

By: Huffman, et al.
(Wu)

S.B. No. 568

Substitute the following for S.B. No. 568:

By: Cook

C.S.S.B. No. 568

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the prosecution of and punishment for the criminal
3 offense of hindering the investigation or prosecution of certain
4 sexual offenses committed against a child; increasing criminal
5 penalties.

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

7 SECTION 1. Section 38.17, Penal Code, is amended to read as
8 follows:

9 Sec. 38.17. HINDERING INVESTIGATION OR PROSECUTION OF
10 CERTAIN [FAILURE TO STOP OR REPORT AGGRAVATED] SEXUAL OFFENSES
11 COMMITTED AGAINST A [ASSAULT OF] CHILD. (a) In this section,
12 "sexual offense against a child" means conduct that constitutes an
13 offense under:

14 (1) Section 20A.02(a)(7) or (8) (Trafficking of
15 Persons);

16 (2) Section 20A.03 (Continuous Trafficking of
17 Persons), if the offense is based partly or wholly on conduct that
18 constitutes an offense under Section 20A.02(a)(7) or (8);

19 (3) Section 21.02 (Continuous Sexual Abuse of Young
20 Child or Children);

21 (4) Section 21.11(a)(1) (Indecency with a Child);

22 (5) Section 22.011(a)(2) (Sexual Assault of a Child);

23 (6) Section 22.021(a)(1)(B) (Aggravated Sexual
24 Assault of a Child);

1 (7) Section 43.05(a)(2) (Compelling Prostitution); or

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

3 (b) A person 17 years of age or older~~[, other than a person~~
4 ~~who has a relationship with a child described by Section 22.04(b),]~~
5 commits an offense if the person:

6 (1) commits an offense under Section 261.109, Family
7 Code, by failing to report a sexual offense against a child as
8 provided by Chapter 261 of that code ~~[the actor observes the~~
9 ~~commission or attempted commission of an offense prohibited by~~
10 ~~Section 21.02 or 22.021(a)(2)(B) under circumstances in which a~~
11 ~~reasonable person would believe that an offense of a sexual or~~
12 ~~assaultive nature was being committed or was about to be committed~~
13 ~~against the child]; and~~

14 (2) engages in conduct intended to hinder the
15 investigation or prosecution of the sexual offense against a child,
16 including by:

17 (A) altering, destroying, or concealing any
18 record, document, or thing to impair its verity, legibility, or
19 availability as evidence in the investigation or prosecution;

20 (B) interfering with the willingness of a witness
21 to the sexual offense to report that offense to, or cooperate in the
22 investigation or prosecution of the offense with, a law enforcement
23 agency or the Department of Family and Protective Services or
24 otherwise preventing the report by or cooperation of the witness;

25 (C) harboring or concealing the person who
26 committed the sexual offense;

27 (D) providing or aiding in providing the person

1 who committed the sexual offense with a means to avoid
2 investigation or arrest, including by assisting the person in
3 relocating to another area; or

4 (E) providing false information regarding the
5 sexual offense to a law enforcement agency or to the Department of
6 Family and Protective Services [~~the actor fails to assist the child~~
7 ~~or immediately report the commission of the offense to a peace~~
8 ~~officer or law enforcement agency; and~~

9 [~~(3) the actor could assist the child or immediately~~
10 ~~report the commission of the offense without placing the actor in~~
11 ~~danger of suffering serious bodily injury or death].~~

12 (c) [(b)] An offense under this section is a felony of the
13 third degree, except that the offense is a felony of the second
14 degree if:

15 (1) the person who committed the sexual offense
16 against a child commits a subsequent sexual offense against a
17 child; and

18 (2) the actor's failure to report the sexual offense
19 against a child enabled or facilitated the person's commission of
20 the subsequent offense [~~Class A misdemeanor~~].

21 (d) Except as otherwise provided by this subsection, the
22 following information may not be released to the public and is not
23 public information under Chapter 552, Government Code:

24 (1) the name of the child who is the victim of the
25 sexual offense described by Subsection (b);

26 (2) the name of the actor, until the actor is charged
27 with an offense under this section; and

1 (3) the name of the person whom the actor believes to
2 have committed the sexual offense described by Subsection (b),
3 until the person is charged with the applicable offense.

4 SECTION 2. The change in law made by this Act applies only
5 to an offense committed on or after the effective date of this Act.
6 An offense committed before the effective date of this Act is
7 governed by the law in effect on the date the offense was committed,
8 and the former law is continued in effect for that purpose. For
9 purposes of this section, an offense was committed before the
10 effective date of this Act if any element of the offense occurred
11 before that date.

12 SECTION 3. This Act takes effect September 1, 2021.