

By: Hughes

S.B. No. 1718

A BILL TO BE ENTITLED

1 AN ACT
2 relating to provisions to enable the prevention and prosecution of
3 trafficking of persons and certain sexual offenses committed
4 against children and to the commission of civil racketeering
5 related to the trafficking of persons.

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

7 SECTION 1. Section 140A.002, Civil Practice and Remedies
8 Code, is amended to read as follows:

9 Sec. 140A.002. CIVIL RACKETEERING. A person or enterprise
10 commits racketeering if, for financial gain, the person or
11 enterprise commits an offense under Chapter 20A, Penal Code
12 (trafficking of persons) ~~[, and the offense or an element of the~~
13 ~~offense:~~

14 ~~[(1) occurs in more than one county in this state, or~~
15 ~~[(2) is facilitated by the use of United States mail,~~
16 ~~e-mail, telephone, facsimile, or a wireless communication from one~~
17 ~~county in this state to another].~~

18 SECTION 2. Article 12.01, Code of Criminal Procedure, is
19 amended to read as follows:

20 Art. 12.01. FELONIES. Except as provided in Article 12.03,
21 felony indictments may be presented within these limits, and not
22 afterward:

- 23 (1) no limitation:
24 (A) murder and manslaughter;

1 (B) sexual assault under Section 22.011(a)(2),
2 Penal Code, or aggravated sexual assault under Section
3 22.021(a)(1)(B), Penal Code;

4 (C) sexual assault, if:

5 (i) during the investigation of the offense
6 biological matter is collected and the matter:

7 (a) has not yet been subjected to
8 forensic DNA testing; or

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

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

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

18 (E) indecency with a child under Section 21.11,
19 Penal Code;

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

23 (G) trafficking of persons under Section
24 20A.02(a)(7) or (8), Penal Code;

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

27 (I) compelling prostitution under Section

1 43.05(a)(2), Penal Code;

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

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

8 (B) theft by a public servant of government
9 property over which the public servant exercises control in the
10 public servant's official capacity;

11 (C) forgery or the uttering, using or passing of
12 forged instruments;

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

16 (E) sexual assault, except as provided by
17 Subdivision (1) or (8) [~~(7)~~];

18 (F) arson;

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

21 (H) compelling prostitution under Section
22 43.05(a)(1), Penal Code;

23 (3) seven years from the date of the commission of the
24 offense:

25 (A) misapplication of fiduciary property or
26 property of a financial institution;

27 (B) securing execution of document by deception;

1 (C) a felony violation under Chapter 162, Tax
2 Code;

3 (D) false statement to obtain property or credit
4 under Section 32.32, Penal Code;

5 (E) money laundering;

6 (F) credit card or debit card abuse under Section
7 32.31, Penal Code;

8 (G) fraudulent use or possession of identifying
9 information under Section 32.51, Penal Code;

10 (H) exploitation of a child, elderly individual,
11 or disabled individual under Section 32.53, Penal Code;

12 (I) health care fraud under Section 35A.02, Penal
13 Code; or

14 (J) bigamy under Section 25.01, Penal Code,
15 except as provided by Subdivision (7) [~~(6)~~];

16 (4) five years from the date of the commission of the
17 offense:

18 (A) theft or robbery;

19 (B) except as provided by Subdivision (5),
20 kidnapping or burglary;

21 (C) injury to an elderly or disabled individual
22 that is not punishable as a felony of the first degree under Section
23 22.04, Penal Code;

24 (D) abandoning or endangering a child; or

25 (E) insurance fraud;

26 (5) if the investigation of the offense shows that the
27 victim is younger than 17 years of age at the time the offense is

1 committed, 20 years from the 18th birthday of the victim of one of
2 the following offenses:

3 (A) [~~sexual performance by a child under Section~~
4 ~~43.25, Penal Code,~~

5 [~~(B)~~] aggravated kidnapping under Section
6 20.04(a)(4), Penal Code, if the defendant committed the offense
7 with the intent to violate or abuse the victim sexually; or

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

13 (6) 20 years from the 18th birthday of the victim of
14 one of the following offenses:

15 (A) trafficking of persons under Section
16 20A.02(a)(5) or (6), Penal Code; or

17 (B) sexual performance by a child under Section
18 43.25, Penal Code;

19 (7) ten years from the 18th birthday of the victim of
20 the offense:

21 (A) [~~trafficking of persons under Section~~
22 ~~20A.02(a)(5) or (6), Penal Code,~~

23 [~~(B)~~] injury to a child under Section 22.04,
24 Penal Code; or

25 (B) [~~(C)~~] bigamy under Section 25.01, Penal
26 Code, if the investigation of the offense shows that the person,
27 other than the legal spouse of the defendant, whom the defendant

1 marries or purports to marry or with whom the defendant lives under
2 the appearance of being married is younger than 18 years of age at
3 the time the offense is committed;

4 (8) [~~(7)~~] two years from the date the offense was
5 discovered: sexual assault punishable as a state jail felony under
6 Section 22.011(f)(2), Penal Code; or

7 (9) [~~(8)~~] three years from the date of the commission
8 of the offense: all other felonies.

9 SECTION 3. Section 2(a), Article 38.37, Code of Criminal
10 Procedure, is amended to read as follows:

11 (a) Subsection (b) applies only to the trial of a defendant
12 for:

13 (1) an offense under any of the following provisions
14 of the Penal Code:

15 (A) Section 20A.02, if punishable as a felony of
16 the first degree under Section 20A.02(b-1)(1) [~~20A.02(b)(1)~~]
17 (~~[Sex]~~ Trafficking of a Child);

18 (B) Section 21.02 (Continuous Sexual Abuse of
19 Young Child or Children);

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

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

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

25 (F) Section 33.021 (Online Solicitation of a
26 Minor);

27 (G) Section 43.25 (Sexual Performance by a

1 Child); or

2 (H) Section 43.26 (Possession or Promotion of
3 Child Pornography), Penal Code; or

4 (2) an attempt or conspiracy to commit an offense
5 described by Subdivision (1).

6 SECTION 4. Section 20A.01, Penal Code, is amended by adding
7 Subdivision (1-a) to read as follows:

8 (1-a) "Coercion" as defined by Section 1.07 includes:

9 (A) destroying, concealing, confiscating, or
10 withholding from a trafficked person, or threatening to destroy,
11 conceal, confiscate, or withhold from a trafficked person, the
12 person's actual or purported:

13 (i) government records; or

14 (ii) identifying information or documents;

15 (B) causing a trafficked person, without the
16 person's consent, to become intoxicated, as defined by Section
17 49.01, to a degree that impairs the person's ability to appraise the
18 nature of or resist engaging in any conduct, including performing
19 or providing labor or services; or

20 (C) withholding alcohol or a controlled
21 substance to a degree that impairs the ability of a trafficked
22 person with a chemical dependency, as defined by Section 462.001,
23 Health and Safety Code, to appraise the nature of or resist engaging
24 in any conduct, including performing or providing labor or
25 services.

26 SECTION 5. Section 20A.02, Penal Code, is amended by
27 amending Subsections (a) and (b) and adding Subsection (b-1) to

1 read as follows:

2 (a) A person commits an offense if the person [~~knowingly~~]:

3 (1) knowingly traffics another person with the intent
4 that the trafficked person engage in forced labor or services;

5 (2) knowingly receives a benefit from participating in
6 a venture that involves an activity described by Subdivision (1),
7 including by receiving labor or services the person knows are
8 forced labor or services;

9 (3) knowingly traffics another person and, through
10 force, fraud, or coercion, causes the trafficked person to engage
11 in conduct prohibited by:

12 (A) Section 43.02 (Prostitution);

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

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

16 (C) Section 43.04 (Aggravated Promotion of
17 Prostitution);

18 (C-1) Section 43.041 (Aggravated Online
19 Promotion of Prostitution); or

20 (D) Section 43.05 (Compelling Prostitution);

21 (4) either:

22 (A) in the course of engaging in conduct that
23 constitutes an offense under Section 43.02(b), engages in sexual
24 conduct with a person trafficked in the manner described by
25 Subdivision (3), regardless of whether the actor knows that the
26 person has been trafficked in the manner described by that
27 subdivision; or

1 (B) knowingly receives a benefit from
2 participating in a venture that involves an activity described by
3 Subdivision (3) [~~or engages in sexual conduct with a person~~
4 ~~trafficked in the manner described in Subdivision (3)~~];

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

7 (6) knowingly receives a benefit from participating in
8 a venture that involves an activity described by Subdivision (5),
9 including by receiving labor or services the person knows are
10 forced labor or services;

11 (7) knowingly traffics a child and by any means causes
12 the trafficked child to engage in, or become the victim of, conduct
13 prohibited by:

14 (A) Section 21.02 (Continuous Sexual Abuse of
15 Young Child or Children);

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

17 (C) Section 22.011 (Sexual Assault);

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

19 (E) Section 43.02 (Prostitution);

20 (F) Section 43.03 (Promotion of Prostitution);

21 (F-1) Section 43.031 (Online Promotion of
22 Prostitution);

23 (G) Section 43.04 (Aggravated Promotion of
24 Prostitution);

25 (G-1) Section 43.041 (Aggravated Online
26 Promotion of Prostitution);

27 (H) Section 43.05 (Compelling Prostitution);

1 (I) Section 43.25 (Sexual Performance by a
2 Child);

3 (J) Section 43.251 (Employment Harmful to
4 Children); or

5 (K) Section 43.26 (Possession or Promotion of
6 Child Pornography); or

7 (8) either:

8 (A) in the course of engaging in conduct that
9 constitutes an offense under Section 43.02(b), engages in sexual
10 conduct with a child trafficked in the manner described by
11 Subdivision (7), regardless of whether the actor knows that the
12 child has been trafficked in the manner described by that
13 subdivision; or

14 (B) knowingly receives a benefit from
15 participating in a venture that involves an activity described by
16 Subdivision (7) [~~or engages in sexual conduct with a child~~
17 ~~trafficked in the manner described in Subdivision (7)].~~

18 (b) Except as otherwise provided by Subsection (b-1) [~~this~~
19 ~~subsection~~], an offense under this section is a felony of the second
20 degree and an offense under Subsection (a)(4)(A) is a state jail
21 felony.

22 (b-1) An offense under this section is a felony of the first
23 degree if:

24 (1) the applicable conduct constitutes an offense
25 under Subsection (a)(5), (6), (7), or (8), regardless of whether
26 the actor knows the age of the child at the time of the offense;

27 (2) the commission of the offense results in the death

1 of the person who is trafficked; or

2 (3) the commission of the offense results in the death
3 of an unborn child of the person who is trafficked.

4 SECTION 6. STUDY REGARDING REGULATION OF UNMANNED TELLER
5 MACHINES FOR PREVENTION OF HUMAN TRAFFICKING. (a) In this section:

6 (1) "Department" means the Texas Department of
7 Banking.

8 (2) "Unmanned teller machine" has the meaning assigned
9 by Section [59.301](#), Finance Code.

10 (b) The department shall conduct a study to assess the
11 efficacy and feasibility of regulating unmanned teller machines for
12 the purpose of preventing human trafficking.

13 (c) In conducting the study, the department shall consider:

14 (1) regulation of unmanned teller machines
15 implemented in other states;

16 (2) the resources necessary to effectively regulate
17 unmanned teller machines; and

18 (3) the efficacy, for the purpose of preventing human
19 trafficking, of regulating unmanned teller machines in specific
20 locations, including in:

21 (A) sexually oriented businesses, as that term is
22 defined by Section [243.002](#), Local Government Code;

23 (B) massage parlors, as that term is defined by
24 Section [234.101](#), Local Government Code; and

25 (C) establishments, including bars, open to the
26 public that primarily sell and serve alcoholic beverages for
27 on-premises consumption.

1 (d) Not later than December 1, 2022, the department shall
2 submit a report to each member of the legislature that includes the
3 results of the study conducted under Subsection (b) of this section
4 and any recommendations of the department related to the study and
5 statutory changes necessary to regulate unmanned teller machines
6 for the purpose of preventing human trafficking.

7 (e) This section expires September 1, 2023.

8 SECTION 7. Section 20A.02(a-1), Penal Code, is repealed.

9 SECTION 8. The change in law made by this Act to Section
10 140A.002, Civil Practice and Remedies Code, applies only to a cause
11 of action that accrues on or after the effective date of this Act. A
12 cause of action that accrued before the effective date of this Act
13 is governed by the law applicable to the cause of action immediately
14 before the effective date of this Act, and that law is continued in
15 effect for that purpose.

16 SECTION 9. Article 12.01, Code of Criminal Procedure, as
17 amended by this Act, does not apply to an offense if the prosecution
18 of that offense becomes barred by limitation before the effective
19 date of this Act. The prosecution of that offense remains barred as
20 if this Act had not taken effect.

21 SECTION 10. The changes in law made by this Act to Article
22 38.37, Code of Criminal Procedure, and Sections 20A.01 and 20A.02,
23 Penal Code, apply only to an offense committed on or after the
24 effective date of this Act. An offense committed before the
25 effective date of this Act is governed by the law in effect on the
26 date the offense was committed, and the former law is continued in
27 effect for that purpose. For purposes of this section, an offense

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1 was committed before the effective date of this Act if any element
2 of the offense occurred before that date.

3 SECTION 11. This Act takes effect September 1, 2021.