

By: Meyer

H.B. No. 3111

A BILL TO BE ENTITLED

AN ACT

relating to the criminal offense of online solicitation relating to a minor; creating a criminal offense.

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

ARTICLE 1. ONLINE SOLICITATION RELATING TO A MINOR

SECTION 1.01. The heading to Section 33.021, Penal Code, is amended to read as follows:

Sec. 33.021. ONLINE SOLICITATION RELATING TO ~~[OF]~~ A MINOR.

SECTION 1.02. Section 33.021, Penal Code, is amended by adding Subsections (c-1) and (f-1) and amending Subsections (d), (e), and (f) to read as follows:

(c-1) A person commits an offense if the person, over the Internet, by electronic mail or text message or other electronic message service or system, or through a commercial online service, knowingly solicits a person with the intent that the solicitation will cause a minor to meet another person, including the actor, to engage in sexual contact, sexual intercourse, or deviate sexual intercourse.

(d) It is not a defense to prosecution under Subsection (c) or (c-1) that the meeting did not occur.

(e) It is a defense to prosecution under this section that at the time conduct described by Subsection (c) or (c-1) was committed:

(1) the actor was married to the minor; or

1           (2) the actor was not more than three years older than  
2 the minor and the minor consented to the conduct.

3           (f) An offense under Subsection (b) is a felony of the third  
4 degree, except that the offense is a felony of the second degree if  
5 the minor is younger than 14 years of age or is an individual whom  
6 the actor believes to be younger than 14 years of age at the time of  
7 the commission of the offense.

8           (f-1) An offense under Subsection (c) or (c-1) is a felony  
9 of the second degree.

10                           ARTICLE 2. CONFORMING AMENDMENTS

11           SECTION 2.01. Section 2(a), Article 38.37, Code of Criminal  
12 Procedure, is amended to read as follows:

13           (a) Subsection (b) applies only to the trial of a defendant  
14 for:

15                       (1) an offense under any of the following provisions  
16 of the Penal Code:

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

20                               (B) Section 21.02 (Continuous Sexual Abuse of  
21 Young Child or Children);

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

23                               (D) Section 22.011(a)(2) (Sexual Assault of a  
24 Child);

25                               (E) Sections 22.021(a)(1)(B) and (2) (Aggravated  
26 Sexual Assault of a Child);

27                               (F) Section 33.021 (Online Solicitation Relating

1 to [~~of~~] a Minor);

2 (G) Section 43.25 (Sexual Performance by a  
3 Child); or

4 (H) Section 43.26 (Possession or Promotion of  
5 Child Pornography), Penal Code; or

6 (2) an attempt or conspiracy to commit an offense  
7 described by Subdivision (1).

8 SECTION 2.02. Article 62.001(5), Code of Criminal  
9 Procedure, is amended to read as follows:

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

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

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

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

27 (C) a violation of Section 20.04(a)(4)

1 (Aggravated kidnapping), Penal Code, if the actor committed the  
2 offense or engaged in the conduct with intent to violate or abuse  
3 the victim sexually;

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

9 (E) a violation of Section 20.02 (Unlawful  
10 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),  
11 Penal Code, if, as applicable:

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

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

17 (F) the second violation of Section 21.08  
18 (Indecent exposure), Penal Code, but not if the second violation  
19 results in a deferred adjudication;

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

23 (H) a violation of the laws of another state,  
24 federal law, the laws of a foreign country, or the Uniform Code of  
25 Military Justice for or based on the violation of an offense  
26 containing elements that are substantially similar to the elements  
27 of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E),

1 (G), (J), (K), or (L), but not if the violation results in a  
2 deferred adjudication;

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

9 (J) a violation of Section 33.021 (Online  
10 solicitation relating to ~~of~~ a minor), Penal Code;

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

13 (L) a violation of Section 20A.03 (Continuous  
14 trafficking of persons), Penal Code, if the offense is based partly  
15 or wholly on conduct that constitutes an offense under Section  
16 20A.02(a)(3), (4), (7), or (8) of that code.

17 SECTION 2.03. Section 250.006(a), Health and Safety Code,  
18 is amended to read as follows:

19 (a) A person for whom the facility or the individual  
20 employer is entitled to obtain criminal history record information  
21 may not be employed in a facility or by an individual employer if  
22 the person has been convicted of an offense listed in this  
23 subsection:

24 (1) an offense under Chapter 19, Penal Code (criminal  
25 homicide);

26 (2) an offense under Chapter 20, Penal Code  
27 (kidnapping, unlawful restraint, and smuggling of persons);

- 1           (3) an offense under Section 21.02, Penal Code  
2 (continuous sexual abuse of young child or children), or Section  
3 21.11, Penal Code (indecent exposure);
- 4           (4) an offense under Section 22.011, Penal Code  
5 (sexual assault);
- 6           (5) an offense under Section 22.02, Penal Code  
7 (aggravated assault);
- 8           (6) an offense under Section 22.04, Penal Code (injury  
9 to a child, elderly individual, or disabled individual);
- 10          (7) an offense under Section 22.041, Penal Code  
11 (abandoning or endangering child);
- 12          (8) an offense under Section 22.08, Penal Code (aiding  
13 suicide);
- 14          (9) an offense under Section 25.031, Penal Code  
15 (agreement to abduct from custody);
- 16          (10) an offense under Section 25.08, Penal Code (sale  
17 or purchase of child);
- 18          (11) an offense under Section 28.02, Penal Code  
19 (arson);
- 20          (12) an offense under Section 29.02, Penal Code  
21 (robbery);
- 22          (13) an offense under Section 29.03, Penal Code  
23 (aggravated robbery);
- 24          (14) an offense under Section 21.08, Penal Code  
25 (indecent exposure);
- 26          (15) an offense under Section 21.12, Penal Code  
27 (improper relationship between educator and student);

- 1           (16) an offense under Section 21.15, Penal Code  
2 (invasive visual recording);
- 3           (17) an offense under Section 22.05, Penal Code  
4 (deadly conduct);
- 5           (18) an offense under Section 22.021, Penal Code  
6 (aggravated sexual assault);
- 7           (19) an offense under Section 22.07, Penal Code  
8 (terroristic threat);
- 9           (20) an offense under Section 32.53, Penal Code  
10 (exploitation of child, elderly individual, or disabled  
11 individual);
- 12           (21) an offense under Section 33.021, Penal Code  
13 (online solicitation relating to ~~of~~ a minor);
- 14           (22) an offense under Section 34.02, Penal Code (money  
15 laundering);
- 16           (23) an offense under Section 35A.02, Penal Code  
17 (health care fraud);
- 18           (24) an offense under Section 36.06, Penal Code  
19 (obstruction or retaliation);
- 20           (25) an offense under Section 42.09, Penal Code  
21 (cruelty to livestock animals), or under Section 42.092, Penal Code  
22 (cruelty to nonlivestock animals); or
- 23           (26) a conviction under the laws of another state,  
24 federal law, or the Uniform Code of Military Justice for an offense  
25 containing elements that are substantially similar to the elements  
26 of an offense listed by this subsection.

27                                   ARTICLE 3. EFFECTIVE DATE

1 SECTION 3.01. This Act takes effect September 1, 2021.