

By: Meyer, Hunter, A. Johnson of Harris

H.B. No. 3110

Substitute the following for H.B. No. 3110:

By: Bell of Kaufman

C.S.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 (indecenty 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; ~~or~~ 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.