

1-1 By: Goldman, et al. (Senate Sponsor - Huffman) H.B. No. 6
1-2 (In the Senate - Received from the House May 1, 2023;
1-3 May 2, 2023, read first time and referred to Committee on Criminal
1-4 Justice; May 12, 2023, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 12, 2023, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 6 By: Huffman

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the designation of fentanyl toxicity for purposes of
1-20 the death certificate and to the criminal penalties for certain
1-21 controlled substance offenses; increasing a criminal penalty.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 193.005, Health and Safety Code, is
1-24 amended by adding Subsection (e-1) to read as follows:

1-25 (e-1) The medical certification on a death certificate must
1-26 include the term "Fentanyl Toxicity" if:

1-27 (1) a toxicology examination reveals a controlled
1-28 substance listed in Penalty Group 1-B present in the body of the
1-29 decedent in an amount or concentration that is considered to be
1-30 lethal by generally accepted scientific standards; and

1-31 (2) the results of an autopsy performed on the
1-32 decedent are consistent with an opioid overdose as the cause of
1-33 death.

1-34 SECTION 2. Section 481.102, Health and Safety Code, is
1-35 amended to read as follows:

1-36 Sec. 481.102. PENALTY GROUP 1. Penalty Group 1 consists
1-37 of:

1-38 (1) the following opiates, including their isomers,
1-39 esters, ethers, salts, and salts of isomers, esters, and ethers,
1-40 unless specifically excepted, if the existence of these isomers,
1-41 esters, ethers, and salts is possible within the specific chemical
1-42 designation:

1-43 ~~[Alfentanil,]~~
1-44 Allylprodine;
1-45 Alphacetylmethadol;
1-46 Benzethidine;
1-47 Betaprodine;
1-48 Clonitazene;
1-49 Diampromide;
1-50 Diethylthiambutene;
1-51 Difenoxin not listed in Penalty Group 3 or 4;
1-52 Dimenoxadol;
1-53 Dimethylthiambutene;
1-54 Dioxaphetyl butyrate;
1-55 Dipipanone;
1-56 Ethylmethylthiambutene;
1-57 Etonitazene;
1-58 Etoxadine;
1-59 Furethidine;
1-60 Hydroxypethidine;

- 2-1 Ketobemidone;
- 2-2 Levophenacylmorphan;
- 2-3 Meprodine;
- 2-4 Methadol;
- 2-5 Moramide;
- 2-6 Morpheridine;
- 2-7 Noracymethadol;
- 2-8 Norlevorphanol;
- 2-9 Normethadone;
- 2-10 Norpipanone;
- 2-11 Phenadoxone;
- 2-12 Phenampromide;
- 2-13 Phenomorphan;
- 2-14 Phenoperidine;
- 2-15 Piritramide;
- 2-16 Proheptazine;
- 2-17 Properidine;
- 2-18 Propiram;
- 2-19 [~~Sufentanil,~~]
- 2-20 Tilidine; and
- 2-21 Trimeperidine;

(2) the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- 2-26 Acetorphine;
- 2-27 Acetyldihydrocodeine;
- 2-28 Benzylmorphine;
- 2-29 Codeine methylbromide;
- 2-30 Codeine-N-Oxide;
- 2-31 Cyprenorphine;
- 2-32 Desomorphine;
- 2-33 Dihydromorphine;
- 2-34 Drotebanol;
- 2-35 Etorphine, except hydrochloride salt;
- 2-36 Heroin;
- 2-37 Hydromorphinol;
- 2-38 Methyldesorphine;
- 2-39 Methyldihydromorphine;
- 2-40 Monoacetylmorphine;
- 2-41 Morphine methylbromide;
- 2-42 Morphine methylsulfonate;
- 2-43 Morphine-N-Oxide;
- 2-44 Myrophine;
- 2-45 Nicocodeine;
- 2-46 Nicomorphine;
- 2-47 Normorphine;
- 2-48 Pholcodine; and
- 2-49 Thebacon;

(3) the following substances, however produced, except those narcotic drugs listed in another group:

(A) Opium and opiate not listed in Penalty Group 3 or 4, and a salt, compound, derivative, or preparation of opium or opiate, other than thebaine derived butorphanol, nalmeffene and its salts, naloxone and its salts, and naltrexone and its salts, but including:

- 2-57 Codeine not listed in Penalty Group 3 or 4;
- 2-58 Dihydroetorphine;
- 2-59 Ethylmorphine not listed in Penalty Group 3
- 2-60 or 4;
- 2-61 Granulated opium;
- 2-62 Hydrocodone not listed in Penalty Group 3;
- 2-63 Hydromorphone;
- 2-64 Metopon;
- 2-65 Morphine not listed in Penalty Group 3;
- 2-66 Opium extracts;
- 2-67 Opium fluid extracts;
- 2-68 Oripavine;
- 2-69 Oxycodone;

3-1 Oxymorphone;
 3-2 Powdered opium;
 3-3 Raw opium;
 3-4 Thebaine; and
 3-5 Tincture of opium;
 3-6 (B) a salt, compound, isomer, derivative, or
 3-7 preparation of a substance that is chemically equivalent or
 3-8 identical to a substance described by Paragraph (A), other than the
 3-9 isoquinoline alkaloids of opium;
 3-10 (C) Opium poppy and poppy straw;
 3-11 (D) Cocaine, including:
 3-12 (i) its salts, its optical, position, and
 3-13 geometric isomers, and the salts of those isomers;
 3-14 (ii) coca leaves and a salt, compound,
 3-15 derivative, or preparation of coca leaves; and
 3-16 (iii) a salt, compound, derivative, or
 3-17 preparation of a salt, compound, or derivative that is chemically
 3-18 equivalent or identical to a substance described by Subparagraph
 3-19 (i) or (ii), other than decocainized coca leaves or extractions of
 3-20 coca leaves that do not contain cocaine or ecgonine; and
 3-21 (E) concentrate of poppy straw, meaning the crude
 3-22 extract of poppy straw in liquid, solid, or powder form that
 3-23 contains the phenanthrine alkaloids of the opium poppy;
 3-24 (4) the following opiates, including their isomers,
 3-25 esters, ethers, salts, and salts of isomers, if the existence of
 3-26 these isomers, esters, ethers, and salts is possible within the
 3-27 specific chemical designation:
 3-28 ~~[Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-~~
 3-29 ~~phenethyl)-4-piperidinyl]-N-phenylacetamide);~~
 3-30 ~~[Alpha-methylthiofentanyl (N-[1-methyl-2-(2-~~
 3-31 ~~thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);]~~
 3-32 Alphaprodine;
 3-33 Anileridine;
 3-34 ~~[Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-~~
 3-35 ~~phenethyl)-4-piperidinyl]-N-phenylpropanamide);~~
 3-36 ~~[Beta-hydroxy-3-methylfentanyl];~~
 3-37 Bezitramide;
 3-38 ~~[Carfentanil];~~
 3-39 Dihydrocodeine not listed in Penalty Group 3 or 4;
 3-40 Diphenoxylate not listed in Penalty Group 3 or 4;
 3-41 Isomethadone;
 3-42 Levomethorphan;
 3-43 Levorphanol;
 3-44 Metazocine;
 3-45 Methadone;
 3-46 Methadone-Intermediate, 4-cyano-2-dimethylamino-
 3-47 4, 4-diphenyl butane;
 3-48 ~~[3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-~~
 3-49 ~~4-piperidyl]-N-phenylpropanamide);~~
 3-50 ~~[3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)-~~
 3-51 ~~ethyl-4-piperidinyl]-N-phenylpropanamide);]~~
 3-52 Moramide-Intermediate, 2-methyl-3-morpholino-1,
 3-53 1-diphenyl-propane-carboxylic acid;
 3-54 ~~[Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-~~
 3-55 ~~phenylethyl)-4-piperidinylpropanamide);]~~
 3-56 PEPAP (1-(2-phenethyl)-4-phenyl-4-
 3-57 acetoxypiperidine);
 3-58 Pethidine (Meperidine);
 3-59 Pethidine-Intermediate-A, 4-cyano-1-methyl-4-
 3-60 phenylpiperidine;
 3-61 Pethidine-Intermediate-B, ethyl-4-
 3-62 phenylpiperidine-4 carboxylate;
 3-63 Pethidine-Intermediate-C, 1-methyl-4-
 3-64 phenylpiperidine-4-carboxylic acid;
 3-65 Phenazocine;
 3-66 Piminodine;
 3-67 Racemethorphan; and
 3-68 Racemorphan;
 3-69 ~~[Remifentanil; and~~

- 4-1 ~~[Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-~~
- 4-2 ~~piperidinyl]-propanamide),]~~
- 4-3 (5) Flunitrazepam (trade or other name: Rohypnol);
- 4-4 (6) Methamphetamine, including its salts, optical
- 4-5 isomers, and salts of optical isomers;
- 4-6 (7) Phenylacetone and methylamine, if possessed
- 4-7 together with intent to manufacture methamphetamine;
- 4-8 (8) Phencyclidine, including its salts;
- 4-9 (9) Gamma hydroxybutyric acid (some trade or other
- 4-10 names: gamma hydroxybutyrate, GHB), including its salts;
- 4-11 (10) Ketamine;
- 4-12 (11) Phenazepam;
- 4-13 (12) U-47700;
- 4-14 (13) AH-7921;
- 4-15 (14) ADB-FUBINACA;
- 4-16 (15) AMB-FUBINACA; and
- 4-17 (16) MDMB-CHMICA.

4-18 SECTION 3. Section 481.1022, Health and Safety Code, is

4-19 amended to read as follows:
4-20 Sec. 481.1022. PENALTY GROUP 1-B. Penalty Group 1-B

4-21 consists of the following opiates, including their isomers, esters,

4-22 ethers, salts, and salts of isomers, esters, and ethers, if the

4-23 existence of these isomers, esters, ethers, and salts is possible

4-24 within the specific chemical designation:

4-25 Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-

4-26 phenethyl)-4-piperidinyl]-N-phenylacetamide);

4-27 Alfentanil;

4-28 Alpha-methylthiofentanyl (N-[1-methyl-2-(2-

4-29 thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

4-30 Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-

4-31 phenethyl)-4-piperidinyl]-N-phenylpropanamide);

4-32 Beta-hydroxy-3-methylfentanyl;

4-33 Carfentanil;

4-34 Fentanyl [fentanyl], alpha-methylfentanyl, and

4-35 any other derivative of fentanyl;

4-36 3-methylfentanyl(N-[3-methyl-1-(2-phenylethyl)-

4-37 4-piperidyl]-N-phenylpropanamide);

4-38 3-methylthiofentanyl(N-[3-methyl-1-(2-thienyl)

4-39 ethyl-4-piperidinyl]-N-phenylpropanamide);

4-40 Para-fluorofentanyl(N-(4-fluorophenyl)-N-1-(2-

4-41 phenylethyl)-4-piperidinylpropanamide);

4-42 Remifentanil;

4-43 Sufentanil; and

4-44 Thiofentanyl(N-phenyl-N-[1-(2-thienyl)ethyl-4-

4-45 piperidinyl]-propanamide).

4-46 SECTION 4. Sections 481.112(e) and (f), Health and Safety

4-47 Code, are amended to read as follows:

4-48 (e) An offense under Subsection (a) is a felony of the first

4-49 degree punishable by imprisonment in the Texas Department of

4-50 Criminal Justice for life or for a term of not more than 99 years or

4-51 less than 10 years, and a fine not to exceed \$100,000, if the amount

4-52 of the controlled substance to which the offense applies is, by

4-53 aggregate weight, including adulterants or dilutants, 200 grams or

4-54 more but less than 400 grams.

4-55 (f) An offense under Subsection (a) is a felony of the first

4-56 degree punishable by imprisonment in the Texas Department of

4-57 Criminal Justice for life or for a term of not more than 99 years or

4-58 less than 15 years, and a fine not to exceed \$250,000, if the amount

4-59 of the controlled substance to which the offense applies is, by

4-60 aggregate weight, including adulterants or dilutants, 400 grams or

4-61 more.

4-62 SECTION 5. Section 481.1121(b), Health and Safety Code, is

4-63 amended to read as follows:

4-64 (b) An offense under this section is:

4-65 (1) a state jail felony if the number of abuse units of

4-66 the controlled substance is fewer than 20;

4-67 (2) a felony of the second degree if the number of

4-68 abuse units of the controlled substance is 20 or more but fewer than

4-69 80;

5-1 (3) a felony of the first degree if the number of abuse
5-2 units of the controlled substance is 80 or more but fewer than
5-3 4,000; and

5-4 (4) a felony of the first degree punishable by
5-5 imprisonment in the Texas Department of Criminal Justice for life
5-6 or for a term of not more than 99 years or less than 15 years and a
5-7 fine not to exceed \$250,000, if the number of abuse units of the
5-8 controlled substance is 4,000 or more.

5-9 SECTION 6. Sections 481.1123(b), (d), (e), and (f), Health
5-10 and Safety Code, are amended to read as follows:

5-11 (b) An offense under Subsection (a) is a [~~state jail~~] felony
5-12 of the third degree if the amount of the controlled substance to
5-13 which the offense applies is, by aggregate weight, including
5-14 adulterants or dilutants, less than one gram.

5-15 (d) An offense under Subsection (a) is a felony of the first
5-16 degree punishable by imprisonment in the Texas Department of
5-17 Criminal Justice for life or for a term of not more than 99 years or
5-18 less than 10 years, and a fine not to exceed \$20,000, if the amount
5-19 of the controlled substance to which the offense applies is, by
5-20 aggregate weight, including adulterants or dilutants, four grams or
5-21 more but less than 200 grams.

5-22 (e) An offense under Subsection (a) is a felony of the first
5-23 degree punishable by imprisonment in the Texas Department of
5-24 Criminal Justice for life or for a term of not more than 99 years or
5-25 less than 15 years, and a fine not to exceed \$200,000, if the amount
5-26 of the controlled substance to which the offense applies is, by
5-27 aggregate weight, including adulterants or dilutants, 200 grams or
5-28 more but less than 400 grams.

5-29 (f) An offense under Subsection (a) is a felony of the first
5-30 degree punishable by imprisonment in the Texas Department of
5-31 Criminal Justice for life or for a term of not more than 99 years or
5-32 less than 20 years, and a fine not to exceed \$500,000, if the amount
5-33 of the controlled substance to which the offense applies is, by
5-34 aggregate weight, including adulterants or dilutants, 400 grams or
5-35 more.

5-36 SECTION 7. Section 481.113(e), Health and Safety Code, is
5-37 amended to read as follows:

5-38 (e) An offense under Subsection (a) is a felony of the first
5-39 degree punishable by imprisonment in the Texas Department of
5-40 Criminal Justice for life or for a term of not more than 99 years or
5-41 less than 10 years, and a fine not to exceed \$100,000, if the amount
5-42 of the controlled substance to which the offense applies is, by
5-43 aggregate weight, including adulterants or dilutants, 400 grams or
5-44 more.

5-45 SECTION 8. Section 481.114(e), Health and Safety Code, is
5-46 amended to read as follows:

5-47 (e) An offense under Subsection (a) is a felony of the first
5-48 degree punishable by imprisonment in the Texas Department of
5-49 Criminal Justice for life or for a term of not more than 99 years or
5-50 less than 10 years, and a fine not to exceed \$100,000, if the amount
5-51 of the controlled substance to which the offense applies is, by
5-52 aggregate weight, including any adulterants or dilutants, 400 grams
5-53 or more.

5-54 SECTION 9. Section 481.115(f), Health and Safety Code, is
5-55 amended to read as follows:

5-56 (f) An offense under Subsection (a) is a felony of the first
5-57 degree punishable by imprisonment in the Texas Department of
5-58 Criminal Justice for life or for a term of not more than 99 years or
5-59 less than 10 years, and a fine not to exceed \$100,000, if the amount
5-60 of the controlled substance possessed is, by aggregate weight,
5-61 including adulterants or dilutants, 400 grams or more.

5-62 SECTION 10. Section 481.1151(b), Health and Safety Code, is
5-63 amended to read as follows:

5-64 (b) An offense under this section is:

5-65 (1) a state jail felony if the number of abuse units of
5-66 the controlled substance is fewer than 20;

5-67 (2) a felony of the third degree if the number of abuse
5-68 units of the controlled substance is 20 or more but fewer than 80;

5-69 (3) a felony of the second degree if the number of

6-1 abuse units of the controlled substance is 80 or more but fewer than
6-2 4,000;

6-3 (4) a felony of the first degree if the number of abuse
6-4 units of the controlled substance is 4,000 or more but fewer than
6-5 8,000; and

6-6 (5) a felony of the first degree punishable by
6-7 imprisonment in the Texas Department of Criminal Justice for life
6-8 or for a term of not more than 99 years or less than 15 years and a
6-9 fine not to exceed \$250,000, if the number of abuse units of the
6-10 controlled substance is 8,000 or more.

6-11 SECTION 11. Section 481.116(e), Health and Safety Code, is
6-12 amended to read as follows:

6-13 (e) An offense under Subsection (a) is a felony of the first
6-14 degree punishable by imprisonment in the Texas Department of
6-15 Criminal Justice for life or for a term of not more than 99 years or
6-16 less than five years, and a fine not to exceed \$50,000, if the
6-17 amount of the controlled substance possessed is, by aggregate
6-18 weight, including adulterants or dilutants, 400 grams or more.

6-19 SECTION 12. Section 481.1161(b), Health and Safety Code, is
6-20 amended to read as follows:

6-21 (b) An offense under this section is:

6-22 (1) a Class B misdemeanor if the amount of the
6-23 controlled substance possessed is, by aggregate weight, including
6-24 adulterants or dilutants, two ounces or less;

6-25 (2) a Class A misdemeanor if the amount of the
6-26 controlled substance possessed is, by aggregate weight, including
6-27 adulterants or dilutants, four ounces or less but more than two
6-28 ounces;

6-29 (3) a state jail felony if the amount of the controlled
6-30 substance possessed is, by aggregate weight, including adulterants
6-31 or dilutants, five pounds or less but more than four ounces;

6-32 (4) a felony of the third degree if the amount of the
6-33 controlled substance possessed is, by aggregate weight, including
6-34 adulterants or dilutants, 50 pounds or less but more than 5 pounds;

6-35 (5) a felony of the second degree if the amount of the
6-36 controlled substance possessed is, by aggregate weight, including
6-37 adulterants or dilutants, 2,000 pounds or less but more than 50
6-38 pounds; and

6-39 (6) a felony of the first degree punishable by
6-40 imprisonment in the Texas Department of Criminal Justice for life
6-41 or for a term of not more than 99 years or less than 5 years, and a
6-42 fine not to exceed \$50,000, if the amount of the controlled
6-43 substance possessed is, by aggregate weight, including adulterants
6-44 or dilutants, more than 2,000 pounds.

6-45 SECTION 13. Section 481.117(e), Health and Safety Code, is
6-46 amended to read as follows:

6-47 (e) An offense under Subsection (a) is a felony of the first
6-48 degree punishable by imprisonment in the Texas Department of
6-49 Criminal Justice for life or for a term of not more than 99 years or
6-50 less than five years, and a fine not to exceed \$50,000, if the
6-51 amount of the controlled substance possessed is, by aggregate
6-52 weight, including adulterants or dilutants, 400 grams or more.

6-53 SECTION 14. Section 481.118(e), Health and Safety Code, is
6-54 amended to read as follows:

6-55 (e) An offense under Subsection (a) is a felony of the first
6-56 degree punishable by imprisonment in the Texas Department of
6-57 Criminal Justice for life or for a term of not more than 99 years or
6-58 less than five years, and a fine not to exceed \$50,000, if the
6-59 amount of the controlled substance possessed is, by aggregate
6-60 weight, including adulterants or dilutants, 400 grams or more.

6-61 SECTION 15. Section 481.120(b), Health and Safety Code, is
6-62 amended to read as follows:

6-63 (b) An offense under Subsection (a) is:

6-64 (1) a Class B misdemeanor if the amount of marihuana
6-65 delivered is one-fourth ounce or less and the person committing the
6-66 offense does not receive remuneration for the marihuana;

6-67 (2) a Class A misdemeanor if the amount of marihuana
6-68 delivered is one-fourth ounce or less and the person committing the
6-69 offense receives remuneration for the marihuana;

7-1 (3) a state jail felony if the amount of marihuana
 7-2 delivered is five pounds or less but more than one-fourth ounce;
 7-3 (4) a felony of the second degree if the amount of
 7-4 marihuana delivered is 50 pounds or less but more than five pounds;
 7-5 (5) a felony of the first degree if the amount of
 7-6 marihuana delivered is 2,000 pounds or less but more than 50 pounds;
 7-7 and
 7-8 (6) a felony of the first degree punishable by
 7-9 imprisonment in the Texas Department of Criminal Justice for life
 7-10 or for a term of not more than 99 years or less than 10 years, and a
 7-11 fine not to exceed \$100,000, if the amount of marihuana delivered is
 7-12 more than 2,000 pounds.

7-13 SECTION 16. Section 481.121(b), Health and Safety Code, is
 7-14 amended to read as follows:

7-15 (b) An offense under Subsection (a) is:

7-16 (1) a Class B misdemeanor if the amount of marihuana
 7-17 possessed is two ounces or less;

7-18 (2) a Class A misdemeanor if the amount of marihuana
 7-19 possessed is four ounces or less but more than two ounces;

7-20 (3) a state jail felony if the amount of marihuana
 7-21 possessed is five pounds or less but more than four ounces;

7-22 (4) a felony of the third degree if the amount of
 7-23 marihuana possessed is 50 pounds or less but more than 5 pounds;

7-24 (5) a felony of the second degree if the amount of
 7-25 marihuana possessed is 2,000 pounds or less but more than 50 pounds;
 7-26 and

7-27 (6) a felony of the first degree punishable by
 7-28 imprisonment in the Texas Department of Criminal Justice for life
 7-29 or for a term of not more than 99 years or less than 5 years, and a
 7-30 fine not to exceed \$50,000, if the amount of marihuana possessed is
 7-31 more than 2,000 pounds.

7-32 SECTION 17. Section 481.126(a), Health and Safety Code, is
 7-33 amended to read as follows:

7-34 (a) A person commits an offense if the person:

7-35 (1) barter property or expends funds the person knows
 7-36 are derived from the commission of a first degree felony ~~an~~
 7-37 offense under this chapter punishable by imprisonment in the Texas
 7-38 Department of Criminal Justice for life;

7-39 (2) barter property or expends funds the person knows
 7-40 are derived from the commission of an offense under Section
 7-41 481.121(a) that is punishable under Section 481.121(b)(5);

7-42 (3) barter property or finances or invests funds the
 7-43 person knows or believes are intended to further the commission of
 7-44 an offense for which the punishment is described by Subdivision
 7-45 (1); or

7-46 (4) barter property or finances or invests funds the
 7-47 person knows or believes are intended to further the commission of
 7-48 an offense under Section 481.121(a) that is punishable under
 7-49 Section 481.121(b)(5).

7-50 SECTION 18. Section 481.134(c), Health and Safety Code, as
 7-51 amended by Chapters 584 (S.B. 768) and 807 (H.B. 1540), Acts of the
 7-52 87th Legislature, Regular Session, 2021, is reenacted and amended
 7-53 to read as follows:

7-54 (c) The minimum term of confinement or imprisonment for an
 7-55 offense otherwise punishable under Section 481.112(c), (d), (e), or
 7-56 (f), 481.1121(b)(2), (3), or (4), 481.1123(b), (c) ~~[481.1123(c)]~~,
 7-57 (d), (e), or (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),
 7-58 481.115(c)-(f), 481.1151(b)(2), (3), (4), or (5), 481.116(c), (d),
 7-59 or (e), 481.1161(b)(4), (5), or (6), 481.117(c), (d), or (e),
 7-60 481.118(c), (d), or (e), 481.120(b)(4), (5), or (6), or
 7-61 481.121(b)(4), (5), or (6) is increased by five years and the
 7-62 maximum fine for the offense is doubled if it is shown on the trial
 7-63 of the offense that the offense was committed:

7-64 (1) in, on, or within 1,000 feet of the premises of a
 7-65 school, the premises of a public or private youth center, or a
 7-66 playground;

7-67 (2) on a school bus; or

7-68 (3) by any unauthorized person 18 years of age or
 7-69 older, in, on, or within 1,000 feet of premises owned, rented, or

8-1 leased by a general residential operation operating as a
8-2 residential treatment center.

8-3 SECTION 19. Section 481.141, Health and Safety Code, is
8-4 amended by adding Subsection (d) to read as follows:

8-5 (d) Punishment may not be increased under this section if
8-6 the defendant is also prosecuted under Section 19.02(b)(4), Penal
8-7 Code, for conduct occurring during the same criminal episode.

8-8 SECTION 20. Section 19.02, Penal Code, is amended by
8-9 amending Subsection (b) and adding Subsection (e) to read as
8-10 follows:

8-11 (b) A person commits an offense if the person [~~he~~]:

8-12 (1) intentionally or knowingly causes the death of an
8-13 individual;

8-14 (2) intends to cause serious bodily injury and commits
8-15 an act clearly dangerous to human life that causes the death of an
8-16 individual; [~~or~~]

8-17 (3) commits or attempts to commit a felony, other than
8-18 manslaughter, and in the course of and in furtherance of the
8-19 commission or attempt, or in immediate flight from the commission
8-20 or attempt, the person [~~he~~] commits or attempts to commit an act
8-21 clearly dangerous to human life that causes the death of an
8-22 individual; or

8-23 (4) knowingly manufactures or delivers a controlled
8-24 substance included in Penalty Group 1-B under Section 481.1022,
8-25 Health and Safety Code, in violation of Section 481.1123, Health
8-26 and Safety Code, and an individual dies as a result of injecting,
8-27 ingesting, inhaling, or introducing into the individual's body any
8-28 amount of the controlled substance manufactured or delivered by the
8-29 actor, regardless of whether the controlled substance was used by
8-30 itself or with another substance, including a drug, adulterant, or
8-31 dilutant.

8-32 (e) It is a defense to prosecution under Subsection (b)(4)
8-33 that the actor's conduct in manufacturing or delivering the
8-34 controlled substance was authorized under Chapter 481, Health and
8-35 Safety Code, or other state or federal law.

8-36 SECTION 21. Section 71.02(a), Penal Code, is amended to
8-37 read as follows:

8-38 (a) A person commits an offense if, with the intent to
8-39 establish, maintain, or participate in a combination or in the
8-40 profits of a combination or as a member of a criminal street gang,
8-41 the person commits or conspires to commit one or more of the
8-42 following:

8-43 (1) murder, capital murder, arson, aggravated
8-44 robbery, robbery, burglary, theft, aggravated kidnapping,
8-45 kidnapping, aggravated assault, aggravated sexual assault, sexual
8-46 assault, continuous sexual abuse of young child or disabled
8-47 individual, solicitation of a minor, forgery, deadly conduct,
8-48 assault punishable as a Class A misdemeanor, burglary of a motor
8-49 vehicle, or unauthorized use of a motor vehicle;

8-50 (2) any gambling offense punishable as a Class A
8-51 misdemeanor;

8-52 (3) promotion of prostitution, aggravated promotion
8-53 of prostitution, or compelling prostitution;

8-54 (4) unlawful manufacture, transportation, repair, or
8-55 sale of firearms or prohibited weapons;

8-56 (5) unlawful manufacture, delivery, dispensation, or
8-57 distribution of a controlled substance or dangerous drug, or
8-58 unlawful possession of a controlled substance or dangerous drug
8-59 through forgery, fraud, misrepresentation, or deception;

8-60 (5-a) causing the unlawful delivery, dispensation, or
8-61 distribution of a controlled substance or dangerous drug in
8-62 violation of Subtitle B, Title 3, Occupations Code;

8-63 (5-b) unlawful possession with intent to deliver a
8-64 controlled substance listed in Penalty Group 1-B under Section
8-65 481.1022, Health and Safety Code;

8-66 (6) any unlawful wholesale promotion or possession of
8-67 any obscene material or obscene device with the intent to wholesale
8-68 promote the same;

8-69 (7) any offense under Subchapter B, Chapter 43,

- 9-1 depicting or involving conduct by or directed toward a child
- 9-2 younger than 18 years of age;
- 9-3 (8) any felony offense under Chapter 32;
- 9-4 (9) any offense under Chapter 36;
- 9-5 (10) any offense under Chapter 34, 35, or 35A;
- 9-6 (11) any offense under Section 37.11(a);
- 9-7 (12) any offense under Chapter 20A;
- 9-8 (13) any offense under Section 37.10;
- 9-9 (14) any offense under Section 38.06, 38.07, 38.09, or
- 9-10 38.11;
- 9-11 (15) any offense under Section 42.10;
- 9-12 (16) any offense under Section 46.06(a)(1) or 46.14;
- 9-13 (17) any offense under Section 20.05 or 20.06;
- 9-14 (18) any offense under Section 16.02; or
- 9-15 (19) any offense classified as a felony under the Tax
- 9-16 Code.

9-17 SECTION 22. The change in law made by this Act to Section
 9-18 193.005, Health and Safety Code, applies only to a death that occurs
 9-19 on or after the effective date of this Act, or a death that occurs
 9-20 before that date but is discovered on or after the effective date of
 9-21 this Act.

9-22 SECTION 23. The changes in law made by this Act to Chapter
 9-23 481, Health and Safety Code, and Sections 19.02 and 71.02, Penal
 9-24 Code, apply only to an offense committed on or after the effective
 9-25 date of this Act. An offense committed before the effective date of
 9-26 this Act is governed by the law in effect on the date the offense was
 9-27 committed, and the former law is continued in effect for that
 9-28 purpose. For purposes of this section, an offense was committed
 9-29 before the effective date of this Act if any element of the offense
 9-30 occurred before that date.

9-31 SECTION 24. To the extent of any conflict, this Act prevails
 9-32 over another Act of the 88th Legislature, Regular Session, 2023,
 9-33 relating to nonsubstantive additions to and corrections in enacted
 9-34 codes.

9-35 SECTION 25. This Act takes effect September 1, 2023.

9-36 * * * * *