

By: Thompson of Harris, Collier

H.B. No. 2795

A BILL TO BE ENTITLED

AN ACT

relating to the offense of solicitation of prostitution and certain other consequences of that offense; increasing a criminal penalty; making conforming changes.

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

SECTION 1. Chapter 43, Penal Code, is amended by adding Section 43.021, and a heading is added to that section to read as follows:

Sec. 43.021. SOLICITATION OF PROSTITUTION.

SECTION 2. Sections 43.02(b) and (c-1), Penal Code, are transferred to Section 43.021, Penal Code, as added by this Act, redesignated as Sections 43.021(a) and (b), Penal Code, respectively, and amended to read as follows:

(a) ~~[(b)]~~ A person commits an offense if the person knowingly offers or agrees to pay a fee to another person for the purpose of engaging in sexual conduct with that person or another.

(b) ~~[(c-1)]~~ An offense under Subsection (a) ~~[(b)]~~ is a state jail felony ~~[Class A misdemeanor]~~, except that the offense is:

(1) a ~~[state jail]~~ felony of the third degree if the actor has previously been convicted of an offense under Subsection (a) or under Section 43.02(b), as that law existed before September 1, 2021 ~~[(b)]~~; or

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

1 (A) younger than 18 years of age, regardless of
2 whether the actor knows the age of the person at the time of the
3 offense;

4 (B) represented to the actor as being younger
5 than 18 years of age; or

6 (C) believed by the actor to be younger than 18
7 years of age.

8 SECTION 3. Section 43.021, Penal Code, as added by this Act,
9 is amended by adding Subsection (c) to read as follows:

10 (c) A conviction may be used for purposes of enhancement
11 under this section or enhancement under Subchapter D, Chapter 12,
12 but not under both this section and that subchapter. For purposes of
13 enhancement of penalties under this section or Subchapter D,
14 Chapter 12, a defendant is considered to have been previously
15 convicted of an offense under this section or under Section
16 43.02(b), as that law existed before September 1, 2021, if the
17 defendant was adjudged guilty of the offense or entered a plea of
18 guilty or nolo contendere in return for a grant of deferred
19 adjudication, regardless of whether the sentence for the offense
20 was ever imposed or whether the sentence was probated and the
21 defendant was subsequently discharged from community supervision.

22 SECTION 4. Section 25.06(a), Alcoholic Beverage Code, as
23 effective September 1, 2021, is amended to read as follows:

24 (a) The commission shall deny an original application for a
25 wine and malt beverage retailer's permit if the commission finds
26 that the applicant, or the applicant's spouse, during the five
27 years immediately preceding the application, was finally convicted

of a felony or one of the following offenses:

- (1) prostitution or solicitation of prostitution;
- (2) a vagrancy offense involving moral turpitude;
- (3) bookmaking;
- (4) gambling or gaming;
- (5) an offense involving controlled substances as defined in Chapter 481, Health and Safety Code, or other dangerous drugs;
- (6) a violation of this code resulting in the cancellation of a license or permit, or a fine of not less than \$500;
- (7) more than three violations of this code relating to minors;
- (8) bootlegging; or
- (9) an offense involving firearms or a deadly weapon.

SECTION 5. Section 69.06(a), Alcoholic Beverage Code, is amended to read as follows:

(a) The commission shall deny an original application for a retail dealer's on-premise license if the commission finds that the applicant or the applicant's spouse, during the five years immediately preceding the application, was finally convicted of a felony or one of the following offenses:

- (1) prostitution or solicitation of prostitution;
- (2) a vagrancy offense involving moral turpitude;
- (3) bookmaking;
- (4) gambling or gaming;
- (5) an offense involving controlled substances as

defined in the Texas Controlled Substances Act, including an offense involving a synthetic cannabinoid, or an offense involving other dangerous drugs;

(6) a violation of this code resulting in the cancellation of a license or permit, or a fine of not less than \$500;

(7) more than three violations of this code relating to minors;

(8) bootlegging; or

(9) an offense involving firearms or a deadly weapon.

SECTION 6. Section [125.0015](#)(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A person who maintains a place to which persons habitually go for the following purposes and who knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity maintains a common nuisance:

(1) discharge of a firearm in a public place as prohibited by the Penal Code;

(2) reckless discharge of a firearm as prohibited by the Penal Code;

(3) engaging in organized criminal activity as a member of a combination as prohibited by the Penal Code;

(4) delivery, possession, manufacture, or use of a substance or other item in violation of Chapter [481](#), Health and Safety Code;

(5) gambling, gambling promotion, or communicating gambling information as prohibited by the Penal Code;

1 (6) prostitution as described by Section 43.02, Penal
2 Code, solicitation of prostitution as described by Section 43.021,
3 Penal Code, promotion of prostitution as described by Section
4 43.03, Penal Code, or aggravated promotion of prostitution as
5 described by Section 43.04, [prohibited by the] Penal Code;

6 (7) compelling prostitution as prohibited by the Penal
7 Code;

8 (8) commercial manufacture, commercial distribution,
9 or commercial exhibition of obscene material as prohibited by the
10 Penal Code;

11 (9) aggravated assault as described by Section 22.02,
12 Penal Code;

13 (10) sexual assault as described by Section 22.011,
14 Penal Code;

15 (11) aggravated sexual assault as described by Section
16 22.021, Penal Code;

17 (12) robbery as described by Section 29.02, Penal
18 Code;

19 (13) aggravated robbery as described by Section 29.03,
20 Penal Code;

21 (14) unlawfully carrying a weapon as described by
22 Section 46.02, Penal Code;

23 (15) murder as described by Section 19.02, Penal Code;

24 (16) capital murder as described by Section 19.03,
25 Penal Code;

26 (17) continuous sexual abuse of young child or
27 children as described by Section 21.02, Penal Code;

1 (18) message therapy or other message services in
2 violation of Chapter 455, Occupations Code;

3 (19) employing a minor at a sexually oriented business
4 as defined by Section 243.002, Local Government Code;

5 (20) trafficking of persons as described by Section
6 20A.02, Penal Code;

7 (21) sexual conduct or performance by a child as
8 described by Section 43.25, Penal Code;

9 (22) employment harmful to a child as described by
10 Section 43.251, Penal Code;

11 (23) criminal trespass as described by Section 30.05,
12 Penal Code;

13 (24) disorderly conduct as described by Section 42.01,
14 Penal Code;

15 (25) arson as described by Section 28.02, Penal Code;

16 (26) criminal mischief as described by Section 28.03,
17 Penal Code, that causes a pecuniary loss of \$500 or more; or

18 (27) a graffiti offense in violation of Section 28.08,
19 Penal Code.

20 SECTION 7. Article 17.45, Code of Criminal Procedure, is
21 amended to read as follows:

22 Art. 17.45. CONDITIONS REQUIRING AIDS AND HIV INSTRUCTION.
23 A magistrate may require as a condition of bond that a defendant
24 charged with an offense under Section 43.02 or 43.021, Penal Code,
25 receive counseling or education, or both, relating to acquired
26 immune deficiency syndrome or human immunodeficiency virus.

27 SECTION 8. Article 42A.751(a), Code of Criminal Procedure,

1 is amended to read as follows:

2 (a) At any time during the period of community supervision,
3 the judge may issue a warrant for a violation of any condition of
4 community supervision and cause a defendant convicted under Section
5 [43.02](#) or [43.021](#), Penal Code, Chapter [481](#), Health and Safety Code, or
6 Sections [485.031](#) through [485.035](#), Health and Safety Code, or placed
7 on deferred adjudication community supervision after being charged
8 with one of those offenses, to be subject to:

9 (1) the control measures of Section [81.083](#), Health and
10 Safety Code; and

11 (2) the court-ordered-management provisions of
12 Subchapter [G](#), Chapter [81](#), Health and Safety Code.

13 SECTION 9. Section [62.001](#)(5), Code of Criminal Procedure,
14 is amended to read as follows:

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

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

25 (B) a violation of Section [43.04](#) (Aggravated
26 promotion of prostitution), [43.05](#) (Compelling prostitution), [43.25](#)
27 (Sexual performance by a child), or [43.26](#) (Possession or promotion

1 of child pornography), Penal Code;

2 (B-1) a violation of Section [43.021](#)
3 (Solicitation of Prostitution) [~~43.02 (Prostitution)~~], Penal Code,
4 if the offense is punishable as a felony of the second degree [~~under~~
5 ~~Subsection (c-1)(2) of that section~~];

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

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

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

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

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

23 (F) the second violation of Section [21.08](#)
24 (Indecent exposure), Penal Code, but not if the second violation
25 results in a deferred adjudication;

26 (G) an attempt, conspiracy, or solicitation, as
27 defined by Chapter [15](#), Penal Code, to commit an offense or engage in

conduct listed in Paragraph (A), (B), (C), (D), (E), (K), or (L);

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

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

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

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

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

SECTION 10. Section 11.066, Education Code, is amended to read as follows:

Sec. 11.066. ELIGIBILITY FOR SERVICE BY TRUSTEE CONVICTED OF CERTAIN OFFENSES. A person is ineligible to serve as a member of the board of trustees of a school district if the person has been

1 convicted of a felony or an offense under Section 43.021
2 [~~43.02(b)~~], Penal Code.

3 SECTION 11. Section 51.03(b), Family Code, is amended to
4 read as follows:

5 (b) Conduct indicating a need for supervision is:

6 (1) subject to Subsection (f), conduct, other than a
7 traffic offense, that violates:

8 (A) the penal laws of this state of the grade of
9 misdemeanor that are punishable by fine only; or

10 (B) the penal ordinances of any political
11 subdivision of this state;

12 (2) the voluntary absence of a child from the child's
13 home without the consent of the child's parent or guardian for a
14 substantial length of time or without intent to return;

15 (3) conduct prohibited by city ordinance or by state
16 law involving the inhalation of the fumes or vapors of paint and
17 other protective coatings or glue and other adhesives and the
18 volatile chemicals itemized in Section 485.001, Health and Safety
19 Code;

20 (4) an act that violates a school district's
21 previously communicated written standards of student conduct for
22 which the child has been expelled under Section 37.007(c),
23 Education Code;

24 (5) notwithstanding Subsection (a)(1), conduct
25 described by Section 43.02 or 43.021 [~~43.02(a) or (b)~~], Penal Code;
26 or

27 (6) notwithstanding Subsection (a)(1), conduct that

violates Section 43.261, Penal Code.

SECTION 12. Section 261.001(1), Family Code, is amended to read as follows:

(1) "Abuse" includes the following acts or omissions by a person:

(A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

(D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

(E) sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011,

1 Penal Code, or aggravated sexual assault under Section 22.021,
2 Penal Code;

3 (F) failure to make a reasonable effort to
4 prevent sexual conduct harmful to a child;

5 (G) compelling or encouraging the child to engage
6 in sexual conduct as defined by Section 43.01, Penal Code,
7 including compelling or encouraging the child in a manner that
8 constitutes an offense of trafficking of persons under Section
9 20A.02(a)(7) or (8), Penal Code, solicitation of prostitution under
10 Section 43.021 [~~43.02(b)~~], Penal Code, or compelling prostitution
11 under Section 43.05(a)(2), Penal Code;

12 (H) causing, permitting, encouraging, engaging
13 in, or allowing the photographing, filming, or depicting of the
14 child if the person knew or should have known that the resulting
15 photograph, film, or depiction of the child is obscene as defined by
16 Section 43.21, Penal Code, or pornographic;

17 (I) the current use by a person of a controlled
18 substance as defined by Chapter 481, Health and Safety Code, in a
19 manner or to the extent that the use results in physical, mental, or
20 emotional injury to a child;

21 (J) causing, expressly permitting, or
22 encouraging a child to use a controlled substance as defined by
23 Chapter 481, Health and Safety Code;

24 (K) causing, permitting, encouraging, engaging
25 in, or allowing a sexual performance by a child as defined by
26 Section 43.25, Penal Code;

27 (L) knowingly causing, permitting, encouraging,

engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections; or

(M) forcing or coercing a child to enter into a marriage.

SECTION 13. Section 71.0353, Government Code, is amended to read as follows:

Sec. 71.0353. TRAFFICKING OF PERSONS INFORMATION. As a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System, a district court or county court at law shall report the number of cases filed for the following offenses:

(1) trafficking of persons under Section 20A.02, Penal Code;

(2) prostitution under Section 43.02, Penal Code;

(3) solicitation of prostitution under Section 43.021, Penal Code; and

(4) ~~[(3)]~~ compelling prostitution under Section 43.05, Penal Code.

SECTION 14. Section 402.035(d), Government Code, is amended to read as follows:

(d) The task force shall:

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

(A) United States attorneys' offices for all of

1 the federal districts of Texas; and

2 (B) special agents or customs and border
3 protection officers and border patrol agents of:

4 (i) the Federal Bureau of Investigation;

5 (ii) the United States Drug Enforcement
6 Administration;

7 (iii) the Bureau of Alcohol, Tobacco,
8 Firearms and Explosives;

9 (iv) United States Immigration and Customs
10 Enforcement; or

11 (v) the United States Department of
12 Homeland Security;

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

17 (3) solicit cooperation and assistance from state and
18 local governmental agencies, political subdivisions of the state,
19 nongovernmental organizations, and other persons, as appropriate,
20 for the purpose of collecting and organizing statistical data under
21 Subdivision (2);

22 (4) ensure that each state or local governmental
23 agency and political subdivision of the state and each state or
24 local law enforcement agency, district attorney, or county attorney
25 that assists in the prevention of human trafficking collects
26 statistical data related to human trafficking, including, as
27 appropriate:

1 (A) the number of investigations concerning,
2 arrests and prosecutions for, and convictions of:

3 (i) the offense of trafficking of persons;

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

7 (iii) an offense punishable as a felony of
8 the second degree under Section 43.021 [~~43.02(c-1)(2)~~], Penal Code,
9 regardless of whether the offense was committed as part of a
10 criminal episode involving the trafficking of persons;

11 (B) demographic information on persons who are
12 convicted of offenses described by Paragraph (A) and persons who
13 are the victims of those offenses;

14 (C) geographic routes by which human trafficking
15 victims are trafficked, including routes by which victims are
16 trafficked across this state's international border, and
17 geographic patterns in human trafficking, including the country or
18 state of origin and the country or state of destination;

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

21 (E) social and economic factors that create a
22 demand for the labor or services that victims of human trafficking
23 are forced to provide;

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

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

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

6 (B) develop a standardized curriculum for
7 training doctors, nurses, emergency medical services personnel,
8 teachers, school counselors, school administrators, and personnel
9 from the Department of Family and Protective Services and the
10 Health and Human Services Commission to identify and assist victims
11 of human trafficking;

12 (C) train doctors, nurses, emergency medical
13 services personnel, teachers, school counselors, school
14 administrators, and personnel from the Department of Family and
15 Protective Services and the Health and Human Services Commission to
16 identify and assist victims of human trafficking;

17 (D) develop and conduct training for personnel
18 from the Department of Family and Protective Services and the
19 Health and Human Services Commission on methods for identifying
20 children in foster care who may be at risk of becoming victims of
21 human trafficking; and

22 (E) develop a process for referring identified
23 human trafficking victims and individuals at risk of becoming
24 victims to appropriate entities for services;

25 (7) on the request of a judge of a county court, county
26 court at law, or district court or a county attorney, district
27 attorney, or criminal district attorney, assist and train the judge

1 or the judge's staff or the attorney or the attorney's staff in the
2 recognition and prevention of human trafficking;

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

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

10 (10) develop recommendations on how to strengthen
11 state and local efforts to prevent human trafficking, protect and
12 assist human trafficking victims, curb markets and other economic
13 avenues that facilitate human trafficking and investigate and
14 prosecute human trafficking offenders;

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

21 (12) develop recommendations for addressing the
22 demand for forced labor or services or sexual conduct involving
23 victims of human trafficking, including recommendations for
24 increased penalties for individuals who engage or attempt to engage
25 in solicitation of prostitution with victims younger than 18 years
26 of age; and

27 (13) identify and report to the governor and

1 legislature on laws, licensure requirements, or other regulations
2 that can be passed at the state and local level to curb trafficking
3 using the Internet and in sexually oriented businesses.

4 SECTION 15. Section 411.042(b), Government Code, is amended
5 to read as follows:

6 (b) The bureau of identification and records shall:

7 (1) procure and file for record photographs, pictures,
8 descriptions, fingerprints, measurements, and other pertinent
9 information of all persons arrested for or charged with a criminal
10 offense or convicted of a criminal offense, regardless of whether
11 the conviction is probated;

12 (2) collect information concerning the number and
13 nature of offenses reported or known to have been committed in the
14 state and the legal steps taken in connection with the offenses, and
15 other information useful in the study of crime and the
16 administration of justice, including information that enables the
17 bureau to create a statistical breakdown of:

18 (A) offenses in which family violence was
19 involved;

20 (B) offenses under Sections 22.011 and 22.021,
21 Penal Code; and

22 (C) offenses under Sections 20A.02, 43.02
23 [~~43.02(a)~~], 43.021 [~~43.02(b)~~], 43.03, 43.031, 43.04, 43.041, and
24 43.05, Penal Code;

25 (3) make ballistic tests of bullets and firearms and
26 chemical analyses of bloodstains, cloth, materials, and other
27 substances for law enforcement officers of the state;

1 (4) cooperate with identification and crime records
2 bureaus in other states and the United States Department of
3 Justice;

4 (5) maintain a list of all previous background checks
5 for applicants for any position regulated under Chapter 1702,
6 Occupations Code, who have undergone a criminal history background
7 check as required by that chapter, if the check indicates a Class B
8 misdemeanor or equivalent offense or a greater offense;

9 (6) collect information concerning the number and
10 nature of protective orders and magistrate's orders of emergency
11 protection and all other pertinent information about all persons
12 subject to active orders, including pertinent information about
13 persons subject to conditions of bond imposed for the protection of
14 the victim in any family violence, sexual assault or abuse,
15 indecent assault, stalking, or trafficking case. Information in the
16 law enforcement information system relating to an active order
17 shall include:

18 (A) the name, sex, race, date of birth, personal
19 descriptors, address, and county of residence of the person to whom
20 the order is directed;

21 (B) any known identifying number of the person to
22 whom the order is directed, including the person's social security
23 number or driver's license number;

24 (C) the name and county of residence of the
25 person protected by the order;

26 (D) the residence address and place of employment
27 or business of the person protected by the order;

1 (E) the child-care facility or school where a
2 child protected by the order normally resides or which the child
3 normally attends;

4 (F) the relationship or former relationship
5 between the person who is protected by the order and the person to
6 whom the order is directed;

7 (G) the conditions of bond imposed on the person
8 to whom the order is directed, if any, for the protection of a
9 victim in any family violence, sexual assault or abuse, indecent
10 assault, stalking, or trafficking case;

11 (H) any minimum distance the person subject to
12 the order is required to maintain from the protected places or
13 persons; and

14 (I) the date the order expires;

15 (7) grant access to criminal history record
16 information in the manner authorized under Subchapter F;

17 (8) collect and disseminate information regarding
18 offenders with mental impairments in compliance with Chapter 614,
19 Health and Safety Code; and

20 (9) record data and maintain a state database for a
21 computerized criminal history record system and computerized
22 juvenile justice information system that serves:

23 (A) as the record creation point for criminal
24 history record information and juvenile justice information
25 maintained by the state; and

26 (B) as the control terminal for the entry of
27 records, in accordance with federal law and regulations, federal

executive orders, and federal policy, into the federal database maintained by the Federal Bureau of Investigation.

SECTION 16. Section 411.1471(a), Government Code, is amended to read as follows:

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

(1) arrested for a felony prohibited under any of the following Penal Code sections:

- (A) Section 19.02;
- (B) Section 19.03;
- (C) Section 20.03;
- (D) Section 20.04;
- (E) Section 20.05;
- (F) Section 20.06;
- (G) Section 20A.02;
- (H) Section 20A.03;
- (I) Section 21.02;
- (J) Section 21.11;
- (K) Section 22.01;
- (L) Section 22.011;
- (M) Section 22.02;
- (N) Section 22.021;
- (O) Section 25.02;
- (P) Section 29.02;
- (Q) Section 29.03;
- (R) Section 30.02;
- (S) Section 31.03;
- (T) Section 43.03;

- (U) Section 43.04;
- (V) Section 43.05;
- (W) Section 43.25; or
- (X) Section 43.26; or

(2) convicted of an offense:

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

(B) under Section 21.08, 25.04, 43.021 [~~43.02(b)~~], or 43.24, Penal Code.

SECTION 17. Section 81.093(a), Health and Safety Code, is amended to read as follows:

(a) A court may direct a person convicted of an offense under Section 43.02 or 43.021, Penal Code, under Chapter 481 (Texas Controlled Substances Act), or under Sections 485.031 through 485.035 to be subject to the control measures of Section 81.083 and to the court-ordered management provisions of Subchapter G.

SECTION 18. The heading to Chapter 169, Health and Safety Code, is amended to read as follows:

CHAPTER 169. FIRST OFFENDER SOLICITATION OF PROSTITUTION
PREVENTION PROGRAM

SECTION 19. Section 169.001, Health and Safety Code, is amended to read as follows:

Sec. 169.001. FIRST OFFENDER SOLICITATION OF PROSTITUTION PREVENTION PROGRAM; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In

1 this chapter, "first offender solicitation of prostitution
2 prevention program" means a program that has the following
3 essential characteristics:

4 (1) the integration of services in the processing of
5 cases in the judicial system;

6 (2) the use of a nonadversarial approach involving
7 prosecutors and defense attorneys to promote public safety, to
8 reduce the demand for the commercial sex trade and trafficking of
9 persons by educating offenders, and to protect the due process
10 rights of program participants;

11 (3) early identification and prompt placement of
12 eligible participants in the program;

13 (4) access to information, counseling, and services
14 relating to sex addiction, sexually transmitted diseases, mental
15 health, and substance abuse;

16 (5) a coordinated strategy to govern program responses
17 to participant compliance;

18 (6) monitoring and evaluation of program goals and
19 effectiveness;

20 (7) continuing interdisciplinary education to promote
21 effective program planning, implementation, and operations; and

22 (8) development of partnerships with public agencies
23 and community organizations.

24 (b) If a defendant successfully completes a first offender
25 solicitation of prostitution prevention program, regardless of
26 whether the defendant was convicted of the offense for which the
27 defendant entered the program or whether the court deferred further

proceedings without entering an adjudication of guilt, after notice to the state and a hearing on whether the defendant is otherwise entitled to the petition, including whether the required time period has elapsed, and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, Government Code, as if the defendant had received a discharge and dismissal under Article 42A.111, Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program if the defendant:

(1) has not been previously convicted of a felony offense; and

(2) is not convicted of any other felony offense before the second anniversary of the defendant's successful completion of the program.

SECTION 20. Sections 169.002(a), (b), (d), (e), and (f), Health and Safety Code, are amended to read as follows:

(a) The commissioners court of a county or governing body of a municipality may establish a first offender solicitation of prostitution prevention program for defendants charged with an offense under Section 43.021 [~~43.02(b)~~], Penal Code.

(b) A defendant is eligible to participate in a first offender solicitation of prostitution prevention program established under this chapter only if:

(1) the attorney representing the state consents to the defendant's participation in the program; and

(2) the court in which the criminal case is pending finds that the defendant has not been previously convicted of:

(A) an offense under Section 20A.02, 43.02(b), as that law existed before September 1, 2021 [~~43.02~~], 43.021, 43.03, 43.031, 43.04, 43.041, or 43.05, Penal Code;

(B) an offense listed in Article 42A.054(a), Code of Criminal Procedure; or

(C) an offense punishable as a felony under Chapter 481.

(d) A defendant is not eligible to participate in the first offender solicitation of prostitution prevention program if the defendant offered or agreed to hire a person to engage in sexual conduct and the person was younger than 18 years of age at the time of the offense.

(e) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to participate in the first offender solicitation of prostitution prevention program or otherwise proceed through the criminal justice system.

(f) If a defendant who chooses to participate in the first offender solicitation of prostitution prevention program fails to attend any portion of the program, the court in which the defendant's criminal case is pending shall issue a warrant for the defendant's arrest and proceed on the criminal case as if the defendant had chosen not to participate in the program.

SECTION 21. Section 169.003(a), Health and Safety Code, is amended to read as follows:

(a) A first offender solicitation of prostitution

1 prevention program established under this chapter must:

2 (1) ensure that a person eligible for the program is
3 provided legal counsel before volunteering to proceed through the
4 program and while participating in the program;

5 (2) allow any participant to withdraw from the program
6 at any time before a trial on the merits has been initiated;

7 (3) provide each participant with information,
8 counseling, and services relating to sex addiction, sexually
9 transmitted diseases, mental health, and substance abuse; and

10 (4) provide each participant with classroom
11 instruction related to the prevention of the solicitation of
12 prostitution.

13 SECTION 22. Sections 169.004, 169.005, and 169.006, Health
14 and Safety Code, are amended to read as follows:

15 Sec. 169.004. OVERSIGHT. (a) The lieutenant governor and
16 the speaker of the house of representatives may assign to
17 appropriate legislative committees duties relating to the
18 oversight of first offender solicitation of prostitution
19 prevention programs established under this chapter.

20 (b) A legislative committee or the governor may request the
21 state auditor to perform a management, operations, or financial or
22 accounting audit of a first offender solicitation of prostitution
23 prevention program established under this chapter.

24 (c) A first offender solicitation of prostitution
25 prevention program established under this chapter shall:

26 (1) notify the criminal justice division of the
27 governor's office before or on implementation of the program; and

1 (2) provide information regarding the performance of
2 the program to the division on request.

3 Sec. 169.005. REIMBURSEMENT FEES. (a) A first offender
4 solicitation of prostitution prevention program established under
5 this chapter may collect from a participant in the program a
6 nonrefundable reimbursement fee for the program in a reasonable
7 amount not to exceed \$1,000, from which the following must be paid:

8 (1) a counseling and services reimbursement fee in an
9 amount necessary to cover the costs of the counseling and services
10 provided by the program; and

11 (2) a law enforcement training reimbursement fee, in
12 an amount equal to five percent of the total amount paid under
13 Subdivision (1), to be deposited to the credit of the treasury of
14 the county or municipality that established the program to cover
15 costs associated with the provision of training to law enforcement
16 personnel on domestic violence, prostitution, and the trafficking
17 of persons.

18 (b) Reimbursement fees collected under this section may be
19 paid on a periodic basis or on a deferred payment schedule at the
20 discretion of the judge, magistrate, or program director
21 administering the first offender solicitation of prostitution
22 prevention program. The fees must be based on the participant's
23 ability to pay.

24 Sec. 169.006. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE
25 REQUIREMENT. (a) To encourage participation in a first offender
26 solicitation of prostitution prevention program established under
27 this chapter, the judge or magistrate administering the program may

1 suspend any requirement that, as a condition of community
2 supervision, a participant in the program work a specified number
3 of hours at a community service project.

4 (b) On a participant's successful completion of a first
5 offender solicitation of prostitution prevention program, a judge
6 or magistrate may excuse the participant from any condition of
7 community supervision previously suspended under Subsection (a).

8 SECTION 23. Section 455.202(d)(2), Occupations Code, is
9 amended to read as follows:

10 (2) "Sexual contact" includes:

11 (A) any touching of any part of the genitalia or
12 anus;

13 (B) any touching of the breasts of a female
14 without the written consent of the female;

15 (C) any offer or agreement to engage in any
16 activity described in Paragraph (A) or (B);

17 (D) kissing without the consent of both persons;

18 (E) deviate sexual intercourse, sexual contact,
19 sexual intercourse, indecent exposure, sexual assault,
20 prostitution, solicitation of prostitution, and promotion
21 [~~promotions~~] of prostitution as described in Chapters 21, 22, and
22 43, Penal Code, or any offer or agreement to engage in such
23 activities;

24 (F) any behavior, gesture, or expression that may
25 reasonably be interpreted as inappropriately seductive or sexual;
26 or

27 (G) inappropriate sexual comments about or to a

1 client, including sexual comments about a person's body.

2 SECTION 24. Section 15.031(b), Penal Code, is amended to
3 read as follows:

4 (b) A person commits an offense if, with intent that an
5 offense under Section 20A.02(a)(7) or (8), 21.02, 21.11, 22.011,
6 22.021, 43.02, 43.021, 43.05(a)(2), or 43.25 be committed, the
7 person by any means requests, commands, or attempts to induce a
8 minor or another whom the person believes to be a minor to engage in
9 specific conduct that, under the circumstances surrounding the
10 actor's conduct as the actor believes them to be, would constitute
11 an offense under one of those sections or would make the minor or
12 other believed by the person to be a minor a party to the commission
13 of an offense under one of those sections.

14 SECTION 25. Section 20A.02(a), Penal Code, is amended to
15 read as follows:

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

17 (1) traffics another person with the intent that the
18 trafficked person engage in forced labor or services;

19 (2) receives a benefit from participating in a venture
20 that involves an activity described by Subdivision (1), including
21 by receiving labor or services the person knows are forced labor or
22 services;

23 (3) traffics another person and, through force, fraud,
24 or coercion, causes the trafficked person to engage in conduct
25 prohibited by:

26 (A) Section 43.02 (Prostitution);

27 (B) Section 43.03 (Promotion of Prostitution);

(B-1) Section 43.031 (Online Promotion of Prostitution);

(C) Section 43.04 (Aggravated Promotion of Prostitution);

(C-1) Section 43.041 (Aggravated Online Promotion of Prostitution); or

(D) Section 43.05 (Compelling Prostitution);

(4) receives a benefit from participating in a venture that involves an activity described by Subdivision (3) or engages in sexual conduct with a person trafficked in the manner described in Subdivision (3);

(5) traffics a child with the intent that the trafficked child engage in forced labor or services;

(6) receives a benefit from participating in a venture that involves an activity described by Subdivision (5), including by receiving labor or services the person knows are forced labor or services;

(7) traffics a child and by any means causes the trafficked child to engage in, or become the victim of, conduct prohibited by:

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

(B) Section 21.11 (Indecency with a Child);

(C) Section 22.011 (Sexual Assault);

(D) Section 22.021 (Aggravated Sexual Assault);

(E) Section 43.02 (Prostitution);

(E-1) Section 43.021 (Solicitation of

1 Prostitution);

2 (F) Section 43.03 (Promotion of Prostitution);

3 (F-1) Section 43.031 (Online Promotion of
4 Prostitution);

5 (G) Section 43.04 (Aggravated Promotion of
6 Prostitution);

7 (G-1) Section 43.041 (Aggravated Online
8 Promotion of Prostitution);

9 (H) Section 43.05 (Compelling Prostitution);

10 (I) Section 43.25 (Sexual Performance by a
11 Child);

12 (J) Section 43.251 (Employment Harmful to
13 Children); or

14 (K) Section 43.26 (Possession or Promotion of
15 Child Pornography); or

16 (8) receives a benefit from participating in a venture
17 that involves an activity described by Subdivision (7) or engages
18 in sexual conduct with a child trafficked in the manner described in
19 Subdivision (7).

20 SECTION 26. Section 25.08(c), Penal Code, is amended to
21 read as follows:

22 (c) An offense under this section is a felony of the third
23 degree, except that the offense is a felony of the second degree if
24 the actor commits the offense with intent to commit an offense under
25 Section 20A.02, 43.021 [~~43.02~~], 43.05, or 43.25.

26 SECTION 27. Section 25.081(c), Penal Code, is amended to
27 read as follows:

1 (c) An offense under this section is a felony of the third
2 degree, except that the offense is a felony of the second degree if
3 the actor commits the offense with intent to commit an offense under
4 Section 20A.02, 43.021 [~~43.02~~], 43.05, 43.25, 43.251, or 43.26.

5 SECTION 28. Section 43.01, Penal Code, is amended by adding
6 Subdivision (6) to read as follows:

7 (6) "Solicitation of prostitution" means the offense
8 defined in Section 43.021.

9 SECTION 29. Section 43.031(a), Penal Code, is amended to
10 read as follows:

11 (a) A person commits an offense if the person owns, manages,
12 or operates an interactive computer service or information content
13 provider, or operates as an information content provider, with the
14 intent to promote the prostitution of another person or facilitate
15 another person to engage in prostitution or solicitation of
16 prostitution.

17 SECTION 30. Section 43.041(a), Penal Code, is amended to
18 read as follows:

19 (a) A person commits an offense if the person owns, manages,
20 or operates an interactive computer service or information content
21 provider, or operates as an information content provider, with the
22 intent to promote the prostitution of five or more persons or
23 facilitate five or more persons to engage in prostitution or
24 solicitation of prostitution.

25 SECTION 31. Section 93.013(a), Property Code, is amended to
26 read as follows:

27 (a) Notwithstanding a provision in a lease to the contrary,

1 a tenant's right of possession terminates and the landlord has a
2 right to recover possession of the leased premises if the tenant is
3 using the premises or allowing the premises to be used for the
4 purposes of prostitution as described by Section 43.02, Penal Code,
5 solicitation of prostitution as described by Section 43.021, Penal
6 Code, promotion of prostitution as described by Section 43.03,
7 Penal Code, aggravated promotion of prostitution as described by
8 Section 43.04, Penal Code, [~~or~~] compelling prostitution[~~7~~] as
9 described [~~prohibited~~] by Section 43.05, [~~the~~] Penal Code, or
10 trafficking of persons as described by Section 20A.02, Penal Code.

11 SECTION 32. The change in law made by this Act applies only
12 to an offense committed on or after the effective date of this Act.
13 An offense committed before the effective date of this Act is
14 governed by the law in effect on the date the offense was committed,
15 and the former law is continued in effect for that purpose. For
16 purposes of this section, an offense was committed before the
17 effective date of this Act if any element of the offense occurred
18 before that date.

19 SECTION 33. This Act takes effect September 1, 2021.