

1-1 By: Huffman S.B. No. 568
 1-2 (In the Senate - Filed February 2, 2021; March 11, 2021,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 April 12, 2021, reported favorably by the following vote: Yeas 5,
 1-5 Nays 0; April 12, 2021, sent to printer.)

1-6 COMMITTEE VOTE

1-7	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10			X	
1-11			X	
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the prosecution of and punishment for the criminal
 1-18 offense of failure to report certain sexual offenses committed
 1-19 against a child; increasing criminal penalties.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Section 38.17, Penal Code, is amended to read as
 1-22 follows:

1-23 Sec. 38.17. FAILURE TO ~~[STOP OR]~~ REPORT CERTAIN
 1-24 ~~[AGGRAVATED]~~ SEXUAL OFFENSES COMMITTED AGAINST A ~~[ASSAULT OF]~~
 1-25 CHILD. (a) In this section, "sexual offense against a child" means
 1-26 conduct that constitutes an offense under:

1-27 (1) Section 20A.02(a)(7) or (8) (Trafficking of
 1-28 Persons);

1-29 (2) Section 20A.03 (Continuous Trafficking of
 1-30 Persons), if the offense is based partly or wholly on conduct that
 1-31 constitutes an offense under Section 20A.02(a)(7) or (8);

1-32 (3) Section 21.02 (Continuous Sexual Abuse of Young
 1-33 Child or Children);

1-34 (4) Section 21.11 (Indecency with a Child);

1-35 (5) Section 22.011(a)(2) (Sexual Assault of a Child);

1-36 (6) Section 22.021(a)(1)(B) (Aggravated Sexual
 1-37 Assault of a Child);

1-38 (7) Section 43.05(a)(2) (Compelling Prostitution); or

1-39 (8) Section 43.25 (Sexual Performance by a Child).

1-40 (b) A person 18 years of age or older~~[, other than a person~~
 1-41 ~~who has a relationship with a child described by Section 22.04(b),]~~
 1-42 commits an offense if the person:

1-43 (1) knows that another person has committed a sexual
 1-44 offense against a child ~~[the actor observes the commission or~~
 1-45 ~~attempted commission of an offense prohibited by Section 21.02 or~~
 1-46 ~~22.021(a)(2)(B) under circumstances in which a reasonable person~~
 1-47 ~~would believe that an offense of a sexual or assaultive nature was~~
 1-48 ~~being committed or was about to be committed against the child]; and~~

1-49 (2) [the actor] fails to [assist the child or]
 1-50 immediately report the commission of the offense to a [peace
 1-51 officer or] law enforcement agency or to the Department of Family
 1-52 and Protective Services~~[, and~~

1-53 ~~[(3) the actor could assist the child or immediately~~
 1-54 ~~report the commission of the offense without placing the actor in~~
 1-55 ~~danger of suffering serious bodily injury or death].~~

1-56 (c) [(b)] An offense under this section is a state jail
 1-57 felony, except that the offense is:

1-58 (1) except as provided by Subdivision (2), a felony of
 1-59 the third degree if it is shown on the trial of the offense that the
 1-60 actor also engaged in conduct intended to hinder the investigation
 1-61 or prosecution of the sexual offense against a child, including by:

2-1 (A) altering, destroying, or concealing any
2-2 record, document, or thing to impair its verity, legibility, or
2-3 availability as evidence in the investigation or prosecution;
2-4 (B) interfering with the willingness of a witness
2-5 to the sexual offense to report that offense to, or cooperate in the
2-6 investigation or prosecution of the offense with, a law enforcement
2-7 agency or the Department of Family and Protective Services or
2-8 otherwise preventing the report by or cooperation of the witness;
2-9 (C) harboring or concealing the person who
2-10 committed the sexual offense;
2-11 (D) providing or aiding in providing the person
2-12 who committed the sexual offense with a means to avoid
2-13 investigation or arrest, including by assisting the person in
2-14 relocating to another area; or
2-15 (E) providing false information regarding the
2-16 sexual offense to a law enforcement agency or to the Department of
2-17 Family and Protective Services; or
2-18 (2) a felony of the second degree if:
2-19 (A) the actor engaged in conduct described by
2-20 Subdivision (1);
2-21 (B) the person who committed the sexual offense
2-22 against a child commits a subsequent sexual offense against a
2-23 child; and
2-24 (C) the actor's failure to report the sexual
2-25 offense against a child enabled or facilitated the person's
2-26 commission of the subsequent offense [~~Class A misdemeanor~~].
2-27 (d) For purposes of this section, the actor is presumed to
2-28 have known that another person has committed a sexual offense
2-29 against a child if:
2-30 (1) the child tells the actor that the other person has
2-31 engaged in conduct that constitutes a sexual offense listed in
2-32 Subsection (a); or
2-33 (2) the actor engaged in conduct described by
2-34 Subsection (c)(1) with respect to the sexual offense.
2-35 (e) It is a defense to prosecution under this section that
2-36 the actor complied with a duty to report the sexual offense against
2-37 a child to a law enforcement agency or to the Department of Family
2-38 and Protective Services as required by other law.
2-39 (f) It is an affirmative defense to prosecution under this
2-40 section that the actor promptly reported the sexual offense against
2-41 a child to a professional, as defined by Section 261.101(b), Family
2-42 Code, or to a family violence center, as defined by Section 93.001,
2-43 Family Code.
2-44 (g) It is an exception to the application of this section
2-45 that:
2-46 (1) the person who the actor knows has committed the
2-47 sexual offense against a child has previously been convicted of any
2-48 of the following offenses committed against the actor:
2-49 (A) an offense listed in Article 42A.054(a), Code
2-50 of Criminal Procedure; or
2-51 (B) an offense under Section 22.01 (Assault) or
2-52 22.02 (Aggravated Assault); or
2-53 (2) at the time of the actor's act of omission
2-54 described by Subsection (b)(2) or at any time before that act
2-55 occurred, the person who the actor knows has committed the sexual
2-56 offense against a child was the subject of an order issued to
2-57 protect the actor:
2-58 (A) under Subchapter A, Chapter 7B, Code of
2-59 Criminal Procedure, Article 17.292, Code of Criminal Procedure,
2-60 Section 6.504, Family Code, Chapter 83, Family Code, Chapter 85,
2-61 Family Code, or Subchapter F, Chapter 261, Family Code; or
2-62 (B) by another jurisdiction as provided by
2-63 Chapter 88, Family Code.
2-64 (h) If conduct that constitutes an offense under this
2-65 section also constitutes an offense under another law, the actor
2-66 may be prosecuted under this section, the other law, or both.
2-67 SECTION 2. The change in law made by this Act applies only
2-68 to an offense committed on or after the effective date of this Act.
2-69 An offense committed before the effective date of this Act is

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

3-6 SECTION 3. This Act takes effect September 1, 2021.

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