

By: Wu

H.B. No. 505

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for the criminal offense of hindering the investigation or prosecution of certain sexual offenses committed against a child; increasing criminal penalties.

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

SECTION 1. Section 38.17, Penal Code, is amended to read as follows:

Sec. 38.17. HINDERING INVESTIGATION OR PROSECUTION OF CERTAIN [~~FAILURE TO STOP OR REPORT AGGRAVATED~~] SEXUAL OFFENSES COMMITTED AGAINST A [~~ASSAULT OF~~] CHILD. (a) In this section, "sexual offense against a child" means conduct that constitutes an offense under:

(1) Section 20A.02(a)(7) or (8) (Trafficking of Persons);

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

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

(4) Section 21.11(a)(1) (Indecency with a Child);

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

(6) Section 22.021(a)(1)(B) (Aggravated Sexual Assault of a Child);

1 (7) Section 43.05(a)(2) (Compelling Prostitution); or

2 (8) Section 43.25 (Sexual Performance by a Child).

3 (b) A person 17 years of age or older~~[, other than a person~~
4 ~~who has a relationship with a child described by Section 22.04(b),]~~
5 commits an offense if the person:

6 (1) commits an offense under Section 261.109, Family
7 Code, by failing to report a sexual offense against a child as
8 provided by Chapter 261 of that code ~~[the actor observes the~~
9 ~~commission or attempted commission of an offense prohibited by~~
10 ~~Section 21.02 or 22.021(a)(2)(B) under circumstances in which a~~
11 ~~reasonable person would believe that an offense of a sexual or~~
12 ~~assaultive nature was being committed or was about to be committed~~
13 ~~against the child]; and~~

14 (2) engages in conduct intended to hinder the
15 investigation or prosecution of the sexual offense against a child,
16 including by:

17 (A) altering, destroying, or concealing any
18 record, document, or thing to impair its verity, legibility, or
19 availability as evidence in the investigation or prosecution;

20 (B) interfering with the willingness of a witness
21 to the sexual offense to report that offense to, or cooperate in the
22 investigation or prosecution of the offense with, a law enforcement
23 agency or the Department of Family and Protective Services or
24 otherwise preventing the report by or cooperation of the witness;

25 (C) harboring or concealing the person who
26 committed the sexual offense;

27 (D) providing or aiding in providing the person

1 who committed the sexual offense with a means to avoid
2 investigation or arrest, including by assisting the person in
3 relocating to another area; or

4 (E) providing false information regarding the
5 sexual offense to a law enforcement agency or to the Department of
6 Family and Protective Services [~~the actor fails to assist the child~~
7 ~~or immediately report the commission of the offense to a peace~~
8 ~~officer or law enforcement agency; and~~

9 [~~(3) the actor could assist the child or immediately~~
10 ~~report the commission of the offense without placing the actor in~~
11 ~~danger of suffering serious bodily injury or death].~~

12 (c) [(b)] An offense under this section is a felony of the
13 third degree, except that the offense is a felony of the second
14 degree if:

15 (1) the person who committed the sexual offense
16 against a child commits a subsequent sexual offense against a
17 child; and

18 (2) the actor's failure to report the sexual offense
19 against a child enabled or facilitated the person's commission of
20 the subsequent offense [~~Class A misdemeanor~~].

21 (d) The following information is confidential and not
22 subject to disclosure under Chapter 552, Government Code:

23 (1) the name of the child who is the victim of the
24 sexual offense described by Subsection (b);

25 (2) the name of the actor, until the actor is charged
26 with an offense under this section; and

27 (3) the name of the person whom the actor believes to

1 have committed the sexual offense described by Subsection (b),
2 until the person is charged with the applicable offense.

3 SECTION 2. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this Act.
5 An offense committed before the effective date of this Act is
6 governed by the law in effect on the date the offense was committed,
7 and the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense occurred
10 before that date.

11 SECTION 3. This Act takes effect September 1, 2023.