88R20779 LHC-F

By:  Guillen H.B. No. 4642

Substitute the following for H.B. No. 4642:

By:  Troxclair C.S.H.B. No. 4642

A BILL TO BE ENTITLED

AN ACT

relating to offenses involving the manufacture or delivery of certain controlled substances and the enforcement and prevention of those offenses; creating a criminal offense.

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

SECTION 1.  Article 2.32(b), Code of Criminal Procedure, is amended to read as follows:

(b)  Unless good cause exists that makes electronic recording infeasible, a law enforcement agency shall make a complete and contemporaneous electronic recording of any custodial interrogation that occurs in a place of detention and is of a person suspected of committing or charged with the commission of an offense under:

(1)  Section 19.02, Penal Code (murder);

(2)  Section 19.03, Penal Code (capital murder);

(3)  Section 19.07, Penal Code (lethal opioid poisoning);

(4)  Section 20.03, Penal Code (kidnapping);

(5) [~~(4)~~]  Section 20.04, Penal Code (aggravated kidnapping);

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

(7) [~~(6)~~]  Section 20A.03, Penal Code (continuous trafficking of persons);

(8) [~~(7)~~]  Section 21.02, Penal Code (continuous sexual abuse of young child or disabled individual);

(9) [~~(8)~~]  Section 21.11, Penal Code (indecency with a child);

(10) [~~(9)~~]  Section 21.12, Penal Code (improper relationship between educator and student);

(11) [~~(10)~~]  Section 22.011, Penal Code (sexual assault);

(12) [~~(11)~~]  Section 22.021, Penal Code (aggravated sexual assault); or

(13) [~~(12)~~]  Section 43.25, Penal Code (sexual performance by a child).

SECTION 2.  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), Penal Code; or

(J)  lethal opioid poisoning under Section 19.07, 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 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)  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

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

SECTION 3.  Article 17.03(b-2), Code of Criminal Procedure, is amended to read as follows:

(b-2)  Except as provided by Articles 15.21, 17.033, and 17.151, a defendant may not be released on personal bond if the defendant:

(1)  is charged with:

(A)  an offense involving violence; or

(B)  an offense under Section 19.07, Penal Code (lethal opioid poisoning); or

(2)  while released on bail or community supervision for an offense described by Subdivision (1) [~~involving violence~~], is charged with committing:

(A)  any offense punishable as a felony; or

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

(i)  Section 22.01(a)(1) (assault);

(ii)  Section 22.05 (deadly conduct);

(iii)  Section 22.07 (terroristic threat); or

(iv)  Section 42.01(a)(7) or (8) (disorderly conduct involving firearm).

SECTION 4.  Article 17.032(b), Code of Criminal Procedure, is amended to read as follows:

(b)  Notwithstanding Article 17.03(b), or a bond schedule adopted or a standing order entered by a judge, a magistrate shall release a defendant on personal bond unless good cause is shown otherwise if:

(1)  the defendant is not charged with and has not been previously convicted of a violent offense or an offense under Section 19.07, Penal Code;

(2)  the defendant is examined by the service provider that contracts with the jail to provide mental health or intellectual and developmental disability services, the local mental health authority, the local intellectual and developmental disability authority, or another qualified mental health or intellectual and developmental disability expert under Article 16.22;

(3)  the applicable expert, in a written report submitted to the magistrate under Article 16.22:

(A)  concludes that the defendant has a mental illness or is a person with an intellectual disability and is nonetheless competent to stand trial; and

(B)  recommends mental health treatment or intellectual and developmental disability services for the defendant, as applicable;

(4)  the magistrate determines, in consultation with the local mental health authority or local intellectual and developmental disability authority, that appropriate community-based mental health or intellectual and developmental disability services for the defendant are available in accordance with Section 534.053 or 534.103, Health and Safety Code, or through another mental health or intellectual and developmental disability services provider; and

(5)  the magistrate finds, after considering all the circumstances, a pretrial risk assessment, if applicable, and any other credible information provided by the attorney representing the state or the defendant, that release on personal bond would reasonably ensure the defendant's appearance in court as required and the safety of the community and the victim of the alleged offense.

SECTION 5.  Article 17.50(b), Code of Criminal Procedure, is amended to read as follows:

(b)  As soon as practicable but not later than the next day after the date a magistrate issues an order imposing a condition of bond on a defendant under this chapter for a violent offense or an offense under Section 19.07, Penal Code, the magistrate shall notify the sheriff of the condition and provide to the sheriff the following information:

(1)  the information listed in Section 411.042(b)(6), Government Code, as that information relates to an order described by this subsection;

(2)  the name and address of any named person the condition of bond is intended to protect, and if different and applicable, the name and address of the victim of the alleged offense;

(3)  the date the order releasing the defendant on bond was issued; and

(4)  the court that issued the order releasing the defendant on bond.

SECTION 6.  Article 18A.101, Code of Criminal Procedure, is amended to read as follows:

Art. 18A.101.  OFFENSES FOR WHICH INTERCEPTION ORDER MAY BE ISSUED. A judge of competent jurisdiction may issue an interception order only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of:

(1)  a felony under any of the following provisions of the Health and Safety Code:

(A)  Chapter 481, other than felony possession of marihuana;

(B)  Chapter 483; or

(C)  Section 485.032;

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

(A)  Section 19.02;

(B)  Section 19.03;

(C)  Section 19.07;

(D)  Section 20.03;

(E) [~~(D)~~]  Section 20.04;

(F) [~~(E)~~]  Chapter 20A;

(G) [~~(F)~~]  Chapter 34, if the criminal activity giving rise to the proceeds involves the commission of an offense under Title 5, Penal Code, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense under Title 5;

(H) [~~(G)~~]  Section 38.11;

(I) [~~(H)~~]  Section 43.04;

(J) [~~(I)~~]  Section 43.041;

(K) [~~(J)~~]  Section 43.05; or

(L) [~~(K)~~]  Section 43.26; or

(3)  an attempt, conspiracy, or solicitation to commit an offense listed in Subdivision (1) or (2).

SECTION 7.  Section 1, Article 38.071, Code of Criminal Procedure, is amended to read as follows:

Sec. 1.  This article applies only to a hearing or proceeding in which the court determines that a child younger than 13 years of age would be unavailable to testify in the presence of the defendant about an offense defined by any of the following sections of the Penal Code:

(1)  Section 19.02 (Murder);

(2)  Section 19.03 (Capital Murder);

(3)  Section 19.04 (Manslaughter);

(4)  Section 19.07 (Lethal Opioid Poisoning);

(5)  Section 20.04 (Aggravated Kidnapping);

(6) [~~(5)~~]  Section 21.11 (Indecency with a Child);

(7) [~~(6)~~]  Section 22.011 (Sexual Assault);

(8) [~~(7)~~]  Section 22.02 (Aggravated Assault);

(9) [~~(8)~~]  Section 22.021 (Aggravated Sexual Assault);

(10) [~~(9)~~]  Section 22.04(e) (Injury to a Child, Elderly Individual, or Disabled Individual);

(11) [~~(10)~~]  Section 22.04(f) (Injury to a Child, Elderly Individual, or Disabled Individual), if the conduct is committed intentionally or knowingly;

(12) [~~(11)~~]  Section 25.02 (Prohibited Sexual Conduct);

(13) [~~(12)~~]  Section 29.03 (Aggravated Robbery);

(14) [~~(13)~~]  Section 43.25 (Sexual Performance by a Child);

(15) [~~(14)~~]  Section 21.02 (Continuous Sexual Abuse of Young Child or Disabled Individual);

(16) [~~(15)~~]  Section 43.05(a)(2) (Compelling Prostitution); or

(17) [~~(16)~~]  Section 20A.02(a)(7) or (8) (Trafficking of Persons).

SECTION 8.  Article 42A.054(a), Code of Criminal Procedure, is amended to read as follows:

(a)  Article 42A.053 does not apply to a defendant adjudged guilty of an offense under:

(1)  Section 15.03, Penal Code, if the offense is punishable as a felony of the first degree;

(2)  Section 19.02, Penal Code (Murder);

(3)  Section 19.03, Penal Code (Capital Murder);

(4)  Section 20.04, Penal Code (Aggravated Kidnapping);

(5)  Section 20A.02, Penal Code (Trafficking of Persons);

(6)  Section 20A.03, Penal Code (Continuous Trafficking of Persons);

(7)  Section 21.11, Penal Code (Indecency with a Child);

(8)  Section 22.011, Penal Code (Sexual Assault);

(9)  Section 22.021, Penal Code (Aggravated Sexual Assault);

(10)  Section 22.04(a)(1), Penal Code (Injury to a Child, Elderly Individual, or Disabled Individual), if:

(A)  the offense is punishable as a felony of the first degree; and

(B)  the victim of the offense is a child;

(11)  Section 29.03, Penal Code (Aggravated Robbery);

(12)  Section 30.02, Penal Code (Burglary), if:

(A)  the offense is punishable under Subsection (d) of that section; and

(B)  the actor committed the offense with the intent to commit a felony under Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;

(13)  Section 43.04, Penal Code (Aggravated Promotion of Prostitution);

(14)  Section 43.05, Penal Code (Compelling Prostitution);

(15)  Section 43.25, Penal Code (Sexual Performance by a Child);

(16)  Chapter 481, Health and Safety Code, for which punishment is increased under:

(A)  Section 481.140 of that code (Use of Child in Commission of Offense); or

(B)  Section 481.134(c), (d), (e), or (f) of that code (Drug-free Zones) if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections; [~~or~~]

(17)  Section 481.1123, Health and Safety Code (Manufacture or Delivery of Substance in Penalty Group 1-B), if the offense is punishable under Subsection (d), (e), or (f) of that section; or

(18)  Section 19.07, Penal Code (Lethal Opioid Poisoning).

SECTION 9.  Article 42A.056, Code of Criminal Procedure, is amended to read as follows:

Art. 42A.056.  LIMITATION ON JURY-RECOMMENDED COMMUNITY SUPERVISION. A defendant is not eligible for community supervision under Article 42A.055 if the defendant:

(1)  is sentenced to a term of imprisonment that exceeds 10 years;

(2)  is convicted of a state jail felony for which suspension of the imposition of the sentence occurs automatically under Article 42A.551;

(3)  is adjudged guilty of an offense under Section 19.02 or 19.07, Penal Code;

(4)  is convicted of an offense under Section 21.11, 22.011, or 22.021, Penal Code, if the victim of the offense was younger than 14 years of age at the time the offense was committed;

(5)  is convicted of an offense under Section 20.04, Penal Code, if:

(A)  the victim of the offense was younger than 14 years of age at the time the offense was committed; and

(B)  the actor committed the offense with the intent to violate or abuse the victim sexually;

(6)  is convicted of an offense under Section 20A.02, 20A.03, 43.04, 43.05, or 43.25, Penal Code;

(7)  is convicted of an offense for which punishment is increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections; or

(8)  is convicted of an offense under Section 481.1123, Health and Safety Code, if the offense is punishable under Subsection (d), (e), or (f) of that section.

SECTION 10.  Article 42A.102(b), Code of Criminal Procedure, is amended to read as follows:

(b)  In all other cases, the judge may grant deferred adjudication community supervision unless:

(1)  the defendant is charged with an offense:

(A)  under Section 20A.02, 20A.03, 49.045, 49.05, 49.065, 49.07, or 49.08, Penal Code;

(B)  under Section 49.04 or 49.06, Penal Code, and, at the time of the offense:

(i)  the defendant held a commercial driver's license or a commercial learner's permit; or

(ii)  the defendant's alcohol concentration, as defined by Section 49.01, Penal Code, was 0.15 or more;

(C)  for which punishment may be increased under Section 49.09, Penal Code;

(D)  for which punishment may be increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections; or

(E)  under Section 481.1123, Health and Safety Code, that is punishable under Subsection (d), (e), or (f) of that section;

(2)  the defendant:

(A)  is charged with an offense under Section 21.11, 22.011, 22.021, 43.04, or 43.05, Penal Code, regardless of the age of the victim, or a felony described by Article 42A.453(b), other than a felony described by Subdivision (1)(A) or (3)(B) of this subsection; and

(B)  has previously been placed on community supervision for an offense under Paragraph (A);

(3)  the defendant is charged with an offense under:

(A)  Section 21.02, Penal Code; [~~or~~]

(B)  Section 22.021, Penal Code, that is punishable under Subsection (f) of that section or under Section 12.42(c)(3) or (4), Penal Code; or

(C)  Section 19.07, Penal Code; or

(4)  the defendant is charged with an offense under Section 19.02, Penal Code, except that the judge may grant deferred adjudication community supervision on determining that the defendant did not cause the death of the deceased, did not intend to kill the deceased or another, and did not anticipate that a human life would be taken.

SECTION 11.  Section 37.007(a), Education Code, is amended to read as follows:

(a)  Except as provided by Subsection (k), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1)  engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of an offense relating to prohibited weapons under Section 46.05, Penal Code;

(2)  engages in conduct that contains the elements of the offense of:

(A)  aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B)  arson under Section 28.02, Penal Code;

(C)  murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;

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

(E)  aggravated kidnapping under Section 20.04, Penal Code;

(F)  aggravated robbery under Section 29.03, Penal Code;

(G)  manslaughter under Section 19.04, Penal Code;

(H)  criminally negligent homicide under Section 19.05, Penal Code; [~~or~~]

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

(J)  lethal opioid poisoning under Section 19.07, Penal Code; or

(3)  engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

SECTION 12.  Section 201.062(a), Estates Code, is amended to read as follows:

(a)  A probate court may enter an order declaring that the parent of a child under 18 years of age may not inherit from or through the child under the laws of descent and distribution if the court finds by clear and convincing evidence that the parent has:

(1)  voluntarily abandoned and failed to support the child in accordance with the parent's obligation or ability for at least three years before the date of the child's death, and did not resume support for the child before that date;

(2)  voluntarily and with knowledge of the pregnancy:

(A)  abandoned the child's mother beginning at a time during her pregnancy with the child and continuing through the birth;

(B)  failed to provide adequate support or medical care for the mother during the period of abandonment before the child's birth; and

(C)  remained apart from and failed to support the child since birth; or

(3)  been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following sections of the Penal Code or adjudicated under Title 3, Family Code, for conduct that caused the death or serious injury of a child and that would constitute a violation of one of the following sections of the Penal Code:

(A)  Section 19.02 (murder);

(B)  Section 19.03 (capital murder);

(C)  Section 19.04 (manslaughter);

(D)  Section 19.07 (lethal opioid poisoning);

(E)  Section 21.11 (indecency with a child);

(F) [~~(E)~~]  Section 22.01 (assault);

(G) [~~(F)~~]  Section 22.011 (sexual assault);

(H) [~~(G)~~]  Section 22.02 (aggravated assault);

(I) [~~(H)~~]  Section 22.021 (aggravated sexual assault);

(J) [~~(I)~~]  Section 22.04 (injury to a child, elderly individual, or disabled individual);

(K) [~~(J)~~]  Section 22.041 (abandoning or endangering child);

(L) [~~(K)~~]  Section 25.02 (prohibited sexual conduct);

(M) [~~(L)~~]  Section 43.25 (sexual performance by a child); or

(N) [~~(M)~~]  Section 43.26 (possession or promotion of child pornography).

SECTION 13.  Section 53.045(a), Family Code, is amended to read as follows:

(a)  Except as provided by Subsection (e), the prosecuting attorney may refer the petition to the grand jury of the county in which the court in which the petition is filed presides if the petition alleges that the child engaged in delinquent conduct that constitutes habitual felony conduct as described by Section 51.031 or that included the violation of any of the following provisions:

(1)  Section 19.02, Penal Code (murder);

(2)  Section 19.03, Penal Code (capital murder);

(3)  Section 19.04, Penal Code (manslaughter);

(4)  Section 20.04, Penal Code (aggravated kidnapping);

(5)  Section 22.011, Penal Code (sexual assault) or Section 22.021, Penal Code (aggravated sexual assault);

(6)  Section 22.02, Penal Code (aggravated assault);

(7)  Section 29.03, Penal Code (aggravated robbery);

(8)  Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual), if the offense is punishable as a felony, other than a state jail felony;

(9)  Section 22.05(b), Penal Code (felony deadly conduct involving discharging a firearm);

(10)  Subchapter D, Chapter 481, Health and Safety Code, if the conduct constitutes a felony of the first degree or an aggravated controlled substance felony (certain offenses involving controlled substances);

(11)  Section 15.03, Penal Code (criminal solicitation);

(12)  Section 21.11(a)(1), Penal Code (indecency with a child);

(13)  Section 15.031, Penal Code (criminal solicitation of a minor);

(14)  Section 15.01, Penal Code (criminal attempt), if the offense attempted was an offense under Section 19.02, Penal Code (murder), or Section 19.03, Penal Code (capital murder), or an offense listed by Article 42A.054(a), Code of Criminal Procedure;

(15)  Section 28.02, Penal Code (arson), if bodily injury or death is suffered by any person by reason of the commission of the conduct;

(16)  Section 49.08, Penal Code (intoxication manslaughter); [~~or~~]

(17)  Section 19.07, Penal Code (lethal opioid poisoning); or

(18)  Section 15.02, Penal Code (criminal conspiracy), if the offense made the subject of the criminal conspiracy includes a violation of any of the provisions referenced in Subdivisions (1) through (17) [~~(16)~~].

SECTION 14.  Section 161.001(b), Family Code, is amended to read as follows:

(b)  The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence:

(1)  that the parent has:

(A)  voluntarily left the child alone or in the possession of another not the parent and expressed an intent not to return;

(B)  voluntarily left the child alone or in the possession of another not the parent without expressing an intent to return, without providing for the adequate support of the child, and remained away for a period of at least three months;

(C)  voluntarily left the child alone or in the possession of another without providing adequate support of the child and remained away for a period of at least six months;

(D)  knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child;

(E)  engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child;

(F)  failed to support the child in accordance with the parent's ability during a period of one year ending within six months of the date of the filing of the petition;

(G)  abandoned the child without identifying the child or furnishing means of identification, and the child's identity cannot be ascertained by the exercise of reasonable diligence;

(H)  voluntarily, and with knowledge of the pregnancy, abandoned the mother of the child beginning at a time during her pregnancy with the child and continuing through the birth, failed to provide adequate support or medical care for the mother during the period of abandonment before the birth of the child, and remained apart from the child or failed to support the child since the birth;

(I)  contumaciously refused to submit to a reasonable and lawful order of a court under Subchapter D, Chapter 261;

(J)  been the major cause of:

(i)  the failure of the child to be enrolled in school as required by the Education Code; or

(ii)  the child's absence from the child's home without the consent of the parents or guardian for a substantial length of time or without the intent to return;

(K)  executed before or after the suit is filed an unrevoked or irrevocable affidavit of relinquishment of parental rights as provided by this chapter;

(L)  been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following sections of the Penal Code, or under a law of another jurisdiction that contains elements that are substantially similar to the elements of an offense under one of the following Penal Code sections, or adjudicated under Title 3 for conduct that caused the death or serious injury of a child and that would constitute a violation of one of the following Penal Code sections:

(i)  Section 19.02 (murder);

(ii)  Section 19.03 (capital murder);

(iii)  Section 19.04 (manslaughter);

(iv)  Section 19.07 (lethal opioid poisoning);

(v)  Section 21.11 (indecency with a child);

(vi) [~~(v)~~]  Section 22.01 (assault);

(vii) [~~(vi)~~]  Section 22.011 (sexual assault);

(viii) [~~(vii)~~]  Section 22.02 (aggravated assault);

(ix) [~~(viii)~~]  Section 22.021 (aggravated sexual assault);

(x) [~~(ix)~~]  Section 22.04 (injury to a child, elderly individual, or disabled individual);

(xi) [~~(x)~~]  Section 22.041 (abandoning or endangering child);

(xii) [~~(xi)~~]  Section 25.02 (prohibited sexual conduct);

(xiii) [~~(xii)~~]  Section 43.25 (sexual performance by a child);

(xiv) [~~(xiii)~~]  Section 43.26 (possession or promotion of child pornography);

(xv) [~~(xiv)~~]  Section 21.02 (continuous sexual abuse of young child or disabled individual);

(xvi) [~~(xv)~~]  Section 20A.02(a)(7) or (8) (trafficking of persons); and

(xvii) [~~(xvi)~~]  Section 43.05(a)(2) (compelling prostitution);

(M)  had his or her parent-child relationship terminated with respect to another child based on a finding that the parent's conduct was in violation of Paragraph (D) or (E) or substantially equivalent provisions of the law of another state;

(N)  constructively abandoned the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services for not less than six months, and:

(i)  the department has made reasonable efforts to return the child to the parent;

(ii)  the parent has not regularly visited or maintained significant contact with the child; and

(iii)  the parent has demonstrated an inability to provide the child with a safe environment;

(O)  failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Family and Protective Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child;

(P)  used a controlled substance, as defined by Chapter 481, Health and Safety Code, in a manner that endangered the health or safety of the child, and:

(i)  failed to complete a court-ordered substance abuse treatment program; or

(ii)  after completion of a court-ordered substance abuse treatment program, continued to abuse a controlled substance;

(Q)  knowingly engaged in criminal conduct that has resulted in the parent's:

(i)  conviction of an offense; and

(ii)  confinement or imprisonment and inability to care for the child for not less than two years from the date of filing the petition;

(R)  been the cause of the child being born addicted to alcohol or a controlled substance, other than a controlled substance legally obtained by prescription;

(S)  voluntarily delivered the child to a designated emergency infant care provider under Section 262.302 without expressing an intent to return for the child;

(T)  been convicted of:

(i)  the murder of the other parent of the child under Section 19.02 or 19.03, Penal Code, or under a law of another state, federal law, the law of a foreign country, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under Section 19.02 or 19.03, Penal Code;

(ii)  criminal attempt under Section 15.01, Penal Code, or under a law of another state, federal law, the law of a foreign country, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under Section 15.01, Penal Code, to commit the offense described by Subparagraph (i);

(iii)  criminal solicitation under Section 15.03, Penal Code, or under a law of another state, federal law, the law of a foreign country, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under Section 15.03, Penal Code, of the offense described by Subparagraph (i); or

(iv)  the sexual assault of the other parent of the child under Section 22.011 or 22.021, Penal Code, or under a law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under Section 22.011 or 22.021, Penal Code; or

(U)  been placed on community supervision, including deferred adjudication community supervision, or another functionally equivalent form of community supervision or probation, for being criminally responsible for the sexual assault of the other parent of the child under Section 22.011 or 22.021, Penal Code, or under a law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense under Section 22.011 or 22.021, Penal Code; and

(2)  that termination is in the best interest of the child.

SECTION 15.  Section 262.2015(b), Family Code, is amended to read as follows:

(b)  The court may find under Subsection (a) that a parent has subjected the child to aggravated circumstances if:

(1)  the parent abandoned the child without identification or a means for identifying the child;

(2)  the child or another child of the parent is a victim of serious bodily injury or sexual abuse inflicted by the parent or by another person with the parent's consent;

(3)  the parent has engaged in conduct against the child or another child of the parent that would constitute an offense under the following provisions of the Penal Code:

(A)  Section 19.02 (murder);

(B)  Section 19.03 (capital murder);

(C)  Section 19.04 (manslaughter);

(D)  Section 21.11 (indecency with a child);

(E)  Section 22.011 (sexual assault);

(F)  Section 22.02 (aggravated assault);

(G)  Section 22.021 (aggravated sexual assault);

(H)  Section 22.04 (injury to a child, elderly individual, or disabled individual);

(I)  Section 22.041 (abandoning or endangering child);

(J)  Section 25.02 (prohibited sexual conduct);

(K)  Section 43.25 (sexual performance by a child);

(L)  Section 43.26 (possession or promotion of child pornography);

(M)  Section 21.02 (continuous sexual abuse of young child or disabled individual);

(N)  Section 43.05(a)(2) (compelling prostitution); [~~or~~]

(O)  Section 20A.02(a)(7) or (8) (trafficking of persons); or

(P)  Section 19.07 (lethal opioid poisoning);

(4)  the parent voluntarily left the child alone or in the possession of another person not the parent of the child for at least six months without expressing an intent to return and without providing adequate support for the child;

(5)  the parent has been convicted for:

(A)  the murder of another child of the parent and the offense would have been an offense under 18 U.S.C. Section 1111(a) if the offense had occurred in the special maritime or territorial jurisdiction of the United States;

(B)  the voluntary manslaughter of another child of the parent and the offense would have been an offense under 18 U.S.C. Section 1112(a) if the offense had occurred in the special maritime or territorial jurisdiction of the United States;

(C)  aiding or abetting, attempting, conspiring, or soliciting an offense under Paragraph (A) or (B); or

(D)  the felony assault of the child or another child of the parent that resulted in serious bodily injury to the child or another child of the parent; or

(6)  the parent is required under any state or federal law to register with a sex offender registry.

SECTION 16.  Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.02094 to read as follows:

Sec. 411.02094.  FENTANYL OFFENSES ENFORCEMENT TRAINING PROGRAM. (a) The department, in coordination with local law enforcement agencies, shall establish and administer a fentanyl offenses enforcement training program for peace officers employed by local law enforcement agencies that will prepare the officers to:

(1)  collaborate and cooperate with and assist any law enforcement agency in the interdiction, investigation, and prosecution of offenses under Section 481.1123, Health and Safety Code; and

(2)  collaborate and cooperate with and assist district attorneys, county attorneys, the border prosecution unit, and other prosecutors in the investigation and prosecution of allegations of offenses under Section 481.1123, Health and Safety Code.

(b)  The training program under Subsection (a) must include:

(1)  information on:

(A)  criminal activity related to a controlled substance listed in Penalty Group 1-B under Section 481.1022, Health and Safety Code, occurring along the Texas-Mexico border, including manufacture and delivery of those controlled substances carried out by cartels, transnational gangs, and other groups engaged in organized criminal activity; and

(B)  methods for identifying intrastate criminal activity associated with the manufacture or delivery of a controlled substance listed in Penalty Group 1-B under Section 481.1022, Health and Safety Code, and other organized criminal activity related to those controlled substances; and

(2)  best practices for:

(A)  investigating and prosecuting the criminal activity described by Subdivision (1); and

(B)  the safest method, as determined by the Health and Human Services Commission, for handling a controlled substance listed in Penalty Group 1-B under Section 481.1022, Health and Safety Code.

SECTION 17.  Section 411.074(b), Government Code, is amended to read as follows:

(b)  A person may not be granted an order of nondisclosure of criminal history record information under this subchapter and is not entitled to petition the court for an order of nondisclosure under this subchapter if:

(1)  the person requests the order of nondisclosure for, or the person has been previously convicted of or placed on deferred adjudication community supervision for:

(A)  an offense requiring registration as a sex offender under Chapter 62, Code of Criminal Procedure;

(B)  an offense under Section 20.04, Penal Code, regardless of whether the offense is a reportable conviction or adjudication for purposes of Chapter 62, Code of Criminal Procedure;

(C)  an offense under Section 19.02, 19.03, 19.07, 20A.02, 20A.03, 22.04, 22.041, 25.07, 25.072, or 42.072, Penal Code; or

(D)  any other offense involving family violence, as defined by Section 71.004, Family Code; or

(2)  the court makes an affirmative finding that the offense for which the order of nondisclosure is requested involved family violence, as defined by Section 71.004, Family Code.

SECTION 18.  Section 411.1471(a), Government Code, is amended to read as follows:

(a)  This section applies to a defendant who is:

(1)  arrested for a felony prohibited under any of the following Penal Code sections:

(A)  Section 19.02;

(B)  Section 19.03;

(C)  Section 19.07;

(D)  Section 20.03;

(E) [~~(D)~~]  Section 20.04;

(F) [~~(E)~~]  Section 20.05;

(G) [~~(F)~~]  Section 20.06;

(H) [~~(G)~~]  Section 20A.02;

(I) [~~(H)~~]  Section 20A.03;

(J) [~~(I)~~]  Section 21.02;

(K) [~~(J)~~]  Section 21.11;

(L) [~~(K)~~]  Section 22.01;

(M) [~~(L)~~]  Section 22.011;

(N) [~~(M)~~]  Section 22.02;

(O) [~~(N)~~]  Section 22.021;

(P) [~~(O)~~]  Section 25.02;

(Q) [~~(P)~~]  Section 29.02;

(R) [~~(Q)~~]  Section 29.03;

(S) [~~(R)~~]  Section 30.02;

(T) [~~(S)~~]  Section 31.03;

(U) [~~(T)~~]  Section 43.03;

(V) [~~(U)~~]  Section 43.04;

(W) [~~(V)~~]  Section 43.05;

(X) [~~(W)~~]  Section 43.25; or

(Y) [~~(X)~~]  Section 43.26; or

(2)  convicted of an offense:

(A)  under Title 5, Penal Code, other than an offense described by Subdivision (1), that is punishable as a Class A misdemeanor or any higher category of offense, except for an offense punishable as a Class A misdemeanor under Section 22.05, Penal Code; or

(B)  under Section 21.08, 25.04, 43.021, or 43.24, Penal Code.

SECTION 19.  Section 499.027(b), Government Code, is amended to read as follows:

(b)  An inmate is not eligible under this subchapter to be considered for release to intensive supervision parole if:

(1)  the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure;

(2)  the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense listed in one of the following sections of the Penal Code:

(A)  Section 19.02 (murder);

(B)  Section 19.03 (capital murder);

(C)  Section 19.04 (manslaughter);

(D)  Section 20.03 (kidnapping);

(E)  Section 20.04 (aggravated kidnapping);

(F)  Section 21.11 (indecency with a child);

(G)  Section 22.011 (sexual assault);

(H)  Section 22.02 (aggravated assault);

(I)  Section 22.021 (aggravated sexual assault);

(J)  Section 22.04 (injury to a child, elderly individual, or disabled individual);

(K)  Section 25.02 (prohibited sexual conduct);

(L)  Section 25.08 (sale or purchase of a child);

(M)  Section 28.02 (arson);

(N)  Section 29.02 (robbery);

(O)  Section 29.03 (aggravated robbery);

(P)  Section 30.02 (burglary), if the offense is punished as a first-degree felony under that section;

(Q)  Section 43.04 (aggravated promotion of prostitution);

(R)  Section 43.05 (compelling prostitution);

(S)  Section 43.24 (sale, distribution, or display of harmful material to minor);

(T)  Section 43.25 (sexual performance by a child);

(U)  Section 46.10 (deadly weapon in penal institution);

(V)  Section 15.01 (criminal attempt), if the offense attempted is listed in this subsection;

(W)  Section 15.02 (criminal conspiracy), if the offense that is the subject of the conspiracy is listed in this subsection;

(X)  Section 15.03 (criminal solicitation), if the offense solicited is listed in this subsection;

(Y)  Section 21.02 (continuous sexual abuse of young child or disabled individual);

(Z)  Section 20A.02 (trafficking of persons);

(AA) Section 20A.03 (continuous trafficking of persons); [~~or~~]

(BB) Section 43.041 (aggravated online promotion of prostitution); or

(CC) Section 19.07 (lethal opioid poisoning); or

(3)  the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense under Chapter 481, Health and Safety Code, punishable by a minimum term of imprisonment or a maximum fine that is greater than the minimum term of imprisonment or the maximum fine for a first degree felony.

SECTION 20.  Section 508.149(a), Government Code, is amended to read as follows:

(a)  An inmate may not be released to mandatory supervision if the inmate is serving a sentence for or has been previously convicted of:

(1)  an offense for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure;

(2)  a first degree felony or a second degree felony under Section 19.02, Penal Code;

(3)  a capital felony under Section 19.03, Penal Code;

(4)  a first degree felony or a second degree felony under Section 20.04, Penal Code;

(5)  an offense under Section 21.11, Penal Code;

(6)  a felony under Section 22.011, Penal Code;

(7)  a first degree felony or a second degree felony under Section 22.02, Penal Code;

(8)  a first degree felony under Section 22.021, Penal Code;

(9)  a first degree felony under Section 22.04, Penal Code;

(10)  a first degree felony under Section 28.02, Penal Code;

(11)  a second degree felony under Section 29.02, Penal Code;

(12)  a first degree felony under Section 29.03, Penal Code;

(13)  a first degree felony under Section 30.02, Penal Code;

(14)  a felony for which the punishment is increased under Section 481.134 or Section 481.140, Health and Safety Code;

(15)  an offense under Section 43.25, Penal Code;

(16)  an offense under Section 21.02, Penal Code;

(17)  a first degree felony under Section 15.03, Penal Code;

(18)  an offense under Section 43.05, Penal Code;

(19)  an offense under Section 20A.02, Penal Code;

(20)  an offense under Section 20A.03, Penal Code;

(21)  a first degree felony under Section 71.02 or 71.023, Penal Code; [~~or~~]

(22)  an offense under Section 19.07, Penal Code; or

(23)  an offense under Section 481.1123, Health and Safety Code, punished under Subsection (d), (e), or (f) of that section.

SECTION 21.  Section 481.141, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d)  Punishment may not be increased under this section if the defendant is also prosecuted under Section 19.07, Penal Code, for conduct occurring during the same criminal episode.

SECTION 22.  Section 301.4535(a), Occupations Code, is amended to read as follows:

(a)  The board shall suspend a nurse's license or refuse to issue a license to an applicant on proof that the nurse or applicant has been initially convicted of:

(1)  murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, [~~or~~] manslaughter under Section 19.04, Penal Code, or lethal opioid poisoning under Section 19.07, Penal Code;

(2)  kidnapping or unlawful restraint under Chapter 20, Penal Code, and the offense was punished as a felony or state jail felony;

(3)  sexual assault under Section 22.011, Penal Code;

(4)  aggravated sexual assault under Section 22.021, Penal Code;

(5)  continuous sexual abuse of young child or disabled individual under Section 21.02, Penal Code, or indecency with a child under Section 21.11, Penal Code;

(6)  aggravated assault under Section 22.02, Penal Code;

(7)  intentionally, knowingly, or recklessly injuring a child, elderly individual, or disabled individual under Section 22.04, Penal Code;

(8)  intentionally, knowingly, or recklessly abandoning or endangering a child under Section 22.041, Penal Code;

(9)  aiding suicide under Section 22.08, Penal Code, and the offense was punished as a state jail felony;

(10)  an offense involving a violation of certain court orders or conditions of bond under Section 25.07, 25.071, or 25.072, Penal Code, punished as a felony;

(11)  an agreement to abduct a child from custody under Section 25.031, Penal Code;

(12)  the sale or purchase of a child under Section 25.08, Penal Code;

(13)  robbery under Section 29.02, Penal Code;

(14)  aggravated robbery under Section 29.03, Penal Code;

(15)  an offense for which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(16)  an offense under the law of another state, federal law, or the Uniform Code of Military Justice that contains elements that are substantially similar to the elements of an offense listed in this subsection.

SECTION 23.  Subchapter H, Chapter 1701, Occupations Code, is amended by adding Section 1701.359 to read as follows:

Sec. 1701.359.  FENTANYL OFFENSES ENFORCEMENT TRAINING PROGRAM. The commission may:

(1)  recognize, or with the consent of the Department of Public Safety administer or assist in administering, the fentanyl offenses enforcement training program established under Section 411.02094, Government Code, as a continuing education program for officers; and

(2)  credit an officer who successfully completes the program described by Subdivision (1) with the appropriate number of continuing education hours.

SECTION 24.  Section 19.01(b), Penal Code, is amended to read as follows:

(b)  Criminal homicide is murder, capital murder, manslaughter, [~~or~~] criminally negligent homicide, or lethal opioid poisoning.

SECTION 25.  Chapter 19, Penal Code, is amended by adding Section 19.07 to read as follows:

Sec. 19.07.  LETHAL OPIOID POISONING. (a) A person commits an offense if the person knowingly manufactures or delivers a controlled substance listed in Penalty Group 1-B under Section 481.1022, Health and Safety Code, in violation of Section 481.1123, Health and Safety Code, and an individual dies as a result of injecting, ingesting, inhaling, or introducing into the individual's body any amount of the controlled substance manufactured or delivered by the actor, regardless of whether the controlled substance was used by itself or with another substance, including a drug, adulterant, or dilutant.

(b)  It is a defense to prosecution under this section that the actor's conduct in manufacturing or delivering the controlled substance was authorized under Chapter 481, Health and Safety Code, or other state or federal law.

(c)  If conduct that constitutes an offense under this section also constitutes an offense under another section of this chapter, the actor may be prosecuted under this section or the other law, but not both.

(d)  An offense under this section is a felony of the first degree.

SECTION 26.  Section 71.02(a), Penal Code, is amended to read as follows:

(a)  A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, the person commits or conspires to commit one or more of the following:

(1)  murder, capital murder, lethal opioid poisoning, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, continuous sexual abuse of young child or disabled individual, solicitation of a minor, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;

(2)  any gambling offense punishable as a Class A misdemeanor;

(3)  promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;

(4)  unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;

(5)  unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;

(5-a)  causing the unlawful delivery, dispensation, or distribution of a controlled substance or dangerous drug in violation of Subtitle B, Title 3, Occupations Code;

(6)  any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;

(7)  any offense under Subchapter B, Chapter 43, depicting or involving conduct by or directed toward a child younger than 18 years of age;

(8)  any felony offense under Chapter 32;

(9)  any offense under Chapter 36;

(10)  any offense under Chapter 34, 35, or 35A;

(11)  any offense under Section 37.11(a);

(12)  any offense under Chapter 20A;

(13)  any offense under Section 37.10;

(14)  any offense under Section 38.06, 38.07, 38.09, or 38.11;

(15)  any offense under Section 42.10;

(16)  any offense under Section 46.06(a)(1) or 46.14;

(17)  any offense under Section 20.05 or 20.06;

(18)  any offense under Section 16.02; or

(19)  any offense classified as a felony under the Tax Code.

SECTION 27.  (a) The fentanyl offenses enforcement task force is established under this section to:

(1)  compile data on criminal activity in the Texas-Mexico border region related to the manufacture or delivery of a controlled substance listed in Penalty Group 1-B under Section 481.1022, Health and Safety Code; and

(2)  develop best practices for:

(A)  investigating, interdicting, and prosecuting criminal activity that constitutes an offense under Section 481.1123, Health and Safety Code; and

(B)  safely handling a controlled substance listed in Penalty Group 1-B under Section 481.1022, Health and Safety Code.

(b)  The governor shall appoint to the task force:

(1)  two members representing the Department of Public Safety;

(2)  two members representing the Health and Human Services Commission; and

(3)  two members representing the Texas Commission on Law Enforcement.

(c)  Not later than six months after the date the governor appoints members to the task force, the task force shall submit to the governor and the director of the Department of Public Safety a report containing the data and best practices described by Subsection (a) of this section.

(d)  The task force established under this section is abolished and this section expires December 1, 2024.

SECTION 28.  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 29.  This Act takes effect September 1, 2023.