

By: Crockett

H.B. No. 3875

Substitute the following for H.B. No. 3875:

By: Hinojosa

C.S.H.B. No. 3875

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a prohibition on prosecuting or referring to juvenile
3 court certain persons for certain conduct constituting the offense
4 of prostitution and to a change in terminology involving certain
5 conduct constituting the offense of compelling prostitution.

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

7 SECTION 1. Section 51.03, Family Code, is amended by
8 amending Subsection (b) and adding Subsection (d) to read as
9 follows:

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

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

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

15 (B) the penal ordinances of any political
16 subdivision of this state;

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

20 (3) conduct prohibited by city ordinance or by state
21 law involving the inhalation of the fumes or vapors of paint and
22 other protective coatings or glue and other adhesives and the
23 volatile chemicals itemized in Section 485.001, Health and Safety
24 Code;

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

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

7 (6) notwithstanding Subsection (a)(1), conduct that
8 violates Section 43.261, Penal Code.

9 (d) Notwithstanding Subsection (a)(1), conduct that
10 violates Section 43.02(a), Penal Code, is not delinquent conduct or
11 conduct indicating a need for supervision. A child may not be
12 referred to the juvenile court for conduct that violates Section
13 43.02(a), Penal Code.

14 SECTION 2. Section 43.02, Penal Code, is amended by adding
15 Subsection (b-1) to read as follows:

16 (b-1) A person may not be prosecuted for an offense under
17 Subsection (a) that the person committed when younger than 17 years
18 of age.

19 SECTION 3. The heading to Section 43.05, Penal Code, is
20 amended to read as follows:

21 Sec. 43.05. COMPELLING PROSTITUTION OR CHILD SEXUAL
22 EXPLOITATION.

23 SECTION 4. Sections 43.05(a) and (d), Penal Code, are
24 amended to read as follows:

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

26 (1) causes another by force, threat, coercion, or
27 fraud to commit prostitution; or

1 (2) causes by any means a child younger than 18 years
2 to engage in conduct described by Section 43.02(a) [~~commit~~
3 ~~prostitution~~], regardless of whether the actor knows the age of the
4 child at the time of the offense.

5 (d) For purposes of this section, "coercion" as defined by
6 Section 1.07 includes:

7 (1) destroying, concealing, confiscating, or
8 withholding from a person, or threatening to destroy, conceal,
9 confiscate, or withhold from a person, the person's actual or
10 purported:

11 (A) government records; or

12 (B) identifying information or documents;

13 (2) causing a person, without the person's consent, to
14 become intoxicated, as defined by Section 49.01, to a degree that
15 impairs the person's ability to appraise the nature of the person's
16 conduct described by Section 43.02(a) [~~that constitutes~~
17 ~~prostitution~~] or to resist engaging in that conduct; or

18 (3) withholding alcohol or a controlled substance to a
19 degree that impairs the ability of a person with a chemical
20 dependency, as defined by Section 462.001, Health and Safety Code,
21 to appraise the nature of the person's conduct described by Section
22 43.02(a) [~~that constitutes prostitution~~] or to resist engaging in
23 that conduct.

24 SECTION 5. Section 16.0045(a), Civil Practice and Remedies
25 Code, is amended to read as follows:

26 (a) A person must bring suit for personal injury not later
27 than 30 years after the day the cause of action accrues if the

1 injury arises as a result of conduct that violates:

2 (1) Section 22.011(a)(2), Penal Code (sexual assault
3 of a child);

4 (2) Section 22.021(a)(1)(B), Penal Code (aggravated
5 sexual assault of a child);

6 (3) Section 21.02, Penal Code (continuous sexual abuse
7 of young child or children);

8 (4) Section 20A.02(a)(7)(A), (B), (C), (D), or (H) or
9 Section 20A.02(a)(8), Penal Code, involving an activity described
10 by Section 20A.02(a)(7)(A), (B), (C), (D), or (H) or sexual conduct
11 with a child trafficked in the manner described by Section
12 20A.02(a)(7), Penal Code (certain sexual trafficking of a child);

13 (5) Section 43.05(a)(2), Penal Code (compelling
14 ~~[prostitution by a]~~ child sexual exploitation); or

15 (6) Section 21.11, Penal Code (indecenty with a
16 child).

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

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

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

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

27 (3) engaging in organized criminal activity as a

1 member of a combination as prohibited by the Penal Code;

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

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

7 (6) prostitution, promotion of prostitution, or
8 aggravated promotion of prostitution as prohibited by the Penal
9 Code;

10 (7) compelling prostitution or child sexual
11 exploitation as prohibited by the Penal Code;

12 (8) commercial manufacture, commercial distribution,
13 or commercial exhibition of obscene material as prohibited by the
14 Penal Code;

15 (9) aggravated assault as described by Section 22.02,
16 Penal Code;

17 (10) sexual assault as described by Section 22.011,
18 Penal Code;

19 (11) aggravated sexual assault as described by Section
20 22.021, Penal Code;

21 (12) robbery as described by Section 29.02, Penal
22 Code;

23 (13) aggravated robbery as described by Section 29.03,
24 Penal Code;

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

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

1 (16) capital murder as described by Section 19.03,
2 Penal Code;

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

5 (18) massage therapy or other massage services in
6 violation of Chapter 455, Occupations Code;

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

9 (20) trafficking of persons as described by Section
10 20A.02, Penal Code;

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

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

15 (23) criminal trespass as described by Section 30.05,
16 Penal Code;

17 (24) disorderly conduct as described by Section 42.01,
18 Penal Code;

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

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

22 (27) a graffiti offense in violation of Section 28.08,
23 Penal Code.

24 SECTION 7. Article 12.01, Code of Criminal Procedure, is
25 amended to read as follows:

26 Art. 12.01. FELONIES. Except as provided in Article 12.03,
27 felony indictments may be presented within these limits, and not

1 afterward:

2 (1) no limitation:

3 (A) murder and manslaughter;

4 (B) sexual assault under Section 22.011(a)(2),
5 Penal Code, or aggravated sexual assault under Section
6 22.021(a)(1)(B), Penal Code;

7 (C) sexual assault, if:

8 (i) during the investigation of the offense
9 biological matter is collected and the matter:

10 (a) has not yet been subjected to
11 forensic DNA testing; or

12 (b) has been subjected to forensic DNA
13 testing and the testing results show that the matter does not match
14 the victim or any other person whose identity is readily
15 ascertained; or

16 (ii) probable cause exists to believe that
17 the defendant has committed the same or a similar sex offense
18 against five or more victims;

19 (D) continuous sexual abuse of young child or
20 children under Section 21.02, Penal Code;

21 (E) indecency with a child under Section 21.11,
22 Penal Code;

23 (F) an offense involving leaving the scene of an
24 accident under Section 550.021, Transportation Code, if the
25 accident resulted in the death of a person;

26 (G) trafficking of persons under Section
27 20A.02(a)(7) or (8), Penal Code;

1 (H) continuous trafficking of persons under
2 Section 20A.03, Penal Code; or

3 (I) compelling child sexual exploitation
4 [~~prostitution~~] under Section 43.05(a)(2), Penal Code;

5 (2) ten years from the date of the commission of the
6 offense:

7 (A) theft of any estate, real, personal or mixed,
8 by an executor, administrator, guardian or trustee, with intent to
9 defraud any creditor, heir, legatee, ward, distributee,
10 beneficiary or settlor of a trust interested in such estate;

11 (B) theft by a public servant of government
12 property over which the public servant exercises control in the
13 public servant's official capacity;

14 (C) forgery or the uttering, using or passing of
15 forged instruments;

16 (D) injury to an elderly or disabled individual
17 punishable as a felony of the first degree under Section 22.04,
18 Penal Code;

19 (E) sexual assault, except as provided by
20 Subdivision (1) or (7);

21 (F) arson;

22 (G) trafficking of persons under Section
23 20A.02(a)(1), (2), (3), or (4), Penal Code; or

24 (H) compelling prostitution under Section
25 43.05(a)(1), Penal Code;

26 (3) seven years from the date of the commission of the
27 offense:

- 1 (A) misapplication of fiduciary property or
2 property of a financial institution;
- 3 (B) securing execution of document by deception;
- 4 (C) a felony violation under Chapter 162, Tax
5 Code;
- 6 (D) false statement to obtain property or credit
7 under Section 32.32, Penal Code;
- 8 (E) money laundering;
- 9 (F) credit card or debit card abuse under Section
10 32.31, Penal Code;
- 11 (G) fraudulent use or possession of identifying
12 information under Section 32.51, Penal Code;
- 13 (H) exploitation of a child, elderly individual,
14 or disabled individual under Section 32.53, Penal Code;
- 15 (I) health care fraud under Section 35A.02, Penal
16 Code; or
- 17 (J) bigamy under Section 25.01, Penal Code,
18 except as provided by Subdivision (6);
- 19 (4) five years from the date of the commission of the
20 offense:
- 21 (A) theft or robbery;
- 22 (B) except as provided by Subdivision (5),
23 kidnapping or burglary;
- 24 (C) injury to an elderly or disabled individual
25 that is not punishable as a felony of the first degree under Section
26 22.04, Penal Code;
- 27 (D) abandoning or endangering a child; or

1 (E) insurance fraud;

2 (5) if the investigation of the offense shows that the
3 victim is younger than 17 years of age at the time the offense is
4 committed, 20 years from the 18th birthday of the victim of one of
5 the following offenses:

6 (A) sexual performance by a child under Section
7 43.25, Penal Code;

8 (B) aggravated kidnapping under Section
9 20.04(a)(4), Penal Code, if the defendant committed the offense
10 with the intent to violate or abuse the victim sexually; or

11 (C) burglary under Section 30.02, Penal Code, if
12 the offense is punishable under Subsection (d) of that section and
13 the defendant committed the offense with the intent to commit an
14 offense described by Subdivision (1)(B) or (D) of this article or
15 Paragraph (B) of this subdivision;

16 (6) ten years from the 18th birthday of the victim of
17 the offense:

18 (A) trafficking of persons under Section
19 20A.02(a)(5) or (6), Penal Code;

20 (B) injury to a child under Section 22.04, Penal
21 Code; or

22 (C) bigamy under Section 25.01, Penal Code, if
23 the investigation of the offense shows that the person, other than
24 the legal spouse of the defendant, whom the defendant marries or
25 purports to marry or with whom the defendant lives under the
26 appearance of being married is younger than 18 years of age at the
27 time the offense is committed;

1 (7) two years from the date the offense was
2 discovered: sexual assault punishable as a state jail felony under
3 Section 22.011(f)(2), Penal Code; or

4 (8) three years from the date of the commission of the
5 offense: all other felonies.

6 SECTION 8. Article 17.153(a), Code of Criminal Procedure,
7 is amended to read as follows:

8 (a) This article applies to a defendant charged with a
9 felony offense under any of the following provisions of the Penal
10 Code, if committed against a child younger than 14 years of age:

11 (1) Chapter 21 (Sexual Offenses);

12 (2) Section 25.02 (Prohibited Sexual Conduct);

13 (3) Section 43.25 (Sexual Performance by a Child);

14 (4) Section 20A.02 (Trafficking of Persons), if the
15 defendant is alleged to have:

16 (A) trafficked the child with the intent or
17 knowledge that the child would engage in sexual conduct, as defined
18 by Section 43.25, Penal Code; or

19 (B) benefited from participating in a venture
20 that involved a trafficked child engaging in sexual conduct, as
21 defined by Section 43.25, Penal Code; or

22 (5) Section 43.05(a)(2) (Compelling Child Sexual
23 Exploitation [~~Prostitution~~]).

24 SECTION 9. Section 1, Article 38.071, Code of Criminal
25 Procedure, is amended to read as follows:

26 Sec. 1. This article applies only to a hearing or proceeding
27 in which the court determines that a child younger than 13 years of

1 age would be unavailable to testify in the presence of the defendant
2 about an offense defined by any of the following sections of the
3 Penal Code:

- 4 (1) Section 19.02 (Murder);
- 5 (2) Section 19.03 (Capital Murder);
- 6 (3) Section 19.04 (Manslaughter);
- 7 (4) Section 20.04 (Aggravated Kidnapping);
- 8 (5) Section 21.11 (Indecency with a Child);
- 9 (6) Section 22.011 (Sexual Assault);
- 10 (7) Section 22.02 (Aggravated Assault);
- 11 (8) Section 22.021 (Aggravated Sexual Assault);
- 12 (9) Section 22.04(e) (Injury to a Child, Elderly
13 Individual, or Disabled Individual);
- 14 (10) Section 22.04(f) (Injury to a Child, Elderly
15 Individual, or Disabled Individual), if the conduct is committed
16 intentionally or knowingly;
- 17 (11) Section 25.02 (Prohibited Sexual Conduct);
- 18 (12) Section 29.03 (Aggravated Robbery);
- 19 (13) Section 43.25 (Sexual Performance by a Child);
- 20 (14) Section 21.02 (Continuous Sexual Abuse of Young
21 Child or Children);
- 22 (15) Section 43.05(a)(2) (Compelling Child Sexual
23 Exploitation [~~Prostitution~~]); or
- 24 (16) Section 20A.02(a)(7) or (8) (Trafficking of
25 Persons).

26 SECTION 10. Section 1, Article 38.072, Code of Criminal
27 Procedure, is amended to read as follows:

1 Sec. 1. This article applies to a proceeding in the
2 prosecution of an offense under any of the following provisions of
3 the Penal Code, if committed against a child younger than 14 years
4 of age or a person with a disability:

5 (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive
6 Offenses);

7 (2) Section 25.02 (Prohibited Sexual Conduct);

8 (3) Section 43.25 (Sexual Performance by a Child);

9 (4) Section 43.05(a)(2) (Compelling Child Sexual
10 Exploitation [~~Prostitution~~]);

11 (5) Section 20A.02(a)(7) or (8) (Trafficking of
12 Persons); or

13 (6) Section 15.01 (Criminal Attempt), if the offense
14 attempted is described by Subdivision (1), (2), (3), (4), or (5) of
15 this section.

16 SECTION 11. Section 1(a), Article 38.37, Code of Criminal
17 Procedure, is amended to read as follows:

18 (a) Subsection (b) applies to a proceeding in the
19 prosecution of a defendant for an offense, or an attempt or
20 conspiracy to commit an offense, under the following provisions of
21 the Penal Code:

22 (1) if committed against a child under 17 years of age:

23 (A) Chapter 21 (Sexual Offenses);

24 (B) Chapter 22 (Assaultive Offenses); or

25 (C) Section 25.02 (Prohibited Sexual Conduct);

26 or

27 (2) if committed against a person younger than 18

1 years of age:

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

4 (B) Section 20A.02(a)(7) or (8); or

5 (C) Section 43.05(a)(2) (Compelling Child Sexual
6 Exploitation [~~Prostitution~~]).

7 SECTION 12. The heading to Article 42.0372, Code of
8 Criminal Procedure, is amended to read as follows:

9 Art. 42.0372. MANDATORY RESTITUTION FOR CHILD VICTIMS OF
10 TRAFFICKING OF PERSONS OR COMPELLING CHILD SEXUAL EXPLOITATION
11 [~~PROSTITUTION~~].

12 SECTION 13. Article 42A.054(a), Code of Criminal Procedure,
13 is amended to read as follows:

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

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

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

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

20 (4) Section 20.04, Penal Code (Aggravated
21 Kidnapping);

22 (5) Section 20A.02, Penal Code (Trafficking of
23 Persons);

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

26 (7) Section 21.11, Penal Code (Indecency with a
27 Child);

- 1 (8) Section 22.011, Penal Code (Sexual Assault);
- 2 (9) Section 22.021, Penal Code (Aggravated Sexual
3 Assault);
- 4 (10) Section 22.04(a)(1), Penal Code (Injury to a
5 Child, Elderly Individual, or Disabled Individual), if:
- 6 (A) the offense is punishable as a felony of the
7 first degree; and
- 8 (B) the victim of the offense is a child;
- 9 (11) Section 29.03, Penal Code (Aggravated Robbery);
- 10 (12) Section 30.02, Penal Code (Burglary), if:
- 11 (A) the offense is punishable under Subsection
12 (d) of that section; and
- 13 (B) the actor committed the offense with the
14 intent to commit a felony under Section 21.02, 21.11, 22.011,
15 22.021, or 25.02, Penal Code;
- 16 (13) Section 43.04, Penal Code (Aggravated Promotion
17 of Prostitution);
- 18 (14) Section 43.05, Penal Code (Compelling
19 Prostitution or Child Sexual Exploitation);
- 20 (15) Section 43.25, Penal Code (Sexual Performance by
21 a Child); or
- 22 (16) 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 14. Article 62.001(5), Code of Criminal Procedure,
4 is amended to read as follows:

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

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

15 (B) a violation of Section 43.04 (Aggravated
16 promotion of prostitution), 43.05 (Compelling prostitution or
17 child sexual exploitation), 43.25 (Sexual performance by a child),
18 or 43.26 (Possession or promotion of child pornography), Penal
19 Code;

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

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

27 (D) a violation of Section 30.02 (Burglary),

1 Penal Code, if the offense or conduct is punishable under
2 Subsection (d) of that section and the actor committed the offense
3 or engaged in the conduct with intent to commit a felony listed in
4 Paragraph (A) or (C);

5 (E) a violation of Section 20.02 (Unlawful
6 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),
7 Penal Code, if, as applicable:

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

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

13 (F) the second violation of Section 21.08
14 (Indecent exposure), Penal Code, but not if the second violation
15 results in a deferred adjudication;

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

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

26 (I) the second violation of the laws of another
27 state, federal law, the laws of a foreign country, or the Uniform

1 Code of Military Justice for or based on the violation of an offense
2 containing elements that are substantially similar to the elements
3 of the offense of indecent exposure, but not if the second violation
4 results in a deferred adjudication;

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

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

9 (L) a violation of Section 20A.03 (Continuous
10 trafficking of persons), Penal Code, if the offense is based partly
11 or wholly on conduct that constitutes an offense under Section
12 20A.02(a)(3), (4), (7), or (8) of that code.

13 SECTION 15. Article 66.102(h), Code of Criminal Procedure,
14 is amended to read as follows:

15 (h) In addition to the information described by this
16 article, information in the computerized criminal history system
17 must include the age of the victim of the offense if the offender
18 was arrested for or charged with an offense under the following
19 provisions of the Penal Code:

20 (1) Section 20.04(a)(4) (Aggravated Kidnapping), if
21 the offender committed the offense with the intent to violate or
22 abuse the victim sexually;

23 (2) Section 20A.02 (Trafficking of Persons), if the
24 offender:

25 (A) trafficked a person with the intent or
26 knowledge that the person would engage in sexual conduct, as
27 defined by Section 43.25, Penal Code; or

1 (B) benefited from participating in a venture
2 that involved a trafficked person engaging in sexual conduct, as
3 defined by Section 43.25, Penal Code;

4 (3) Section 21.02 (Continuous Sexual Abuse of Young
5 Child or Children);

6 (4) Section 21.11 (Indecency with a Child);

7 (5) Section 22.011 (Sexual Assault) or 22.021
8 (Aggravated Sexual Assault);

9 (6) Section 30.02 (Burglary), if the offense is
10 punishable under Subsection (d) of that section and the offender
11 committed the offense with the intent to commit an offense
12 described by Subdivision (1), (4), or (5);

13 (7) Section 43.05(a)(2) (Compelling Child Sexual
14 Exploitation [~~Prostitution~~]); or

15 (8) Section 43.25 (Sexual Performance by a Child).

16 SECTION 16. Section 54.031(a), Family Code, is amended to
17 read as follows:

18 (a) This section applies to a hearing under this title in
19 which a child is alleged to be a delinquent child on the basis of a
20 violation of any of the following provisions of the Penal Code, if a
21 child 12 years of age or younger or a person with a disability is the
22 alleged victim of the violation:

23 (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive
24 Offenses);

25 (2) Section 25.02 (Prohibited Sexual Conduct);

26 (3) Section 43.25 (Sexual Performance by a Child);

27 (4) Section 20A.02(a)(7) or (8) (Trafficking of

1 Persons); or

2 (5) Section 43.05(a)(2) (Compelling Child Sexual
3 Exploitation [~~Prostitution~~]).

4 SECTION 17. Section 161.001(b), Family Code, is amended to
5 read as follows:

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

8 (1) that the parent has:

9 (A) voluntarily left the child alone or in the
10 possession of another not the parent and expressed an intent not to
11 return;

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

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

19 (D) knowingly placed or knowingly allowed the
20 child to remain in conditions or surroundings which endanger the
21 physical or emotional well-being of the child;

22 (E) engaged in conduct or knowingly placed the
23 child with persons who engaged in conduct which endangers the
24 physical or emotional well-being of the child;

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

1 (G) abandoned the child without identifying the
2 child or furnishing means of identification, and the child's
3 identity cannot be ascertained by the exercise of reasonable
4 diligence;

5 (H) voluntarily, and with knowledge of the
6 pregnancy, abandoned the mother of the child beginning at a time
7 during her pregnancy with the child and continuing through the
8 birth, failed to provide adequate support or medical care for the
9 mother during the period of abandonment before the birth of the
10 child, and remained apart from the child or failed to support the
11 child since the birth;

12 (I) contumaciously refused to submit to a
13 reasonable and lawful order of a court under Subchapter D, Chapter
14 261;

15 (J) been the major cause of:

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

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

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

24 (L) been convicted or has been placed on
25 community supervision, including deferred adjudication community
26 supervision, for being criminally responsible for the death or
27 serious injury of a child under the following sections of the Penal

1 Code, or under a law of another jurisdiction that contains elements
2 that are substantially similar to the elements of an offense under
3 one of the following Penal Code sections, or adjudicated under
4 Title 3 for conduct that caused the death or serious injury of a
5 child and that would constitute a violation of one of the following
6 Penal Code sections:

- 7 (i) Section 19.02 (murder);
- 8 (ii) Section 19.03 (capital murder);
- 9 (iii) Section 19.04 (manslaughter);
- 10 (iv) Section 21.11 (indecent with a
11 child);
- 12 (v) Section 22.01 (assault);
- 13 (vi) Section 22.011 (sexual assault);
- 14 (vii) Section 22.02 (aggravated assault);
- 15 (viii) Section 22.021 (aggravated sexual
16 assault);
- 17 (ix) Section 22.04 (injury to a child,
18 elderly individual, or disabled individual);
- 19 (x) Section 22.041 (abandoning or
20 endangering child);
- 21 (xi) Section 25.02 (prohibited sexual
22 conduct);
- 23 (xii) Section 43.25 (sexual performance by
24 a child);
- 25 (xiii) Section 43.26 (possession or
26 promotion of child pornography);
- 27 (xiv) Section 21.02 (continuous sexual

1 abuse of young child or children);

2 (xv) Section 20A.02(a)(7) or (8)
3 (trafficking of persons); and

4 (xvi) Section 43.05(a)(2) (compelling
5 child sexual exploitation [~~prostitution~~]);

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

10 (N) constructively abandoned the child who has
11 been in the permanent or temporary managing conservatorship of the
12 Department of Family and Protective Services for not less than six
13 months, and:

14 (i) the department has made reasonable
15 efforts to return the child to the parent;

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

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

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

27 (P) used a controlled substance, as defined by

1 Chapter 481, Health and Safety Code, in a manner that endangered the
2 health or safety of the child, and:

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

5 (ii) after completion of a court-ordered
6 substance abuse treatment program, continued to abuse a controlled
7 substance;

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

10 (i) conviction of an offense; and

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

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

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

20 (T) been convicted of:

21 (i) the murder of the other parent of the
22 child under Section 19.02 or 19.03, Penal Code, or under a law of
23 another state, federal law, the law of a foreign country, or the
24 Uniform Code of Military Justice that contains elements that are
25 substantially similar to the elements of an offense under Section
26 19.02 or 19.03, Penal Code;

27 (ii) criminal attempt under Section 15.01,

1 Penal Code, or under a law of another state, federal law, the law of
2 a foreign country, or the Uniform Code of Military Justice that
3 contains elements that are substantially similar to the elements of
4 an offense under Section 15.01, Penal Code, to commit the offense
5 described by Subparagraph (i);

6 (iii) criminal solicitation under Section
7 15.03, Penal Code, or under a law of another state, federal law, the
8 law of a foreign country, or the Uniform Code of Military Justice
9 that contains elements that are substantially similar to the
10 elements of an offense under Section 15.03, Penal Code, of the
11 offense described by Subparagraph (i); or

12 (iv) the sexual assault of the other parent
13 of the child under Section 22.011 or 22.021, Penal Code, or under a
14 law of another state, federal law, or the Uniform Code of Military
15 Justice that contains elements that are substantially similar to
16 the elements of an offense under Section 22.011 or 22.021, Penal
17 Code; or

18 (U) been placed on community supervision,
19 including deferred adjudication community supervision, or another
20 functionally equivalent form of community supervision or
21 probation, for being criminally responsible for the sexual assault
22 of the other parent of the child under Section 22.011 or 22.021,
23 Penal Code, or under a law of another state, federal law, or the
24 Uniform Code of Military Justice that contains elements that are
25 substantially similar to the elements of an offense under Section
26 22.011 or 22.021, Penal Code; and

27 (2) that termination is in the best interest of the

1 child.

2 SECTION 18. Section 261.001(1), Family Code, is amended to
3 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (L) knowingly causing, permitting, encouraging,

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

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

8 SECTION 19. Section 262.2015(b), Family Code, is amended to
9 read as follows:

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

12 (1) the parent abandoned the child without
13 identification or a means for identifying the child;

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

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

20 (A) Section 19.02 (murder);

21 (B) Section 19.03 (capital murder);

22 (C) Section 19.04 (manslaughter);

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

24 (E) Section 22.011 (sexual assault);

25 (F) Section 22.02 (aggravated assault);

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

27 (H) Section 22.04 (injury to a child, elderly

- 1 individual, or disabled individual);
- 2 (I) Section 22.041 (abandoning or endangering
3 child);
- 4 (J) Section 25.02 (prohibited sexual conduct);
- 5 (K) Section 43.25 (sexual performance by a
6 child);
- 7 (L) Section 43.26 (possession or promotion of
8 child pornography);
- 9 (M) Section 21.02 (continuous sexual abuse of
10 young child or children);
- 11 (N) Section 43.05(a)(2) (compelling child sexual
12 exploitation [~~prostitution~~]); or
- 13 (O) Section 20A.02(a)(7) or (8) (trafficking of
14 persons);
- 15 (4) the parent voluntarily left the child alone or in
16 the possession of another person not the parent of the child for at
17 least six months without expressing an intent to return and without
18 providing adequate support for the child;
- 19 (5) the parent's parental rights with regard to
20 another child have been involuntarily terminated based on a finding
21 that the parent's conduct violated Section 161.001(b)(1)(D) or (E)
22 or a substantially equivalent provision of another state's law;
- 23 (6) the parent has been convicted for:
- 24 (A) the murder of another child of the parent and
25 the offense would have been an offense under 18 U.S.C. Section
26 1111(a) if the offense had occurred in the special maritime or
27 territorial jurisdiction of the United States;

1 (B) the voluntary manslaughter of another child
2 of the parent and the offense would have been an offense under 18
3 U.S.C. Section 1112(a) if the offense had occurred in the special
4 maritime or territorial jurisdiction of the United States;

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

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

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

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

14 SECTION 20. Section 71.0353, Government Code, is amended to
15 read as follows:

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

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

23 (2) prostitution under Section 43.02, Penal Code; and

24 (3) compelling prostitution or child sexual
25 exploitation under Section 43.05, Penal Code.

26 SECTION 21. The heading to Section 411.0728, Government
27 Code, is amended to read as follows:

1 Sec. 411.0728. PROCEDURE FOR CERTAIN VICTIMS OF TRAFFICKING
2 OF PERSONS OR COMPELLING PROSTITUTION OR CHILD SEXUAL EXPLOITATION.

3 SECTION 22. Section 499.027(b), Government Code, is amended
4 to read as follows:

5 (b) An inmate is not eligible under this subchapter to be
6 considered for release to intensive supervision parole if:

7 (1) the inmate is awaiting transfer to the
8 institutional division, or serving a sentence, for an offense for
9 which the judgment contains an affirmative finding under Article
10 42A.054(c) or (d), Code of Criminal Procedure;

11 (2) the inmate is awaiting transfer to the
12 institutional division, or serving a sentence, for an offense
13 listed in one of the following sections of the Penal Code:

14 (A) Section 19.02 (murder);

15 (B) Section 19.03 (capital murder);

16 (C) Section 19.04 (manslaughter);

17 (D) Section 20.03 (kidnapping);

18 (E) Section 20.04 (aggravated kidnapping);

19 (F) Section 21.11 (indecent with a child);

20 (G) Section 22.011 (sexual assault);

21 (H) Section 22.02 (aggravated assault);

22 (I) Section 22.021 (aggravated sexual assault);

23 (J) Section 22.04 (injury to a child, elderly
24 individual, or disabled individual);

25 (K) Section 25.02 (prohibited sexual conduct);

26 (L) Section 25.08 (sale or purchase of a child);

27 (M) Section 28.02 (arson);

- 1 (N) Section 29.02 (robbery);
- 2 (O) Section 29.03 (aggravated robbery);
- 3 (P) Section 30.02 (burglary), if the offense is
- 4 punished as a first-degree felony under that section;
- 5 (Q) Section 43.04 (aggravated promotion of
- 6 prostitution);
- 7 (R) Section 43.05 (compelling prostitution or
- 8 child sexual exploitation);
- 9 (S) Section 43.24 (sale, distribution, or
- 10 display of harmful material to minor);
- 11 (T) Section 43.25 (sexual performance by a
- 12 child);
- 13 (U) Section 46.10 (deadly weapon in penal
- 14 institution);
- 15 (V) Section 15.01 (criminal attempt), if the
- 16 offense attempted is listed in this subsection;
- 17 (W) Section 15.02 (criminal conspiracy), if the
- 18 offense that is the subject of the conspiracy is listed in this
- 19 subsection;
- 20 (X) Section 15.03 (criminal solicitation), if
- 21 the offense solicited is listed in this subsection;
- 22 (Y) Section 21.02 (continuous sexual abuse of
- 23 young child or children);
- 24 (Z) Section 20A.02 (trafficking of persons);
- 25 (AA) Section 20A.03 (continuous trafficking of
- 26 persons); or
- 27 (BB) Section 43.041 (aggravated online promotion

1 of prostitution); or

2 (3) the inmate is awaiting transfer to the
3 institutional division, or serving a sentence, for an offense under
4 Chapter 481, Health and Safety Code, punishable by a minimum term of
5 imprisonment or a maximum fine that is greater than the minimum term
6 of imprisonment or the maximum fine for a first degree felony.

7 SECTION 23. Section 1701.258(b), Occupations Code, is
8 amended to read as follows:

9 (b) The commission shall make available to each officer a
10 voluntary advanced education, instruction, and training program on
11 the trafficking of persons and compelling prostitution or child
12 sexual exploitation prohibited under Sections 20A.02 and 43.05,
13 Penal Code.

14 SECTION 24. Section 20A.02(a), Penal Code, is amended to
15 read as follows:

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

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

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

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

26 (A) Section 43.02 (Prostitution);

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

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

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

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

7 (D) Section 43.05 (Compelling Prostitution or
8 Child Sexual Exploitation);

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

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

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

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

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

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

25 (C) Section 22.011 (Sexual Assault);

26 (D) Section 22.021 (Aggravated Sexual Assault);

27 (E) Section 43.02 (Prostitution);

- 1 (F) Section 43.03 (Promotion of Prostitution);
2 (F-1) Section 43.031 (Online Promotion of
3 Prostitution);
4 (G) Section 43.04 (Aggravated Promotion of
5 Prostitution);
6 (G-1) Section 43.041 (Aggravated Online
7 Promotion of Prostitution);
8 (H) Section 43.05 (Compelling Prostitution or
9 Child Sexual Exploitation);
10 (I) Section 43.25 (Sexual Performance by a
11 Child);
12 (J) Section 43.251 (Employment Harmful to
13 Children); or
14 (K) Section 43.26 (Possession or Promotion of
15 Child Pornography); or
16 (8) receives a benefit from participating in a venture
17 that involves an activity described by Subdivision (7) or engages
18 in sexual conduct with a child trafficked in the manner described in
19 Subdivision (7).

20 SECTION 25. Section 21.02(c), Penal Code, is amended to
21 read as follows:

22 (c) For purposes of this section, "act of sexual abuse"
23 means any act that is a violation of one or more of the following
24 penal laws:

- 25 (1) aggravated kidnapping under Section 20.04(a)(4),
26 if the actor committed the offense with the intent to violate or
27 abuse the victim sexually;

1 (2) indecency with a child under Section 21.11(a)(1),
2 if the actor committed the offense in a manner other than by
3 touching, including touching through clothing, the breast of a
4 child;

5 (3) sexual assault under Section 22.011;

6 (4) aggravated sexual assault under Section 22.021;

7 (5) burglary under Section 30.02, if the offense is
8 punishable under Subsection (d) of that section and the actor
9 committed the offense with the intent to commit an offense listed in
10 Subdivisions (1)-(4);

11 (6) sexual performance by a child under Section 43.25;

12 (7) trafficking of persons under Section 20A.02(a)(7)
13 or (8); and

14 (8) compelling child sexual exploitation
15 [~~prostitution~~] under Section 43.05(a)(2).

16 SECTION 26. Section 71.02(a), Penal Code, is amended to
17 read as follows:

18 (a) A person commits an offense if, with the intent to
19 establish, maintain, or participate in a combination or in the
20 profits of a combination or as a member of a criminal street gang,
21 the person commits or conspires to commit one or more of the
22 following:

23 (1) murder, capital murder, arson, aggravated
24 robbery, robbery, burglary, theft, aggravated kidnapping,
25 kidnapping, aggravated assault, aggravated sexual assault, sexual
26 assault, continuous sexual abuse of young child or children,
27 solicitation of a minor, forgery, deadly conduct, assault

1 punishable as a Class A misdemeanor, burglary of a motor vehicle, or
2 unauthorized use of a motor vehicle;

3 (2) any gambling offense punishable as a Class A
4 misdemeanor;

5 (3) promotion of prostitution, aggravated promotion
6 of prostitution, or compelling prostitution or child sexual
7 exploitation;

8 (4) unlawful manufacture, transportation, repair, or
9 sale of firearms or prohibited weapons;

10 (5) unlawful manufacture, delivery, dispensation, or
11 distribution of a controlled substance or dangerous drug, or
12 unlawful possession of a controlled substance or dangerous drug
13 through forgery, fraud, misrepresentation, or deception;

14 (5-a) causing the unlawful delivery, dispensation, or
15 distribution of a controlled substance or dangerous drug in
16 violation of Subtitle B, Title 3, Occupations Code;

17 (6) any unlawful wholesale promotion or possession of
18 any obscene material or obscene device with the intent to wholesale
19 promote the same;

20 (7) any offense under Subchapter B, Chapter 43,
21 depicting or involving conduct by or directed toward a child
22 younger than 18 years of age;

23 (8) any felony offense under Chapter 32;

24 (9) any offense under Chapter 36;

25 (10) any offense under Chapter 34, 35, or 35A;

26 (11) any offense under Section 37.11(a);

27 (12) any offense under Chapter 20A;

- 1 (13) any offense under Section 37.10;
- 2 (14) any offense under Section 38.06, 38.07, 38.09, or
- 3 38.11;
- 4 (15) any offense under Section 42.10;
- 5 (16) any offense under Section 46.06(a)(1) or 46.14;
- 6 (17) any offense under Section 20.05 or 20.06;
- 7 (18) any offense under Section 16.02; or
- 8 (19) any offense classified as a felony under the Tax
- 9 Code.

10 SECTION 27. Section 93.013(a), Property Code, is amended to

11 read as follows:

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

13 a tenant's right of possession terminates and the landlord has a

14 right to recover possession of the leased premises if the tenant is

15 using the premises or allowing the premises to be used for the

16 purposes of prostitution, promotion of prostitution, aggravated

17 promotion of prostitution, or compelling prostitution or child

18 sexual exploitation, as prohibited by the Penal Code, or

19 trafficking of persons as described by Section 20A.02, Penal Code.

20 SECTION 28. The change in law made by this Act applies only

21 to an offense committed or conduct that occurs on or after the

22 effective date of this Act. An offense committed or conduct that

23 occurs before the effective date of this Act is governed by the law

24 in effect on the date the offense was committed or the conduct

25 occurred, and the former law is continued in effect for that

26 purpose. For the purposes of this section, an offense was committed

27 or conduct occurred before the effective date of this Act if any

1 element of the offense or conduct occurred before that date.

2 SECTION 29. This Act takes effect September 1, 2021.