

## **BILL ANALYSIS**

Senate Research Center

S.B. 1527  
By: Huffman  
Criminal Justice  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Human Trafficking Prevention Task Force is statutorily required to develop legislative recommendations that will strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, curb economic markets that facilitate human trafficking, and investigate and prosecute human trafficking offenders. S.B. 1527 codifies legislative recommendations from the Texas Human Trafficking Prevention Task Force.

Specifically, S.B. 1527 adds the Texas Education Agency and Texas Department of Transportation to the Human Trafficking Prevention Coordinating Council; requires the task force to examine the link between trafficking and massage businesses; moves the "no trafficking zones" provision to the correct statutory section; modifies language to include "offers and agrees" language; expands extraneous offense admissibility to include continuous and labor trafficking; and increases effectiveness of data collection efforts. To increase investigative and prosecutorial tools, S.B. 1527 adds child grooming protections and increases penalties for traffickers that use excessive force.

To further protect victims, S.B. 1527 flags driver's licenses of individuals convicted of human trafficking; allows extraneous conduct and relationship circumstances for human trafficking prosecutions; allows outcry witnesses in all human trafficking prosecutions involving children; expands the offenses for when witness outcry statements can be offered; adds protections for victims of trafficking with significant disabilities; and enhances child pornography sentences when multiple images are possessed or promoted.

S.B. 1527 amends current law relating to human trafficking, including the prosecution and punishment of compelling and solicitation of prostitution and other sexual or assaultive offenses, increases a criminal penalty, and creates a criminal offense.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the attorney general of Texas is modified in SECTION 4.01 (Article 2.305, Code of Criminal Procedure) of this bill.

### **SECTION BY SECTION ANALYSIS**

#### ARTICLE 1. HUMAN TRAFFICKING PREVENTION COORDINATING COUNCIL AND HUMAN TRAFFICKING PREVENTION TASK FORCE

SECTION 1.01. Amends Sections 402.034(c), (f), and (g), Government Code, as follows:

(c) Provides that the Human Trafficking Prevention Coordinating Council (council) is composed of the following:

(1)-(4) makes no changes to these subdivisions;

(5) one representative from each of the following state agencies, appointed by the chief administrative officer of the respective agency:

(A)-(B) makes no changes to these paragraphs;

(C) makes a nonsubstantive change to this paragraph;

(D) makes no changes to this paragraph;

(E) the Texas Education Agency (TEA); and

(F) the Texas Department of Transportation (TxDOT); and

(6) one representative of any other state agency appointed by the chief administrative officer of the agency, if the council determines that a representative from the state agency is a necessary member of the council, rather than if the human trafficking prevention task force established under Section 402.035 (Human Trafficking Prevention Task Force) (task force) and the council determine that a representative from the state agency is a necessary member of the council.

(f) Requires that the strategic plan include:

(1) an inventory of human trafficking prevention programs and services in this state that are administered by state agencies, including an institution of higher education as defined by Section 61.003 (Definitions), Education Code, or a private college or university that receives state funds, rather than institutions of higher education and political subdivisions; and

(2)-(3) makes no changes to these subdivisions.

(g) Makes a nonsubstantive change to this subsection.

SECTION 1.02. Amends Section 402.035, Government Code, by amending Subsections (c), (d), and (f-1) and adding Subsection (c-1), as follows:

(c) Provides that the task force is composed of the following:

(1)-(6) makes no changes to these subdivisions;

(7) one representative from each of certain state agencies, including TxDOT, appointed by the chief administrative officer of the respective agency; and

(8) as appointed by the attorney general:

(A)-(C) makes no changes to these paragraphs;

(D) a representative of a sheriff's department, rather than representatives of sheriff's departments;

(E) a representative of a local law enforcement agency affected by human trafficking, rather than representatives of local law enforcement agencies affected by human trafficking;

(F) a representative of a nongovernmental entity making comprehensive efforts to combat human trafficking by taking certain actions, rather than representatives of nongovernmental entities making comprehensive efforts to combat human trafficking by taking certain actions; and

(G) representatives of regional human trafficking task forces or coalitions.

(c-1) Requires the attorney general to evaluate annually the input and participation of members appointed under Subsection (c)(8) and, if necessary, appoint new members who will collaborate and contribute to the task force.

(d) Requires the task force to:

(1) makes no changes to this subdivision;

(2) collect, organize, and periodically publish statistical data on the nature and extent of human trafficking in this state, including:

(A) the number of investigations concerning, arrests and prosecutions for, and convictions of:

(i) the offense of trafficking of persons;

(ii) the offense of forgery or an offense under Chapter 43 (Public Indecency), Penal Code, if the offense was committed as part of a criminal episode involving the trafficking of persons; and

(iii) an offense punishable as a felony of the second degree under Section 43.021 (Solicitation of Prostitution), Penal Code, regardless of whether the offense was committed as part of a criminal episode involving the trafficking of persons;

(B) demographic information on persons who are convicted of offenses described by Paragraph (A) and persons who are the victims of those offenses;

(C) geographic routes by which human trafficking victims are trafficked, including routes by which victims are trafficked across this state's international border, and geographic patterns in human trafficking, including the country or state of origin and the country or state of destination;

(D) means of transportation and methods used by persons who engage in trafficking to transport their victims; and

(E) social and economic factors that create a demand for the labor or services that victims of human trafficking are forced to provide;

(3) makes no changes to this subdivision;

(4)-(9) redesignates existing Subdivisions (5)-(10) as Subdivisions (4)-(9);

(10) redesignates existing Subdivision (11) as Subdivision (10). Requires the task force to examine:

(A) the extent to which human trafficking is associated with the operation of:

(i) makes a nonsubstantive change to this subparagraph; and

(ii) massage establishments permitting conduct described by Section 455.202(b)(4) (relating to prohibiting a massage establishment from allowing any individual to engage in sexual contact in the massage establishment), Occupations Code; and

(B) the workplace or public health concerns that are created by the association of human trafficking and the operation of sexually oriented businesses and massage establishments described by Paragraph (A);

(11) redesignates existing Subdivision (12) as Subdivision (11); and

(12) redesignates existing Subdivision (13) as Subdivision (12). Requires the task force to identify and report to the governor and legislature on laws, licensure requirements, or other regulations that can be passed at the state and local level to curb trafficking using the Internet and in sexually oriented businesses and massage establishments.

Deletes existing text requiring the task force to collect, organize, and periodically publish statistical data on the nature and extent of human trafficking in this state, including data described by certain subdivisions. Deletes existing text requiring the task force to ensure that each state or local governmental agency and political subdivision of the state and each state or local law enforcement agency, district attorney, or county attorney that assists in the prevention of human trafficking collects certain statistical data relating to human trafficking.

(f-1) Requires certain state agencies, including TEA and TxDOT, to designate an individual who is authorized to coordinate the agency's resources to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, and investigate and prosecute human trafficking offenders.

SECTION 1.03. Requires TEA and TxDOT, as applicable, as soon as practicable after the effective date of this Act, to appoint representatives and designate individuals as required by Sections 402.034(c) and 402.035(c) and (f-1), Government Code, as amended by this article.

## ARTICLE 2. TRAFFICKING OF PERSONS, SOLICITATION OF PROSTITUTION, AND COMPELLING PROSTITUTION

SECTION 2.01. Amends Section 20A.01, Penal Code, by adding Subdivision (1-b) to define "disabled individual."

SECTION 2.02. Amends Sections 20A.02(a) and (b), Penal Code, as follows:

(a) Provides that a person commits an offense if the person knowingly:

(1)-(4) makes no changes to these subdivisions;

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

(6) makes no changes to this subdivision; or

(7)-(8) makes conforming changes to these subdivisions.

(b) Provides that an offense under Section 20A.02 (Trafficking of Persons) is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under certain subsections, regardless of whether the actor knows the age of the child or whether the actor knows the victim is disabled at the time of the offense;

(2) the commission of the offense results in serious bodily injury to or the death of the person who is trafficked;

(3) makes no changes to this subdivision;

(4) the actor:

(A) used or exhibited a deadly weapon during the commission of the offense;

(B) intentionally, knowingly, or recklessly impeded the normal breathing or circulation of the blood of the trafficked person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth; or

(C) recruited, enticed, or obtained the trafficked person, rather than the victim of the offense, from a shelter or facility operating as a residential treatment center that serves runaway youth, foster children, the homeless, or persons subjected to human trafficking, domestic violence, or sexual assault.

SECTION 2.03. Amends Section 43.021(b), Penal Code, as follows:

(b) Provides that an offense under Subsection (a) (relating to providing that certain acts constitute an offense of prostitution) is a state jail felony, except that the offense is:

(1) makes no changes to this subdivision; or

(2) a felony of the second degree if the person to whom the actor offers or agrees to pay the fee for the purpose of engaging in sexual conduct, rather than if the person with whom the actor agrees to engage in sexual conduct, meets certain criteria.

SECTION 2.04. Transfers Section 43.02(c-2), Penal Code, as added by Chapters 807 (H.B. 1540) and 1049 (S.B. 1831), Acts of the 87th Legislature, Regular Session, 2021, to Section 43.021, Penal Code, redesignates it as Section 43.021(b-1), Penal Code, and amends it, to make a conforming change.

SECTION 2.05. Amends Section 43.05(a), Penal Code, as follows:

(a) Provides that a person commits an offense if the person knowingly:

(1)-(2) makes nonsubstantive changes to these subdivisions; or

(3) causes by any means a disabled individual, as defined by Section 22.021(b) (relating to the definition of disabled individual), to commit prostitution, regardless of whether the actor knows the individual is disabled at the time of the offense.

SECTION 2.06. Amends Section 16.0045(a), Civil Practice and Remedies Code, as follows:

(a) Requires a person to bring suit for personal injury not later than 30 years after the day the cause of action accrues if the injury arises as a result of conduct that violates:

(1)-(3) makes no changes to these subsections;

(4) Section 20A.02(a)(7)(A) (relating to the offense of trafficking of a child and causing the child to engage in, or become the victim of, prohibited conduct relating to the continuous sexual abuse of a young child or disabled individual), (B) (relating to the offense of trafficking a child and causing the child to engage in, or become the victim of, prohibited conduct relating to indecency with a child), (C) (relating to the offense of trafficking a child and causing the child to engage in, or become the victim of, prohibited conduct relating to sexual assault), (D) (relating to the offense of trafficking a child and causing the child to engage in, or become the victim of, prohibited conduct relating to aggravated sexual assault), or (H) (relating to the offense of trafficking a child and causing the child to engage in, or become the victim of, prohibited conduct relating to compelling prostitution) or Section 20A.02(a)(8) (relating to the offense of benefiting from a venture involving certain acts relating to child sex trafficking or engaging in any such acts with a child), Penal Code, involving an activity described by Section 20A.02(a)(7)(A), (B), (C), (D), or (H) or sexual conduct with a child or disabled

individual trafficked in the manner described by Section 20A.02(a)(7), Penal Code (certain sexual trafficking, rather than certain sexual trafficking of a child);

(5) Section 43.05(a)(2) (relating to the offense of causing a child younger than 18 to commit prostitution) or (3), Penal Code (compelling prostitution by a child or disabled individual); or

(6) makes no changes to this subdivision.

SECTION 2.07. Amends Article 12.01, Code of Criminal Procedure, as follows:

Art. 12.01. FELONIES. Authorizes felony indictments to be presented within these limits, and not afterward, except as provided in Article 12.03 (Aggravated Offenses, Attempt, Conspiracy, Solicitation, Organized Criminal Activity):

(1) no limitation:

(A)-(H) makes no changes to these paragraphs; or

(I) compelling prostitution under Section 43.05(a)(2) or (3), Penal Code;

(2)-(5) makes no changes to these subdivisions;

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

(A) trafficking of a child, rather than persons, under Section 20A.02(a)(5) (relating to the offense of trafficking a child with the intent of the child engaging in forced labor or services) or (6) (relating to the offense of benefiting from a venture that involves trafficked children engaging in forced labor or services), Penal Code; or

(B)-(C) makes no changes to these paragraphs;

(7) ten years from the date the offense was discovered: trafficking of a disabled individual under Section 20A.02(a)(5) or (6), Penal Code; or

(8)-(9) makes nonsubstantive changes to these subdivisions.

SECTION 2.08. Amends Section 2(a), Article 38.37, Code of Criminal Procedure, as follows:

(a) Provides that Subsection (b) (relating to the admission of certain evidence of other crimes, wrongs, or acts committed by a person against a child victim of a separate offense) applies only to the trial of a defendant for:

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

(A) Section 20A.02, if punishable as a felony of the first degree under Section 20A.02(b)(1) (Labor or Sex Trafficking of a Child or Disabled Individual);

(B)-(H) makes no changes to these paragraphs; or

(2) makes no changes to this subdivision.

SECTION 2.09. Amends Article 62.101(a), Code of Criminal Procedure, as follows:

(a) Provides that the duty to register for a person, except as provided by Subsection (b) (relating to the expiration of a person's duty to register with the sex offender registration program) and Subchapter I (Early Termination of Certain Persons' Obligation to

Register), ends when the person dies if the person has a reportable conviction or adjudication, other than an adjudication of delinquent conduct, for:

(1) makes no changes to this subdivision;

(2) an offense under Section 20A.02(a)(3) (relating to the offense of trafficking of another person through force, fraud, or coercion, causing the person to engage in certain prohibited acts relating to prostitution), (4), (7), or (8), 25.02 (Prohibited Sexual Conduct), 43.05(a)(2) or (3), or 43.26 (Possession or Promotion of Child Pornography), Penal Code; or

(3)-(6) makes no changes to these subdivisions.

SECTION 2.10. Amends Section 772.0062(a)(1), Government Code, to redefine "child sex trafficking."

SECTION 2.11. Makes application of this article prospective.

SECTION 2.12. Provides that this article prevails over another Act of the 88th Legislature, Regular Session, 2023, to the extent of any conflict relating to nonsubstantive additions to and corrections in enacted codes.

### ARTICLE 3. ADMISSIBILITY OF CERTAIN HEARSAY STATEMENTS AND EXTRANEOUS OFFENSES OR ACTS

SECTION 3.01. Amends Section 1, Article 38.072, Code of Criminal Procedure, as follows:

Sec. 1. Provides that Article 38.072 (Hearsay Statement of Certain Abuse Victims) applies to a proceeding in the prosecution of an offense under any of the following provisions of the Penal Code, if committed against a child younger than 18, rather than 14, years of age or a person with a disability:

(1)-(3) makes no changes to these subsections;

(4) Section 43.05(a)(2) or (3) (Compelling Prostitution);

(5) Section 20A.02(a)(5), (6), (7) or (8), rather than 20A.02(a)(7) (Trafficking of Persons);

(6) Section 20A.03 (Continuous Trafficking of Persons), if based partly or wholly on conduct that constitutes an offense under Section 20A.02(a)(5), (6), (7), or (8); or

(7) redesignates existing Subdivision (6) as Subdivision (7). Section 15.01 (Criminal Attempt), if the offense attempted is described by Subdivision (1), (2), (3), (4), (5), or (6) of this section.

SECTION 3.02. Amends Section 1(a), Article 38.37, Code of Criminal Procedure, as follows:

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

(1) makes no changes to this subdivision;

(2) if committed against a person younger than 18 years of age:

(A) makes no changes to this paragraph;

(B) Section 20A.02(a)(5), (6), (7) or (8), rather than 20A.02(A)(7), (Trafficking of Persons);

(C) Section 20A.03 (Continuous Trafficking of Persons), if based partly or wholly on conduct that constitutes an offense under Section 20A.02(a)(5), (6), (7), or (8); or

(D) redesignates Paragraph (C) as Paragraph (D).

SECTION 3.03. Makes application of this article prospective.

#### ARTICLE 4. REQUIRED REPORTING CONCERNING INVESTIGATIONS OF HUMAN TRAFFICKING OFFENSES

SECTION 4.01. Amends Article 2.305, Code of Criminal Procedure, as follows:

Art. 2.305. REPORT REQUIRED CONCERNING HUMAN TRAFFICKING CASES.

(a) Provides that this article applies only to a municipal police department, sheriff's department, or constable's office in a county with a population of more than 50,000 and to the Department of Public Safety of the State of Texas (DPS). Deletes existing text providing that this article applies to a county attorney's office, district attorney's office, and criminal district attorney's office, as applicable, in a county with a population of more than 50,000.

(b) Requires an entity described by Subsection (a) that investigates the alleged commission of an offense under Chapter 20A (Trafficking of Persons), Penal Code, or the alleged commission of an offense under Chapter 43, Penal Code, which may involve human trafficking, to submit to the attorney general in the manner and form prescribed by the attorney general a report containing the following information:

(1) the offense being investigated, including the offense code designated by DPS under Article 66.052 (Implementation and Operation of Criminal Justice Information System);

(2) regarding each person suspected of committing the offense:

(A) the person's:

(i) full name;

(ii)-(iii) makes nonsubstantive changes to these subparagraphs;

(iv) country of origin, if the person is not a United States citizen or legal permanent resident;

(v) date of birth; and

(vi) age at the time of the offense, if available; and

(B) the case number associated with the person and the offense, rather than the case number associated with the offense and the person suspected of committing the offense;

(3) the date and location of the alleged offense, including the city and county;

(4) the disposition of the investigation, if any, regardless of the manner of disposition; and

(5) regarding the victim of the offense:

(A) the victim's age, gender, race or ethnicity, as defined by Article 2.132 (Law Enforcement Policy on Racial Profiling); and country of origin, if the victim is not a United States citizen or legal permanent resident; and

(B) if available, information regarding any victims' service organization or program to which the victim was referred as part of the investigation.

Deletes existing text relating to certain information required to be included in a report to the attorney general on instances of human trafficking.

(c) Requires an entity described by Subsection (a) that does not have any investigations or offenses required to be reported under this article during a period specified by the attorney general to submit to the attorney general a notice stating there are no cases to report, in the manner and form prescribed by the attorney general. Deletes existing text requiring an attorney representing the state who prosecutes the alleged commission of an offense under Chapter 20A, Penal Code, or the alleged commission of an offense under Chapter 43, Penal Code, which may involve human trafficking, to submit to the attorney general certain information related to the offense.

(d) Authorizes the attorney general to enter into a contract with a university or organization to assist with the collection and analysis of information received under this article. Requires the attorney general to ensure that all sensitive information is properly protected. Deletes existing text authorizing the attorney general to enter into a contract with a university that provides for the university's assistance in the collection and analysis of information received under this article.

(e) Provides that information described by Subsections (b)(2)(A)(i) and (v) and (b)(2)(B) is not subject to disclosure under Chapter 552 (Public Information), Government Code.

(f) Requires the attorney general, in consultation with the entities described by Subsection (a), to adopt rules to administer this article, including rules prescribing:

(1) the form and manner of submission of a report or notice required by Subsection (b) or (c); and

(2) makes a conforming change to this subdivision.

SECTION 4.02. Requires the attorney general, as soon as practicable after the effective date of this Act, to update forms and procedures as necessary to implement Article 2.305, Code of Criminal Procedure, as amended by this article.

#### ARTICLE 5. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CERTIFICATES ISSUED TO CERTAIN SEX OFFENDERS

SECTION 5.01. Amends Article 42.016, Code of Criminal Procedure, as follows:

Art. 42.016. SPECIAL DRIVER'S LICENSE OR IDENTIFICATION REQUIREMENTS FOR CERTAIN SEX OFFENDERS. Requires the court, if a person is convicted of, receives a grant of deferred adjudication for, or is adjudicated as having engaged in delinquent conduct based on a violation of an offense for which a conviction or adjudication requires registration as a sex offender under Chapter 62 (Sex Offender Registration Program), to:

(1) issue an order requiring DPS to include in any driver's license record or personal identification certificate record maintained by DPS for the person:

(A) creates this paragraph from existing text; and

(B) if applicable, an indication that the person is subject to registration because the person was convicted of an offense involving human trafficking under Chapter 20A, Penal Code; and

(2)-(4) makes no changes to these subdivisions.

SECTION 5.02. Amends Section 521.057(a), Transportation Code, as follows:

(a) Requires DPS, on receipt of a court order issued under Article 42.016, Code of Criminal Procedure, to ensure that any driver's license record or personal identification certificate record maintained by DPS for the person includes an indication that the person:

(1) creates this subdivision from existing text; and

(2) if applicable, is subject to registration because the person was convicted of an offense involving human trafficking under Chapter 20A, Penal Code.

SECTION 5.03. Makes application of this article prospective.

#### ARTICLE 6. CHILD GROOMING AND POSSESSION OF CHILD PORNOGRAPHY

SECTION 6.01. Amends Chapter 15, Penal Code, by adding Section 15.032, as follows:

Sec. 15.032. CHILD GROOMING. (a) Provides that a person commits an offense if, with the intent that an offense under Chapter 43 or an offense involving sexual activity, the occurrence of which would subject the actor to criminal liability under Chapter 20A, 21 (Sexual Offenses), or 22 (Assaultive Offenses), be committed, the person knowingly persuades, induces, entices, or coerces, or attempts to persuade, induce, entice, or coerce, a child younger than 18 years of age to engage in specific conduct that, under the circumstances surrounding the actor's conduct as the actor believes them to be, would:

(1) constitute an offense under Chapter 43 or an offense involving sexual activity the occurrence of which would subject the actor to criminal liability under Chapter 20A, 21, or 22; or

(2) make the child a party to the commission of an offense described by Subdivision (1).

(b) Provides that an offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor has previously been convicted of an offense under:

(1) Chapter 20A, if the offense involved conduct described by Section 20A.02(a)(7) or (8);

(2) Section 21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual);

(3) Section 21.11 (Indecency with a Child);

(4) Section 22.011 (Sexual Assault), if the victim of the offense was a child under 18 years of age; or

(5) Section 22.021 (Aggravated Sexual Assault), if the victim of the offense was a child under 18 years of age.

(c) Provides that it is an affirmative defense to prosecution under this section that the actor is under the age of 18 and:

(1) the actor engaged in conduct described by Subsection (a) with respect to another child under the age of 18:

(A) who is not more than three years older or younger than the actor and with whom the actor had a dating relationship at the time of the offense; or

(B) who was the spouse of the actor at the time of the offense; and

(2) the conduct occurred only between the actor and the other child described by Subdivision (1).

(d) Provides that if conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor is authorized to be prosecuted under either section but not both sections.

SECTION 6.02. Amends Section 43.26, Penal Code, by amending Subsections (c) and (d) and adding Subsections (d-1) and (d-2), as follows:

(c) Provides that the affirmative defenses provided by Sections 43.25(f)(2) (relating to certain conduct being for a bona fide educational, medical, psychological, psychiatric, judicial, law enforcement, or legislative purpose) and (3) (relating to the defendant not being more than two years older than the child), rather than Section 43.25(f) (relating to providing that certain conduct is an affirmative defense to prosecution) also apply to a prosecution under this section.

(d) Provides that an offense under Subsection (a) (relating to the offense of knowingly possessing or accessing visual material of a child younger than 18 engaging in sexual conduct) is a felony of the third degree, except that the offense is:

(1) a felony of the second degree if:

(A) creates this paragraph from existing text; or

(B) the person possesses visual material that contains 10 or more visual depictions of a child as described by Subsection (a)(1) (relating to a person knowingly or intentionally possessing or accessing with intent to view certain material depicting a child engaging in sexual conduct) but fewer than 50 such depictions; and

(2) a felony of the first degree if:

(A) creates this paragraph out of existing text; or

(B) the person possesses visual material that contains 50 or more visual depictions of a child as described by Subsection (a)(1) or a videotape or film that visually depicts conduct constituting an offense under Section 22.011(a)(2) (relating to providing that a person commits an offense, regardless of whether the person knows the age of the child at the time of the offense, if the person causes certain sexual acts to be performed on a child).

(d-1) Provides that if it is shown on the trial of an offense under Subsection (a) that the person engaged in conduct that constituted an offense under Subsection (e) (relating to

the offense of promoting or possessing with intent to promote certain child pornography material) during the same criminal episode:

(1) an offense described for purposes of punishment by Subsection (d)(1) is a felony of the first degree; or

(2) the minimum term of confinement for an offense described for purposes of punishment by Subsection (d)(2) is increased to 15 years.

(d-2) Provides that the enhancement provided by Subsection (d-1) is unavailable if the person is also prosecuted under Subsection (e) for conduct occurring during the same criminal episode.

SECTION 6.03. Repealer: Section 43.26(f) (relating to the presumption that a person who possesses six or more identical visual depictions of a child has the intent of promoting the material), Penal Code.

SECTION 6.04. Makes application of this article prospective.

#### ARTICLE 7. EFFECTIVE DATE

SECTION 7.01. Effective date: September 1, 2023.