

By: Meyer, Hunter, A. Johnson of Harris,  
Thierry

H.B. No. 3110

A BILL TO BE ENTITLED

1 AN ACT

2 relating to possession or promotion of child sexual abuse material;  
3 increasing a criminal penalty; changing eligibility for community  
4 supervision.

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

6 ARTICLE 1. POSSESSION OR PROMOTION OF CHILD SEXUAL ABUSE MATERIAL

7 SECTION 1.01. Article 42A.054(a), Code of Criminal  
8 Procedure, is amended to read as follows:

9 (a) Article 42A.053 does not apply to a defendant adjudged  
10 guilty of an offense under:

11 (1) Section 15.03, Penal Code, if the offense is  
12 punishable as a felony of the first degree;

13 (2) Section 19.02, Penal Code (Murder);

14 (3) Section 19.03, Penal Code (Capital Murder);

15 (4) Section 20.04, Penal Code (Aggravated  
16 Kidnapping);

17 (5) Section 20A.02, Penal Code (Trafficking of  
18 Persons);

19 (6) Section 20A.03, Penal Code (Continuous  
20 Trafficking of Persons);

21 (7) Section 21.11, Penal Code (Indecency with a  
22 Child);

23 (8) Section 22.011, Penal Code (Sexual Assault);

24 (9) Section 22.021, Penal Code (Aggravated Sexual

1 Assault);

2 (10) Section 22.04(a)(1), Penal Code (Injury to a  
3 Child, Elderly Individual, or Disabled Individual), if:

4 (A) the offense is punishable as a felony of the  
5 first degree; and

6 (B) the victim of the offense is a child;

7 (11) Section 29.03, Penal Code (Aggravated Robbery);

8 (12) Section 30.02, Penal Code (Burglary), if:

9 (A) the offense is punishable under Subsection  
10 (d) of that section; and

11 (B) the actor committed the offense with the  
12 intent to commit a felony under Section 21.02, 21.11, 22.011,  
13 22.021, or 25.02, Penal Code;

14 (13) Section 43.04, Penal Code (Aggravated Promotion  
15 of Prostitution);

16 (14) Section 43.05, Penal Code (Compelling  
17 Prostitution);

18 (15) Section 43.25, Penal Code (Sexual Performance by  
19 a Child); ~~or~~

20 (16) Section 43.26, Penal Code (Possession or  
21 Promotion of Child Sexual Abuse Material); or

22 (17) Chapter 481, Health and Safety Code, for which  
23 punishment is increased under:

24 (A) Section 481.140 of that code (Use of Child in  
25 Commission of Offense); or

26 (B) Section 481.134(c), (d), (e), or (f) of that  
27 code (Drug-free Zones) if it is shown that the defendant has been

1 previously convicted of an offense for which punishment was  
2 increased under any of those subsections.

3 SECTION 1.02. Article 42A.056, Code of Criminal Procedure,  
4 is amended to read as follows:

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

8 (1) is sentenced to a term of imprisonment that  
9 exceeds 10 years;

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

13 (3) is adjudged guilty of an offense under Section  
14 19.02, Penal Code;

15 (4) is convicted of an offense under Section 21.11,  
16 22.011, or 22.021, Penal Code, if the victim of the offense was  
17 younger than 14 years of age at the time the offense was committed;

18 (5) is convicted of an offense under Section 20.04,  
19 Penal Code, if:

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

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

24 (6) is convicted of an offense under Section 20A.02,  
25 20A.03, 43.04, 43.05, ~~43.25~~, or 43.26, Penal Code; or

26 (7) is convicted of an offense for which punishment is  
27 increased under Section 481.134(c), (d), (e), or (f), Health and

1 Safety Code, if it is shown that the defendant has been previously  
2 convicted of an offense for which punishment was increased under  
3 any of those subsections.

4 SECTION 1.03. The heading to Section 43.26, Penal Code, is  
5 amended to read as follows:

6 Sec. 43.26. POSSESSION OR PROMOTION OF CHILD SEXUAL ABUSE  
7 MATERIAL [~~PORNOGRAPHY~~].

8 SECTION 1.04. Section 43.26, Penal Code, is amended by  
9 amending Subsections (d) and (g) and adding Subsection (g-1) to  
10 read as follows:

11 (d) An offense under Subsection (a) is a felony of the  
12 second [~~third~~] degree, except that the offense is[+]

13 [~~(1) a felony of the second degree if it is shown on the~~  
14 ~~trial of the offense that the person has been previously convicted~~  
15 ~~one time of an offense under that subsection; and~~

16 [~~(2)~~] a felony of the first degree if it is shown on the  
17 trial of the offense that the person has been previously convicted  
18 [~~two or more times~~] of an offense under that subsection.

19 (g) Except as provided by Subsection (g-1), an [~~An~~] offense  
20 under Subsection (e) is a felony of the second degree with a minimum  
21 term of imprisonment of five years.

22 (g-1) An offense under Subsection (e) [~~, except that the~~  
23 ~~offense~~] is a felony of the first degree if it is shown on the trial  
24 of the offense that the person has been previously convicted of an  
25 offense under that subsection.

26 ARTICLE 2. CONFORMING AMENDMENTS

27 SECTION 2.01. The heading to Chapter 110, Business &

1 Commerce Code, is amended to read as follows:

2 CHAPTER 110. COMPUTER TECHNICIANS REQUIRED TO REPORT CHILD SEXUAL  
3 ABUSE MATERIAL [~~PORNOGRAPHY~~]

4 SECTION 2.02. Section 110.001(1), Business & Commerce Code,  
5 is amended to read as follows:

6 (1) "Child sexual abuse material [~~pornography~~]" means  
7 an image of a child engaging in sexual conduct or sexual  
8 performance.

9 SECTION 2.03. The heading to Section 110.002, Business &  
10 Commerce Code, is amended to read as follows:

11 Sec. 110.002. REPORTING OF IMAGES OF CHILD SEXUAL ABUSE  
12 MATERIAL [~~PORNOGRAPHY~~].

13 SECTION 2.04. Sections 110.002(a) and (c), Business &  
14 Commerce Code, are amended to read as follows:

15 (a) A computer technician who, in the course and scope of  
16 employment or business, views an image on a computer that is or  
17 appears to be child sexual abuse material [~~pornography~~] shall  
18 immediately report the discovery of the image to a local or state  
19 law enforcement agency or the Cyber Tipline at the National Center  
20 for Missing and Exploited Children. The report must include the  
21 name and address of the owner or person claiming a right to  
22 possession of the computer, if known, and as permitted by federal  
23 law.

24 (c) A telecommunications provider, commercial mobile  
25 service provider, or information service provider may not be held  
26 liable under this chapter for the failure to report child sexual  
27 abuse material [~~pornography~~] that is transmitted or stored by a

1 user of the service.

2 SECTION 2.05. Section 110.003(b), Business & Commerce Code,  
3 is amended to read as follows:

4 (b) It is a defense to prosecution under this section that  
5 the actor did not report the discovery of an image of child sexual  
6 abuse material [~~pornography~~] because the child in the image  
7 appeared to be at least 18 years of age.

8 SECTION 2.06. Articles 18.18(a), (b), (e), (f), (g), and  
9 (h), Code of Criminal Procedure, are amended to read as follows:

10 (a) Following the final conviction of a person for  
11 possession of a gambling device or equipment, altered gambling  
12 equipment, or gambling paraphernalia, for an offense involving a  
13 criminal instrument, for an offense involving an obscene device or  
14 material, for an offense involving child sexual abuse material  
15 [~~pornography~~], or for an offense involving a scanning device or  
16 re-encoder, the court entering the judgment of conviction shall  
17 order that the machine, device, gambling equipment or gambling  
18 paraphernalia, instrument, obscene device or material, child  
19 sexual abuse material [~~pornography~~], or scanning device or  
20 re-encoder be destroyed or forfeited to the state. Not later than  
21 the 30th day after the final conviction of a person for an offense  
22 involving a prohibited weapon, the court entering the judgment of  
23 conviction on its own motion, on the motion of the prosecuting  
24 attorney in the case, or on the motion of the law enforcement agency  
25 initiating the complaint on notice to the prosecuting attorney in  
26 the case if the prosecutor fails to move for the order shall order  
27 that the prohibited weapon be destroyed or forfeited to the law

1 enforcement agency that initiated the complaint. If the court fails  
2 to enter the order within the time required by this subsection, any  
3 magistrate in the county in which the offense occurred may enter the  
4 order. Following the final conviction of a person for an offense  
5 involving dog fighting, the court entering the judgment of  
6 conviction shall order that any dog-fighting equipment be destroyed  
7 or forfeited to the state. Destruction of dogs, if necessary, must  
8 be carried out by a veterinarian licensed in this state or, if one  
9 is not available, by trained personnel of a humane society or an  
10 animal shelter. If forfeited, the court shall order the contraband  
11 delivered to the state, any political subdivision of the state, or  
12 to any state institution or agency. If gambling proceeds were  
13 seized, the court shall order them forfeited to the state and shall  
14 transmit them to the grand jury of the county in which they were  
15 seized for use in investigating alleged violations of the Penal  
16 Code, or to the state, any political subdivision of the state, or to  
17 any state institution or agency.

18 (b) If there is no prosecution or conviction following  
19 seizure, the magistrate to whom the return was made shall notify in  
20 writing the person found in possession of the alleged gambling  
21 device or equipment, altered gambling equipment or gambling  
22 paraphernalia, gambling proceeds, prohibited weapon, obscene  
23 device or material, child sexual abuse material [~~pornography~~],  
24 scanning device or re-encoder, criminal instrument, or  
25 dog-fighting equipment to show cause why the property seized should  
26 not be destroyed or the proceeds forfeited. The magistrate, on the  
27 motion of the law enforcement agency seizing a prohibited weapon,

1 shall order the weapon destroyed or forfeited to the law  
2 enforcement agency seizing the weapon, unless a person shows cause  
3 as to why the prohibited weapon should not be destroyed or  
4 forfeited. A law enforcement agency shall make a motion under this  
5 subsection [~~section~~] in a timely manner after the time at which the  
6 agency is informed in writing by the attorney representing the  
7 state that no prosecution will arise from the seizure.

8 (e) Any person interested in the alleged gambling device or  
9 equipment, altered gambling equipment or gambling paraphernalia,  
10 gambling proceeds, prohibited weapon, obscene device or material,  
11 child sexual abuse material [~~pornography~~], scanning device or  
12 re-encoder, criminal instrument, or dog-fighting equipment seized  
13 must appear before the magistrate on the 20th day following the date  
14 the notice was mailed or posted. Failure to timely appear forfeits  
15 any interest the person may have in the property or proceeds seized,  
16 and no person after failing to timely appear may contest  
17 destruction or forfeiture.

18 (f) If a person timely appears to show cause why the  
19 property or proceeds should not be destroyed or forfeited, the  
20 magistrate shall conduct a hearing on the issue and determine the  
21 nature of property or proceeds and the person's interest therein.  
22 Unless the person proves by a preponderance of the evidence that the  
23 property or proceeds is not gambling equipment, altered gambling  
24 equipment, gambling paraphernalia, gambling device, gambling  
25 proceeds, prohibited weapon, obscene device or material, child  
26 sexual abuse material [~~pornography~~], criminal instrument, scanning  
27 device or re-encoder, or dog-fighting equipment and that the person



1 [he] is entitled to possession, the magistrate shall dispose of the  
2 property or proceeds in accordance with Subsection [~~Paragraph~~] (a)  
3 [~~of this article~~].

4 (g) For purposes of this article:

5 (1) "criminal instrument" has the meaning defined in  
6 the Penal Code;

7 (2) "gambling device or equipment, altered gambling  
8 equipment or gambling paraphernalia" has the meaning defined in the  
9 Penal Code;

10 (3) "prohibited weapon" has the meaning defined in the  
11 Penal Code;

12 (4) "dog-fighting equipment" means:

13 (A) equipment used for training or handling a  
14 fighting dog, including a harness, treadmill, cage, decoy, pen,  
15 house for keeping a fighting dog, feeding apparatus, or training  
16 pen;

17 (B) equipment used for transporting a fighting  
18 dog, including any automobile[~~r~~] or other vehicle, and its  
19 appurtenances which are intended to be used as a vehicle for  
20 transporting a fighting dog;

21 (C) equipment used to promote or advertise an  
22 exhibition of dog fighting, including a printing press or similar  
23 equipment, paper, ink, or photography equipment; or

24 (D) a dog trained, being trained, or intended to  
25 be used to fight with another dog;

26 (5) "obscene device" and "obscene" have the meanings  
27 assigned by Section [43.21](#), Penal Code;

1 (6) "re-encoder" has the meaning assigned by Section  
2 522.001, Business & Commerce Code;

3 (7) "scanning device" has the meaning assigned by  
4 Section 522.001, Business & Commerce Code; and

5 (8) "obscene material" and "child sexual abuse  
6 material [~~pornography~~]" include digital images and the media and  
7 equipment on which those images are stored.

8 (h) No provider of an electronic communication service or of  
9 a remote computing service to the public shall be held liable for an  
10 offense involving obscene material or child sexual abuse material  
11 [~~pornography~~] under this article [~~section~~] on account of any action  
12 taken in good faith in providing that service.

13 SECTION 2.07. Section 2(a), Article 38.37, Code of Criminal  
14 Procedure, is amended to read as follows:

15 (a) Subsection (b) applies only to the trial of a defendant  
16 for:

17 (1) an offense under any of the following provisions  
18 of the Penal Code:

19 (A) Section 20A.02, if punishable as a felony of  
20 the first degree under Section 20A.02(b)(1) (Sex Trafficking of a  
21 Child);

22 (B) Section 21.02 (Continuous Sexual Abuse of  
23 Young Child or Children);

24 (C) Section 21.11 (Indecency With a Child);

25 (D) Section 22.011(a)(2) (Sexual Assault of a  
26 Child);

27 (E) Sections 22.021(a)(1)(B) and (2) (Aggravated

1 Sexual Assault of a Child);

2 (F) Section 33.021 (Online Solicitation of a  
3 Minor);

4 (G) Section 43.25 (Sexual Performance by a  
5 Child); or

6 (H) Section 43.26 (Possession or Promotion of  
7 Child Sexual Abuse Material [~~Pornography~~]), Penal Code; or

8 (2) an attempt or conspiracy to commit an offense  
9 described by Subdivision (1).

10 SECTION 2.08. Article 38.45(a), Code of Criminal Procedure,  
11 is amended to read as follows:

12 (a) During the course of a criminal hearing or proceeding,  
13 the court may not make available or allow to be made available for  
14 copying or dissemination to the public property or material:

15 (1) that constitutes child sexual abuse material  
16 [~~pornography~~], as described by Section 43.26(a)(1), Penal Code;

17 (2) the promotion or possession of which is prohibited  
18 under Section 43.261, Penal Code; or

19 (3) that is described by Section 2 or 5, Article  
20 38.071, of this code.

21 SECTION 2.09. Article 39.15(a), Code of Criminal Procedure,  
22 is amended to read as follows:

23 (a) In the manner provided by this article, a court shall  
24 allow discovery under Article 39.14 of property or material:

25 (1) that constitutes child sexual abuse material  
26 [~~pornography~~], as described by Section 43.26(a)(1), Penal Code;

27 (2) the promotion or possession of which is prohibited

1 under Section 43.261, Penal Code; or

2 (3) that is described by Section 2 or 5, Article  
3 38.071, of this code.

4 SECTION 2.10. Article 42A.251(2), Code of Criminal  
5 Procedure, is amended to read as follows:

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

10 (A) Section 20.04(a)(4) (Aggravated Kidnapping),  
11 if the person committed the offense with the intent to violate or  
12 abuse the victim sexually;

13 (B) Section 21.08 (Indecent Exposure);

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

15 (D) Section 22.011 (Sexual Assault);

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

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

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

19 (i) the offense is punishable under  
20 Subsection (d) of that section; and

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

23 (H) Section 43.25 (Sexual Performance by a  
24 Child); or

25 (I) Section 43.26 (Possession or Promotion of  
26 Child Sexual Abuse Material [~~Pornography~~]).

27 SECTION 2.11. Article 62.001(5), Code of Criminal

1 Procedure, is amended to read as follows:

2 (5) "Reportable conviction or adjudication" means a  
3 conviction or adjudication, including an adjudication of  
4 delinquent conduct or a deferred adjudication, that, regardless of  
5 the pendency of an appeal, is a conviction for or an adjudication  
6 for or based on:

7 (A) a violation of Section 21.02 (Continuous  
8 sexual abuse of young child or children), 21.09 (Bestiality), 21.11  
9 (Indecency with a child), 22.011 (Sexual assault), 22.021  
10 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct),  
11 Penal Code;

12 (B) a violation of Section 43.04 (Aggravated  
13 promotion of prostitution), 43.05 (Compelling prostitution), 43.25  
14 (Sexual performance by a child), or 43.26 (Possession or promotion  
15 of child sexual abuse material [~~pornography~~]), Penal Code;

16 (B-1) a violation of Section 43.02  
17 (Prostitution), Penal Code, if the offense is punishable under  
18 Subsection (c-1)(2) of that section;

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

23 (D) a violation of Section 30.02 (Burglary),  
24 Penal Code, if the offense or conduct is punishable under  
25 Subsection (d) of that section and the actor committed the offense  
26 or engaged in the conduct with intent to commit a felony listed in  
27 Paragraph (A) or (C);

1 (E) a violation of Section 20.02 (Unlawful  
2 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),  
3 Penal Code, if, as applicable:

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

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

9 (F) the second violation of Section 21.08  
10 (Indecent exposure), Penal Code, but not if the second violation  
11 results in a deferred adjudication;

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

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

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

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

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

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

9 SECTION 2.12. Section 201.062(a), Estates Code, is amended  
10 to read as follows:

11 (a) A probate court may enter an order declaring that the  
12 parent of a child under 18 years of age may not inherit from or  
13 through the child under the laws of descent and distribution if the  
14 court finds by clear and convincing evidence that the parent has:

15 (1) voluntarily abandoned and failed to support the  
16 child in accordance with the parent's obligation or ability for at  
17 least three years before the date of the child's death, and did not  
18 resume support for the child before that date;

19 (2) voluntarily and with knowledge of the pregnancy:

20 (A) abandoned the child's mother beginning at a  
21 time during her pregnancy with the child and continuing through the  
22 birth;

23 (B) failed to provide adequate support or medical  
24 care for the mother during the period of abandonment before the  
25 child's birth; and

26 (C) remained apart from and failed to support the  
27 child since birth; or

1           (3) been convicted or has been placed on community  
2 supervision, including deferred adjudication community  
3 supervision, for being criminally responsible for the death or  
4 serious injury of a child under the following sections of the Penal  
5 Code or adjudicated under Title 3, Family Code, for conduct that  
6 caused the death or serious injury of a child and that would  
7 constitute a violation of one of the following sections of the Penal  
8 Code:

- 9                   (A) Section 19.02 (murder);
- 10                   (B) Section 19.03 (capital murder);
- 11                   (C) Section 19.04 (manslaughter);
- 12                   (D) Section 21.11 (indecent with a child);
- 13                   (E) Section 22.01 (assault);
- 14                   (F) Section 22.011 (sexual assault);
- 15                   (G) Section 22.02 (aggravated assault);
- 16                   (H) Section 22.021 (aggravated sexual assault);
- 17                   (I) Section 22.04 (injury to a child, elderly  
18 individual, or disabled individual);
- 19                   (J) Section 22.041 (abandoning or endangering  
20 child);
- 21                   (K) Section 25.02 (prohibited sexual conduct);
- 22                   (L) Section 43.25 (sexual performance by a  
23 child); or
- 24                   (M) Section 43.26 (possession or promotion of  
25 child sexual abuse material [~~pornography~~]).

26           SECTION 2.13. Section 161.001(b), Family Code, is amended  
27 to read as follows:



1 (b) The court may order termination of the parent-child  
2 relationship if the court finds by clear and convincing evidence:

3 (1) that the parent has:

4 (A) voluntarily left the child alone or in the  
5 possession of another not the parent and expressed an intent not to  
6 return;

7 (B) voluntarily left the child alone or in the  
8 possession of another not the parent without expressing an intent  
9 to return, without providing for the adequate support of the child,  
10 and remained away for a period of at least three months;

11 (C) voluntarily left the child alone or in the  
12 possession of another without providing adequate support of the  
13 child and remained away for a period of at least six months;

14 (D) knowingly placed or knowingly allowed the  
15 child to remain in conditions or surroundings which endanger the  
16 physical or emotional well-being of the child;

17 (E) engaged in conduct or knowingly placed the  
18 child with persons who engaged in conduct which endangers the  
19 physical or emotional well-being of the child;

20 (F) failed to support the child in accordance  
21 with the parent's ability during a period of one year ending within  
22 six months of the date of the filing of the petition;

23 (G) abandoned the child without identifying the  
24 child or furnishing means of identification, and the child's  
25 identity cannot be ascertained by the exercise of reasonable  
26 diligence;

27 (H) voluntarily, and with knowledge of the

1 pregnancy, abandoned the mother of the child beginning at a time  
2 during her pregnancy with the child and continuing through the  
3 birth, failed to provide adequate support or medical care for the  
4 mother during the period of abandonment before the birth of the  
5 child, and remained apart from the child or failed to support the  
6 child since the birth;

7 (I) contumaciously refused to submit to a  
8 reasonable and lawful order of a court under Subchapter D, Chapter  
9 261;

10 (J) been the major cause of:

11 (i) the failure of the child to be enrolled  
12 in school as required by the Education Code; or

13 (ii) the child's absence from the child's  
14 home without the consent of the parents or guardian for a  
15 substantial length of time or without the intent to return;

16 (K) executed before or after the suit is filed an  
17 unrevoked or irrevocable affidavit of relinquishment of parental  
18 rights as provided by this chapter;

19 (L) been convicted or has been placed on  
20 community supervision, including deferred adjudication community  
21 supervision, for being criminally responsible for the death or  
22 serious injury of a child under the following sections of the Penal  
23 Code, or under a law of another jurisdiction that contains elements  
24 that are substantially similar to the elements of an offense under  
25 one of the following Penal Code sections, or adjudicated under  
26 Title 3 for conduct that caused the death or serious injury of a  
27 child and that would constitute a violation of one of the following

1 Penal Code sections:

- 2 (i) Section 19.02 (murder);
- 3 (ii) Section 19.03 (capital murder);
- 4 (iii) Section 19.04 (manslaughter);
- 5 (iv) Section 21.11 (indecent with a
- 6 child);
- 7 (v) Section 22.01 (assault);
- 8 (vi) Section 22.011 (sexual assault);
- 9 (vii) Section 22.02 (aggravated assault);
- 10 (viii) Section 22.021 (aggravated sexual
- 11 assault);
- 12 (ix) Section 22.04 (injury to a child,
- 13 elderly individual, or disabled individual);
- 14 (x) Section 22.041 (abandoning or
- 15 endangering child);
- 16 (xi) Section 25.02 (prohibited sexual
- 17 conduct);
- 18 (xii) Section 43.25 (sexual performance by
- 19 a child);
- 20 (xiii) Section 43.26 (possession or
- 21 promotion of child sexual abuse material [~~pornography~~]);
- 22 (xiv) Section 21.02 (continuous sexual
- 23 abuse of young child or children);
- 24 (xv) Section 20A.02(a)(7) or (8)
- 25 (trafficking of persons); and
- 26 (xvi) Section 43.05(a)(2) (compelling
- 27 prostitution);

1 (M) had his or her parent-child relationship  
2 terminated with respect to another child based on a finding that the  
3 parent's conduct was in violation of Paragraph (D) or (E) or  
4 substantially equivalent provisions of the law of another state;

5 (N) constructively abandoned the child who has  
6 been in the permanent or temporary managing conservatorship of the  
7 Department of Family and Protective Services for not less than six  
8 months, and:

9 (i) the department has made reasonable  
10 efforts to return the child to the parent;

11 (ii) the parent has not regularly visited  
12 or maintained significant contact with the child; and

13 (iii) the parent has demonstrated an  
14 inability to provide the child with a safe environment;

15 (O) failed to comply with the provisions of a  
16 court order that specifically established the actions necessary for  
17 the parent to obtain the return of the child who has been in the  
18 permanent or temporary managing conservatorship of the Department  
19 of Family and Protective Services for not less than nine months as a  
20 result of the child's removal from the parent under Chapter 262 for  
21 the abuse or neglect of the child;

22 (P) used a controlled substance, as defined by  
23 Chapter 481, Health and Safety Code, in a manner that endangered the  
24 health or safety of the child, and:

25 (i) failed to complete a court-ordered  
26 substance abuse treatment program; or

27 (ii) after completion of a court-ordered

1 substance abuse treatment program, continued to abuse a controlled  
2 substance;

3 (Q) knowingly engaged in criminal conduct that  
4 has resulted in the parent's:

5 (i) conviction of an offense; and

6 (ii) confinement or imprisonment and  
7 inability to care for the child for not less than two years from the  
8 date of filing the petition;

9 (R) been the cause of the child being born  
10 addicted to alcohol or a controlled substance, other than a  
11 controlled substance legally obtained by prescription;

12 (S) voluntarily delivered the child to a  
13 designated emergency infant care provider under Section 262.302  
14 without expressing an intent to return for the child;

15 (T) been convicted of:

16 (i) the murder of the other parent of the  
17 child under Section 19.02 or 19.03, Penal Code, or under a law of  
18 another state, federal law, the law of a foreign country, or the  
19 Uniform Code of Military Justice that contains elements that are  
20 substantially similar to the elements of an offense under Section  
21 19.02 or 19.03, Penal Code;

22 (ii) criminal attempt under Section 15.01,  
23 Penal Code, or under a law of another state, federal law, the law of  
24 a foreign country, or the Uniform Code of Military Justice that  
25 contains elements that are substantially similar to the elements of  
26 an offense under Section 15.01, Penal Code, to commit the offense  
27 described by Subparagraph (i);

1 (iii) criminal solicitation under Section  
2 15.03, Penal Code, or under a law of another state, federal law, the  
3 law of a foreign country, or the Uniform Code of Military Justice  
4 that contains elements that are substantially similar to the  
5 elements of an offense under Section 15.03, Penal Code, of the  
6 offense described by Subparagraph (i); or

7 (iv) the sexual assault of the other parent  
8 of the child under Section 22.011 or 22.021, Penal Code, or under a  
9 law of another state, federal law, or the Uniform Code of Military  
10 Justice that contains elements that are substantially similar to  
11 the elements of an offense under Section 22.011 or 22.021, Penal  
12 Code; or

13 (U) been placed on community supervision,  
14 including deferred adjudication community supervision, or another  
15 functionally equivalent form of community supervision or  
16 probation, for being criminally responsible for the sexual assault  
17 of the other parent of the child under Section 22.011 or 22.021,  
18 Penal Code, or under a law of another state, federal law, or the  
19 Uniform Code of Military Justice that contains elements that are  
20 substantially similar to the elements of an offense under Section  
21 22.011 or 22.021, Penal Code; and

22 (2) that termination is in the best interest of the  
23 child.

24 SECTION 2.14. Section 261.001(1), Family Code, is amended  
25 to read as follows:

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

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

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

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

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

18           (E) sexual conduct harmful to a child's mental,  
19 emotional, or physical welfare, including conduct that constitutes  
20 the offense of continuous sexual abuse of young child or children  
21 under Section [21.02](#), Penal Code, indecency with a child under  
22 Section [21.11](#), Penal Code, sexual assault under Section [22.011](#),  
23 Penal Code, or aggravated sexual assault under Section [22.021](#),  
24 Penal Code;

25           (F) failure to make a reasonable effort to  
26 prevent sexual conduct harmful to a child;

27           (G) compelling or encouraging the child to engage

1 in sexual conduct as defined by Section 43.01, Penal Code,  
2 including compelling or encouraging the child in a manner that  
3 constitutes an offense of trafficking of persons under Section  
4 20A.02(a)(7) or (8), Penal Code, prostitution under Section  
5 43.02(b), Penal Code, or compelling prostitution under Section  
6 43.05(a)(2), Penal Code;

7 (H) causing, permitting, encouraging, engaging  
8 in, or allowing the photographing, filming, or depicting of the  
9 child if the person knew or should have known that the resulting  
10 photograph, film, or depiction of the child:

11 (i) is obscene as defined by Section 43.21,  
12 Penal Code; ~~i~~ or

13 (ii) constitutes child sexual abuse  
14 material ~~[pornographic]~~;

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

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

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

25 (L) knowingly causing, permitting, encouraging,  
26 engaging in, or allowing a child to be trafficked in a manner  
27 punishable as an offense under Section 20A.02(a)(5), (6), (7), or



1 (8), Penal Code, or the failure to make a reasonable effort to  
2 prevent a child from being trafficked in a manner punishable as an  
3 offense under any of those sections; or

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

6 SECTION 2.15. Section 262.2015(b), Family Code, is amended  
7 to read as follows:

8 (b) The court may find under Subsection (a) that a parent  
9 has subjected the child to aggravated circumstances if:

10 (1) the parent abandoned the child without  
11 identification or a means for identifying the child;

12 (2) the child or another child of the parent is a  
13 victim of serious bodily injury or sexual abuse inflicted by the  
14 parent or by another person with the parent's consent;

15 (3) the parent has engaged in conduct against the  
16 child or another child of the parent that would constitute an  
17 offense under the following provisions of the Penal Code:

18 (A) Section 19.02 (murder);

19 (B) Section 19.03 (capital murder);

20 (C) Section 19.04 (manslaughter);

21 (D) Section 21.11 (indecent with a child);

22 (E) Section 22.011 (sexual assault);

23 (F) Section 22.02 (aggravated assault);

24 (G) Section 22.021 (aggravated sexual assault);

25 (H) Section 22.04 (injury to a child, elderly  
26 individual, or disabled individual);

27 (I) Section 22.041 (abandoning or endangering

1 child);

2 (J) Section 25.02 (prohibited sexual conduct);

3 (K) Section 43.25 (sexual performance by a  
4 child);

5 (L) Section 43.26 (possession or promotion of  
6 child sexual abuse material [~~pornography~~]);

7 (M) Section 21.02 (continuous sexual abuse of  
8 young child or children);

9 (N) Section 43.05(a)(2) (compelling  
10 prostitution); or

11 (O) Section 20A.02(a)(7) or (8) (trafficking of  
12 persons);

13 (4) the parent voluntarily left the child alone or in  
14 the possession of another person not the parent of the child for at  
15 least six months without expressing an intent to return and without  
16 providing adequate support for the child;

17 (5) the parent's parental rights with regard to  
18 another child have been involuntarily terminated based on a finding  
19 that the parent's conduct violated Section 161.001(b)(1)(D) or (E)  
20 or a substantially equivalent provision of another state's law;

21 (6) the parent has been convicted for:

22 (A) the murder of another child of the parent and  
23 the offense would have been an offense under 18 U.S.C. Section  
24 1111(a) if the offense had occurred in the special maritime or  
25 territorial jurisdiction of the United States;

26 (B) the voluntary manslaughter of another child  
27 of the parent and the offense would have been an offense under 18

1 U.S.C. Section 1112(a) if the offense had occurred in the special  
2 maritime or territorial jurisdiction of the United States;

3 (C) aiding or abetting, attempting, conspiring,  
4 or soliciting an offense under Paragraph (A) or (B); or

5 (D) the felony assault of the child or another  
6 child of the parent that resulted in serious bodily injury to the  
7 child or another child of the parent;

8 (7) the parent's parental rights with regard to  
9 another child of the parent have been involuntarily terminated; or

10 (8) the parent is required under any state or federal  
11 law to register with a sex offender registry.

12 SECTION 2.16. Section 773.0614(c), Health and Safety Code,  
13 is amended to read as follows:

14 (c) A certificate holder's certificate shall be revoked if  
15 the certificate holder has been convicted of or placed on deferred  
16 adjudication community supervision or deferred disposition for:

17 (1) an offense listed in Article 42A.054(a)(2), (3),  
18 (4), (7), (8), (9), (11), or (17) [~~(16)~~], Code of Criminal  
19 Procedure; or

20 (2) an offense, other than an offense described by  
21 Subdivision (1), committed on or after September 1, 2009, for which  
22 the person is subject to registration under Chapter 62, Code of  
23 Criminal Procedure.

24 SECTION 2.17. Section 773.06141(a), Health and Safety Code,  
25 is amended to read as follows:

26 (a) The department may suspend, revoke, or deny an emergency  
27 medical services provider license on the grounds that the

1 provider's administrator of record, employee, or other  
2 representative:

3 (1) has been convicted of, or placed on deferred  
4 adjudication community supervision or deferred disposition for, an  
5 offense that directly relates to the duties and responsibilities of  
6 the administrator, employee, or representative, other than an  
7 offense described by Section 542.304, Transportation Code;

8 (2) has been convicted of or placed on deferred  
9 adjudication community supervision or deferred disposition for an  
10 offense, including:

11 (A) an offense listed in Article 42A.054(a)(2),  
12 (3), (4), (7), (8), (9), (11), or (17) [~~(16)~~], Code of Criminal  
13 Procedure; or

14 (B) an offense, other than an offense described  
15 by Subdivision (1), for which the person is subject to registration  
16 under Chapter 62, Code of Criminal Procedure; or

17 (3) has been convicted of Medicare or Medicaid fraud,  
18 has been excluded from participation in the state Medicaid program,  
19 or has a hold on payment for reimbursement under the state Medicaid  
20 program under Subchapter C, Chapter 531, Government Code.

21 SECTION 2.18. Section 20A.02(a), Penal Code, is amended to  
22 read as follows:

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

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

26 (2) receives a benefit from participating in a venture  
27 that involves an activity described by Subdivision (1), including

1 by receiving labor or services the person knows are forced labor or  
2 services;

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

6 (A) Section 43.02 (Prostitution);

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

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

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

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

14 (D) Section 43.05 (Compelling Prostitution);

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

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

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

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

- 1 (A) Section 21.02 (Continuous Sexual Abuse of  
2 Young Child or Children);
- 3 (B) Section 21.11 (Indecency with a Child);
- 4 (C) Section 22.011 (Sexual Assault);
- 5 (D) Section 22.021 (Aggravated Sexual Assault);
- 6 (E) Section 43.02 (Prostitution);
- 7 (F) Section 43.03 (Promotion of Prostitution);
- 8 (F-1) Section 43.031 (Online Promotion of  
9 Prostitution);
- 10 (G) Section 43.04 (Aggravated Promotion of  
11 Prostitution);
- 12 (G-1) Section 43.041 (Aggravated Online  
13 Promotion of Prostitution);
- 14 (H) Section 43.05 (Compelling Prostitution);
- 15 (I) Section 43.25 (Sexual Performance by a  
16 Child);
- 17 (J) Section 43.251 (Employment Harmful to  
18 Children); or
- 19 (K) Section 43.26 (Possession or Promotion of  
20 Child Sexual Abuse Material [~~Pornography~~]); or
- 21 (8) receives a benefit from participating in a venture  
22 that involves an activity described by Subdivision (7) or engages  
23 in sexual conduct with a child trafficked in the manner described in  
24 Subdivision (7).

25 ARTICLE 3. TRANSITION AND EFFECTIVE DATE

26 SECTION 3.01. The changes in law made by this Act apply only  
27 to an offense committed on or after the effective date of this Act.

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

7 SECTION 3.02. This Act takes effect September 1, 2021.