88R22754 LHC-D

By:  Shaheen, Bhojani H.B. No. 1004

Substitute the following for H.B. No. 1004:

By:  Moody C.S.H.B. No. 1004

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the offenses of trafficking of persons and compelling prostitution and to certain consequences of those offenses.

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

SECTION 1.  Section 20A.01, Penal Code, is amended by amending Subdivisions (2-a) and (2-b) and adding Subdivision (2-c) to read as follows:

(2-a)  "Person with a disability" means a person who by reason of physical or mental disease, defect, or injury is substantially unable to protect the person's self from harm or to provide food, shelter, or medical care for the person's self.

(2-b)  "Premises" has the meaning assigned by Section 481.134, Health and Safety Code.

(2-c) [~~(2-b)~~]  "School" means a public or private primary or secondary school.

SECTION 2.  Sections 20A.02(a) and (b), Penal Code, are amended to read as follows:

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

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

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

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

(A)  Section 43.02 (Prostitution);

(B)  Section 43.03 (Promotion of Prostitution);

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

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

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

(D)  Section 43.05 (Compelling Prostitution);

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

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

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

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

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

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

(C)  Section 22.011 (Sexual Assault);

(D)  Section 22.021 (Aggravated Sexual Assault);

(E)  Section 43.02 (Prostitution);

(E-1)  Section 43.021 (Solicitation of Prostitution);

(F)  Section 43.03 (Promotion of Prostitution);

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

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

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

(H)  Section 43.05 (Compelling Prostitution);

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

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

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

(8)  receives a benefit from participating in a venture that involves an activity described by Subdivision (7) or engages in sexual conduct with a child or a person with a disability who is trafficked in the manner described in Subdivision (7).

(b)  Except as otherwise provided by this subsection and Subsection (b-1), an offense under this section is a felony of the second degree.  An offense under this section is a felony of the first degree if:

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

(2)  the commission of the offense results in the death of the person who is trafficked;

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

(4)  the actor recruited, enticed, or obtained the trafficked person [~~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 3.  Section 43.05(a), Penal Code, is amended to read as follows:

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

(1)  causes another by force, threat, coercion, or fraud to commit prostitution; [~~or~~]

(2)  causes by any means a child younger than 18 years to commit prostitution, regardless of whether the actor knows the age of the child at the time of the offense; or

(3)  causes by any means a person with a disability, as defined by Section 20A.01, to commit prostitution, regardless of whether the actor knows the person is disabled at the time of the offense.

SECTION 4.  Section 16.0045(a), Civil Practice and Remedies Code, is amended to read as follows:

(a)  A person must 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)  Section 22.011(a)(2), Penal Code (sexual assault of a child);

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

(3)  Section 21.02, Penal Code (continuous sexual abuse of young child or disabled individual);

(4)  Section 20A.02(a)(7)(A), (B), (C), (D), or (H) or Section 20A.02(a)(8), 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 a person with a disability who is trafficked in the manner described by Section 20A.02(a)(7), Penal Code (certain sexual trafficking [~~of a child~~]);

(5)  Section 43.05(a)(2) or (3), Penal Code (compelling prostitution by a child or a person with a disability); or

(6)  Section 21.11, Penal Code (indecency with a child).

SECTION 5.  Article 12.01, Code of Criminal Procedure, is amended to read as follows:

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

(1)  no limitation:

(A)  murder and manslaughter;

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

(C)  sexual assault, if:

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

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

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

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

(D)  continuous sexual abuse of young child or disabled individual under Section 21.02, Penal Code;

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

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

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

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

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

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

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

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

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

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

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

(F)  arson;

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

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

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

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

(B)  fraudulent securing of document execution;

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

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

(E)  money laundering;

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

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

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

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

(J)  bigamy under Section 25.01, Penal Code, except as provided by Subdivision (6);

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

(A)  theft or robbery;

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

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

(D)  abandoning or endangering a child; or

(E)  insurance fraud;

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

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

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

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

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

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

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

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

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

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

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

SECTION 6.  Section 2(a), Article 38.37, Code of Criminal Procedure, is amended to read as follows:

(a)  Subsection (b) 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 a Person with a Disability);

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

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

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

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

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

(G)  Section 43.25 (Sexual Performance by a Child); or

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

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

SECTION 7.  Article 62.101(a), Code of Criminal Procedure, is amended to read as follows:

(a)  Except as provided by Subsection (b) and Subchapter I, the duty to register for a person ends when the person dies if the person has a reportable conviction or adjudication, other than an adjudication of delinquent conduct, for:

(1)  a sexually violent offense;

(2)  an offense under Section 20A.02(a)(3), (4), (7), or (8), 25.02, 43.05(a)(2) or (3), or 43.26, Penal Code;

(3)  an offense under Section 20A.03, Penal Code, if based partly or wholly on conduct that constitutes an offense under Section 20A.02(a)(3), (4), (7), or (8) of that code;

(4)  an offense under Section 21.11(a)(2), Penal Code, if before or after the person is convicted or adjudicated for the offense under Section 21.11(a)(2), Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter;

(5)  an offense under Section 20.02, 20.03, or 20.04, Penal Code, if:

(A)  the judgment in the case contains an affirmative finding under Article 42.015 or, for a deferred adjudication, the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age; and

(B)  before or after the person is convicted or adjudicated for the offense under Section 20.02, 20.03, or 20.04, Penal Code, the person receives or has received another reportable conviction or adjudication, other than an adjudication of delinquent conduct, for an offense or conduct that requires registration under this chapter; or

(6)  an offense under Section 43.23, Penal Code, that is punishable under Subsection (h) of that section.

SECTION 8.  Section 772.0062(a)(1), Government Code, is amended to read as follows:

(1)  "Child sex trafficking" means conduct constituting an offense [~~prohibited~~] under Section 20A.02(a)(7) or (8), Penal Code, that is committed against a child.

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

SECTION 10.  To the extent of any conflict, this Act prevails over another Act of the 88th Legislature, Regular Session, 2023, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 11.  This Act takes effect September 1, 2023.