 less than \$150,000, if stolen from:

12 (i) a commercial building in which a  
13 controlled substance is generally stored, including a pharmacy,  
14 clinic, hospital, nursing facility, or warehouse; or

15 (ii) a vehicle owned or operated by a  
16 wholesale distributor of prescription drugs;

17 (6) a felony of the second degree if:

18 (A) the value of the property stolen is \$150,000  
19 or more but less than \$300,000; or

20 (B) the value of the property stolen is less than  
21 \$300,000 and the property stolen is an automated teller machine or  
22 the contents or components of an automated teller machine; or

23 (7) a felony of the first degree if the value of the  
24 property stolen is \$300,000 or more.

25 SECTION 51. Sections 31.16(c) and (d), Penal Code, are  
26 amended to read as follows:

27 (c) An offense under this section is:

1           (1) a Class C misdemeanor if the total value of the  
2 merchandise involved in the activity is less than \$100;

3           (2) a Class B misdemeanor if the total value of the  
4 merchandise involved in the activity is \$100 or more but less than  
5 \$750;

6           (3) a Class A misdemeanor if the total value of the  
7 merchandise involved in the activity is \$750 or more but less than  
8 [~~\$2,500;~~

9           ~~[(4) a state jail felony if the total value of the~~  
10 ~~merchandise involved in the activity is \$2,500 or more but less~~  
11 ~~than] \$30,000;~~

12           (4) [~~(5)~~] a felony of the third degree if the total  
13 value of the merchandise involved in the activity is \$30,000 or more  
14 but less than \$150,000;

15           (5) [~~(6)~~] a felony of the second degree if the total  
16 value of the merchandise involved in the activity is \$150,000 or  
17 more but less than \$300,000; or

18           (6) [~~(7)~~] a felony of the first degree if the total  
19 value of the merchandise involved in the activity is \$300,000 or  
20 more.

21           (d) An offense described for purposes of punishment by  
22 Subsections (c)(1)-(5) [~~(c)(1)-(6)~~] is increased to the next higher  
23 category of offense if it is shown on the trial of the offense that:

24           (1) the person organized, supervised, financed, or  
25 managed one or more other persons engaged in an activity described  
26 by Subsection (b); or

27           (2) during the commission of the offense, a person

1 engaged in an activity described by Subsection (b) intentionally,  
2 knowingly, or recklessly:

3 (A) caused a fire exit alarm to sound or  
4 otherwise become activated;

5 (B) deactivated or otherwise prevented a fire  
6 exit alarm or retail theft detector from sounding; or

7 (C) used a shielding or deactivation instrument  
8 to prevent or attempt to prevent detection of the offense by a  
9 retail theft detector.

10 SECTION 52. Section 32.32(c), Penal Code, is amended to  
11 read as follows:

12 (c) An offense under this section is:

13 (1) a Class C misdemeanor if the value of the property  
14 or the amount of credit is less than \$100;

15 (2) a Class B misdemeanor if the value of the property  
16 or the amount of credit is \$100 or more but less than \$750;

17 (3) a Class A misdemeanor if the value of the property  
18 or the amount of credit is \$750 or more but less than ~~[\$2,500,~~

19 ~~[(4) a state jail felony if the value of the property~~  
20 ~~or the amount of credit is \$2,500 or more but less than] \$30,000;~~

21 (4) ~~[(5)]~~ a felony of the third degree if the value of  
22 the property or the amount of credit is \$30,000 or more but less  
23 than \$150,000;

24 (5) ~~[(6)]~~ a felony of the second degree if the value of  
25 the property or the amount of credit is \$150,000 or more but less  
26 than \$300,000; or

27 (6) ~~[(7)]~~ a felony of the first degree if the value of

1 the property or the amount of credit is \$300,000 or more.

2 SECTION 53. Sections 43.02(c) and (c-1), Penal Code, are  
3 amended to read as follows:

4 (c) An offense under Subsection (a) is a Class B  
5 misdemeanor, except that the offense is[+]

6 [~~(1)~~] a Class A misdemeanor if the actor has previously  
7 been convicted [~~one or two times~~] of an offense under Subsection  
8 (a) [~~;~~ or

9 [~~(2)~~] a state jail felony if the actor has previously  
10 been convicted three or more times of an offense under Subsection  
11 [~~(a)~~].

12 (c-1) An offense under Subsection (b) is a Class A  
13 misdemeanor, except that the offense is[+]

14 [~~(1)~~] a state jail felony if the actor has previously  
15 been convicted of an offense under Subsection (b); or

16 [~~(2)~~] a felony of the second degree if the person with  
17 whom the actor agrees to engage in sexual conduct is:

18 (1) [~~(A)~~] younger than 18 years of age, regardless of  
19 whether the actor knows the age of the person at the time of the  
20 offense;

21 (2) [~~(B)~~] represented to the actor as being younger  
22 than 18 years of age; or

23 (3) [~~(C)~~] believed by the actor to be younger than 18  
24 years of age.

25 SECTION 54. Section 43.23(b), Penal Code, is amended to  
26 read as follows:

27 (b) Except as provided by Subsection (h), an offense under



1 Subsection (a) is a Class A misdemeanor [~~state jail felony~~].

2 SECTION 55. The following provisions are repealed:

3 (1) Article 42.0199, Code of Criminal Procedure;

4 (2) Article 42A.104(b), Code of Criminal Procedure;

5 (3) Article 42A.515(b), Code of Criminal Procedure, as  
6 added by Chapter 413 (S.B. 20), Acts of the 86th Legislature,  
7 Regular Session, 2019;

8 (4) Subchapter L, Chapter 42A, Code of Criminal  
9 Procedure;

10 (5) Section 491.001(a)(8), Government Code;

11 (6) Sections 499.151(b) and 509.006(d) and (e),  
12 Government Code;

13 (7) Sections 493.0051, 497.097, 509.017, and 511.017,  
14 Government Code; and

15 (8) Chapter 507, Government Code.

16 SECTION 56. The changes in law made by this Act apply only  
17 to an offense committed on or after the effective date of this Act.  
18 An offense committed before the effective date of this Act is  
19 governed by the law in effect on the date the offense was committed,  
20 and the former law is continued in effect for that purpose. For  
21 purposes of this section, an offense was committed before the  
22 effective date of this Act if any element of the offense occurred  
23 before that date.

24 SECTION 57. This Act takes effect September 1, 2021.