

AN ACT

relating to the prosecution, punishment, and certain criminal and civil consequences of offenses involving or related to the trafficking of persons and to certain protections for victims of those offenses.

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

ARTICLE 1. TRAFFICKING OF PERSONS AND COMPELLING PROSTITUTION

SECTION 1.01. Section 20A.01, Penal Code, is amended to read as follows:

Sec. 20A.01. DEFINITIONS. In this chapter:

(1) "Child" means a person younger than 18 years of age.

(2) "Forced labor or services" means labor or services, other than labor or services that constitute sexual conduct [including conduct that constitutes an offense under Section 43.02], that are performed or provided by another person and obtained through an actor's use of force, fraud, or coercion[+

~~[(A) - - causing or threatening to cause bodily injury to the person or another person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer bodily injury;~~

~~[(B) - - restraining or threatening to restrain the person or another person in a manner described by Section 20.01(1) or causing the person performing or providing labor or services to believe that the person or another person will be restrained;~~

~~[(C) - - knowingly destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person, the person's actual or purported:~~

~~[(i) government records;~~

~~[(ii) identifying information; or~~

~~[(iii) personal property;~~

~~[(D) - - threatening the person with abuse of the law or the legal process in relation to the person or another person;~~

~~[(E) - - threatening to report the person or another person to immigration officials or other law enforcement officials or otherwise blackmailing or extorting the person or another person;~~

~~[(F) - - exerting financial control over the person or another person by placing the person or another person under the actor's control as security for a debt to the extent that:~~

~~[(i) - - the value of the services provided by the person or another person as reasonably assessed is not applied toward the liquidation of the debt;~~

~~[(ii) - - the duration of the services provided by the person or another person is not limited and the nature of the services provided by the person or another person is not defined; or~~

~~[(iii) - - the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred; or~~

~~[(G) - - using any scheme, plan, or pattern intended to cause the person to believe that the person or another person will be subjected to serious harm or restraint if the person does not perform or provide the labor or services].~~

(3) "Sexual conduct" has the meaning assigned by Section 43.25.

(4) [~~2~~] "Traffic" means to transport, entice, recruit, harbor, provide, or otherwise obtain another person by any means.

SECTION 1.02. Section 20A.02, Penal Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

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

(1) traffics another person with the intent [~~of knowledge~~] that the trafficked person [~~will~~] engage in forced labor or services; [~~or~~]

(2) receives a benefit [benefits] 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);

(C) Section 43.04 (Aggravated 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 with the intent that the trafficked child 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 and by any means causes the trafficked child to engage in, or become the victim of, conduct prohibited by:

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

(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);

(F) Section 43.03 (Promotion of Prostitution);

(G) Section 43.04 (Aggravated 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 trafficked in the manner described in Subdivision (7).

(b) Except as otherwise provided by this subsection, 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) [~~Section 43.05 or 43.25 and the person who is trafficked is a child younger than 18 years of age at the time of the offense~~], regardless of whether the actor knows the age of the child at the time the actor commits the

offense; or

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

(d) If the victim of an offense under Subsection (a)(7)(A) is the same victim as a victim of an offense under Section 21.02, a defendant may not be convicted of the offense under Section 21.02 in the same criminal action as the offense under Subsection (a)(7)(A) unless the offense under Section 21.02:

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (a)(7)(A) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a)(7)(A).

SECTION 1.03. Subsection (b), Section 43.05, Penal Code, is amended to read as follows:

(b) An offense under Subsection (a)(1) [this section] is a felony of the second degree. An offense under Subsection (a)(2) is a felony of the first degree.

ARTICLE 2. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE

SECTION 2.01. The heading to Chapter 7A, Code of Criminal Procedure, is amended to read as follows:

CHAPTER 7A. PROTECTIVE ORDER FOR CERTAIN VICTIMS [VICTIM] OF TRAFFICKING OR SEXUAL ASSAULT

SECTION 2.02. Subsection (a), Article 7A.01, Code of Criminal Procedure, is amended to read as follows:

(a) The following persons [A person who is the victim of an offense under Section 21.02, 21.11, 22.011, or 22.021, Penal Code, a parent or guardian acting on behalf of a person younger than 17 years of age who is the victim of such an offense, or a prosecuting attorney acting on behalf of the person] may file an application for a protective order under this chapter without regard to the relationship between the applicant and the alleged offender:

(1) a person who is the victim of an offense under Section 21.02, 21.11, 22.011, or 22.021, Penal Code;

(2) a person who is the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or Section 43.05, Penal Code;

(3) a parent or guardian acting on behalf of a person younger than 18 years of age who is the victim of an offense listed in Subdivision (1) or (2); or

(4) a prosecuting attorney acting on behalf of a person described by Subdivision (1) or (2).

SECTION 2.03. 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 during the investigation of the offense biological matter is collected and 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;

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

(E) indecency with a child under Section 21.11, Penal Code; ~~[or]~~

(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; or
(G) trafficking of persons under Section
20A.02(a)(7) or (8), 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 he exercises control in his 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~~
 (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) securing execution of document by deception;
 (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; or
 (G) fraudulent use or possession of identifying
 information under Section 32.51, Penal Code;
 (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) compelling prostitution under Section 43.05(a)(2), Penal Code; or

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

SECTION 2.04. Article 13.12, Code of Criminal Procedure, is amended to read as follows:

Art. 13.12. TRAFFICKING OF PERSONS, FALSE IMPRISONMENT, AND KIDNAPPING. Venue for trafficking of persons, false imprisonment, and kidnapping is in:

(1) [either] the county in which the offense was committed; [r] or
(2) [ia] any county through, into, or out of which the person trafficked, falsely imprisoned, or kidnapped may have been taken.

SECTION 2.05. Subsection (a), Article 38.07, Code of Criminal Procedure, is amended to read as follows:

(a) A conviction under Chapter 21, Section 20A.02(a)(3), (4), (7), or (8), Section 22.011, or Section 22.021, Penal Code, is supportable on the uncorroborated testimony of the victim of the sexual offense if the victim informed any person, other than the defendant, of the alleged offense within one year after the date on which the offense is alleged to have occurred.

SECTION 2.06. 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 20.04 (Aggravated Kidnapping);
 (5) Section 21.11 (Indecency with a Child);
 (6) Section 22.011 (Sexual Assault);
 (7) Section 22.02 (Aggravated Assault);
 (8) Section 22.021 (Aggravated Sexual Assault);
 (9) Section 22.04(e) (Injury to a Child, Elderly Individual, or Disabled Individual);
 (10) Section 22.04(f) (Injury to a Child, Elderly Individual, or Disabled Individual), if the conduct is committed intentionally or knowingly;
 (11) Section 25.02 (Prohibited Sexual Conduct);
 (12) Section 29.03 (Aggravated Robbery);
 (13) Section 43.25 (Sexual Performance by a Child);
 [or]
 (14) Section 21.02 (Continuous Sexual Abuse of Young Child or Children);
(15) Section 43.05(a)(2) (Compelling Prostitution);
or
(16) Section 20A.02(a)(7) or (8) (Trafficking of Persons).

SECTION 2.07. Section 1, Article 38.072, Code of Criminal Procedure, as amended by Chapters 284 (S.B. 643) and 710 (H.B. 2846), Acts of the 81st Legislature, Regular Session, 2009, is reenacted and amended to read as follows:

Sec. 1. This article applies to a proceeding in the prosecution of an offense under any of the following provisions of the Penal Code, if committed against a child younger than 14 years

of age or a person with a disability:

(1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);

(2) Section 25.02 (Prohibited Sexual Conduct);

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

~~or~~

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

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

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

SECTION 2.08. Section 1, Article 38.37, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. This article applies to a proceeding in the prosecution of a defendant for an offense, or an attempt or conspiracy to commit an offense, under the following provisions of the Penal Code:

(1) ~~(7)~~ if committed against a child under 17 years of age:

(A) ~~(1)~~ Chapter 21 (Sexual Offenses);

(B) ~~(2)~~ Chapter 22 (Assaultive Offenses); or

(C) ~~(3)~~ Section 25.02 (Prohibited Sexual Conduct); or

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

(A) ~~(4)~~ Section 43.25 (Sexual Performance by a Child); ~~or~~

(B) Section 20A.02(a)(7) or (8); or

(C) Section 43.05(a)(2) (Compelling Prostitution) ~~(5) an attempt or conspiracy to commit an offense listed in this section]~~.

SECTION 2.09. Subsection (a), Section 3g, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The provisions of Section 3 of this article do not apply:

(1) to a defendant adjudged guilty of an offense under:

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

(B) Section 19.03, Penal Code (Capital murder);

(C) Section 21.11(a)(1), Penal Code (Indecency with a child);

(D) Section 20.04, Penal Code (Aggravated kidnapping);

(E) Section 22.021, Penal Code (Aggravated sexual assault);

(F) Section 29.03, Penal Code (Aggravated robbery);

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

(i) Section 481.140, Health and Safety Code; or

(ii) 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;

(H) Section 22.011, Penal Code (Sexual assault);

(I) Section 22.04(a)(1), Penal Code (Injury to a child, elderly individual, or disabled individual), if the offense is punishable as a felony of the first degree and the victim of the offense is a child;

(J) Section 43.25, Penal Code (Sexual performance by a child); ~~or~~

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

(L) Section 43.05, Penal Code (Compelling prostitution); or

(M) Section 20A.02, Penal Code (Trafficking of persons); or

(2) to a defendant when it is shown that a deadly weapon as defined in Section 1.07, Penal Code, was used or exhibited during the commission of a felony offense or during immediate flight therefrom, and that the defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited. On an affirmative finding under this subdivision, the trial court shall enter the finding in the judgment of the court. On an affirmative finding that the deadly weapon was a firearm, the court shall enter that finding in its judgment.

SECTION 2.10. Subdivision (5), Article 62.001, Code of Criminal Procedure, is amended to read as follows:

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

(A) a violation of Section 21.02 (Continuous sexual abuse of young child or children), 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B) a violation of Section 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(C) a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor committed the offense or engaged in the conduct with intent to violate or abuse the victim sexually;

(D) a violation of Section 30.02 (Burglary), Penal Code, if the offense or conduct is punishable under Subsection (d) of that section and the actor committed the offense or engaged in the conduct with intent to commit a felony listed in Paragraph (A) or (C);

(E) a violation of Section 20.02 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping), Penal Code, if, as applicable:

(i) the judgment in the case contains an affirmative finding under Article 42.015; or

(ii) the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;

(F) the second violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;

(G) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), ~~[(E)]~~, or (K);

(H) a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), (D), (E), (G), ~~[(J)]~~, or (K), but not if the violation results in a deferred adjudication;

(I) the second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense

containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication; ~~[or]~~

(J) a violation of Section 33.021 (Online solicitation of a minor), Penal Code; or

(K) a violation of Section 20A.02(a)(3), (4), (7), or (8) (Trafficking of persons), Penal Code.

SECTION 2.11. Subsection (a), Article 62.101, 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 43.26, Penal Code;

(3) 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;

(4) 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

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

ARTICLE 3. CHANGES RELATING TO CIVIL PRACTICE AND REMEDIES CODE

SECTION 3.01. Subsection (a), Section 16.0045, Civil Practice and Remedies Code, is amended to read as follows:

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

(1) Section 22.011, Penal Code (sexual assault);

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

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

(4) Section 20A.02, Penal Code (trafficking of persons); or

(5) Section 43.05, Penal Code (compelling prostitution).

SECTION 3.02. Subsection (a), Section 125.0015, Civil Practice and Remedies Code, is amended to read as follows:

(a) A person who maintains a place to which persons habitually go for the following purposes and who knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity maintains a common nuisance:

(1) discharge of a firearm in a public place as prohibited by the Penal Code;

(2) reckless discharge of a firearm as prohibited by the Penal Code;

(3) engaging in organized criminal activity as a

member of a combination as prohibited by the Penal Code;

(4) delivery, possession, manufacture, or use of a controlled substance in violation of Chapter 481, Health and Safety Code;

(5) gambling, gambling promotion, or communicating gambling information as prohibited by the Penal Code;

(6) prostitution, promotion of prostitution, or aggravated promotion of prostitution as prohibited by the Penal Code;

(7) compelling prostitution as prohibited by the Penal Code;

(8) commercial manufacture, commercial distribution, or commercial exhibition of obscene material as prohibited by the Penal Code;

(9) aggravated assault as described by Section 22.02, Penal Code;

(10) sexual assault as described by Section 22.011, Penal Code;

(11) aggravated sexual assault as described by Section 22.021, Penal Code;

(12) robbery as described by Section 29.02, Penal Code;

(13) aggravated robbery as described by Section 29.03, Penal Code;

(14) unlawfully carrying a weapon as described by Section 46.02, Penal Code;

(15) murder as described by Section 19.02, Penal Code;

(16) capital murder as described by Section 19.03, Penal Code;

(17) continuous sexual abuse of young child or children as described by Section 21.02, Penal Code; ~~[or]~~

(18) massage therapy or other massage services in violation of Chapter 455, Occupations Code; or

(19) trafficking of persons as described by Section 20A.02, Penal Code.

ARTICLE 4. CHANGES RELATING TO FAMILY CODE, INCLUDING JUVENILE JUSTICE CODE

SECTION 4.01. Subsection (a), Section 54.031, Family Code, is amended to read as follows:

(a) This section applies to a hearing under this title in which a child is alleged to be a delinquent child on the basis of a violation of any of the following provisions of the Penal Code, if a child 12 years of age or younger or a person with a disability is the alleged victim of the violation:

- (1) Chapter 21 (Sexual Offenses) or 22 (Assaultive Offenses);
- (2) Section 25.02 (Prohibited Sexual Conduct); ~~[or]~~
- (3) Section 43.25 (Sexual Performance by a Child);
- (4) Section 20A.02(a)(7) or (8) (Trafficking of Persons); or
- (5) Section 43.05(a)(2) (Compelling Prostitution).

SECTION 4.02. Section 161.001, Family Code, is amended to read as follows:

Sec. 161.001. INVOLUNTARY TERMINATION OF PARENT-CHILD RELATIONSHIP. 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 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 21.11 (indecent with a

child);

(v) Section 22.01 (assault);

(vi) Section 22.011 (sexual assault);

(vii) Section 22.02 (aggravated assault);

(viii) Section 22.021 (aggravated sexual

assault);

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

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

(xi) Section 25.02 (prohibited sexual conduct);

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

(xiii) Section 43.26 (possession or promotion of child pornography); ~~and~~

(xiv) Section 21.02 (continuous sexual abuse of young child or children);

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

(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 or an authorized agency for not less than six months, and:

(i) the department or authorized agency 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, as defined by Section 261.001;

(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; or

(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); or

(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); and

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

SECTION 4.03. Subdivision (1), Section 261.001, Family Code, is amended to read as follows:

(1) "Abuse" includes the following acts or omissions by a person:

(A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

(C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

(D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

(E) sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(F) failure to make a reasonable effort to prevent sexual conduct harmful to a child;

(G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code, including conduct that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code, prostitution under Section 43.02(a)(2), Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;

(H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;

(I) the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;

(J) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code; ~~or~~

(K) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code; or

(L) knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections.

SECTION 4.04. Subsection (b), Section 262.2015, 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 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 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 (indecent 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); ~~[or]~~

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

(N) Section 43.05(a)(2) (compelling prostitution); or

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

(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's parental rights with regard to another child have been involuntarily terminated based on a finding that the parent's conduct violated Section 161.001(1)(D) or (E) or a substantially equivalent provision of another state's law;

(6) 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 Subdivision (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

(7) the parent's parental rights with regard to two other children have been involuntarily terminated.

ARTICLE 5. CHANGES RELATING TO GOVERNMENT CODE

SECTION 5.01. Subsection (b), Section 499.027, 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 Section 3g(a)(2), Article 42.12, 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 (indecent 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, ~~or an~~ 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; ~~or~~
- (Y) Section 21.02 (continuous sexual abuse of young child or children); or
- (Z) Section 20A.02 (trafficking of persons); 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 5.02. Subsection (a), Section 508.149, 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 Section 3g(a)(2), Article 42.12, 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; ~~[or]~~
 (17) a first degree felony under Section 15.03, Penal Code;
(18) an offense under Section 43.05, Penal Code; or
(19) an offense under Section 20A.02, Penal Code.

ARTICLE 6. CHANGES RELATING TO PENAL CODE

SECTION 6.01. Subsection (b), Section 3.03, Penal Code, is amended to read as follows:

(b) If the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of:

- (1) an offense:
 (A) under Section 49.07 or 49.08, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or
 (B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;
- (2) an offense:
 (A) under Section 33.021 or an offense under Section 21.02, 21.11, 22.011, 22.021, 25.02, or 43.25 committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or
 (B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section;
- (3) an offense:
 (A) under Section 21.15 or 43.26, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or
 (B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections; ~~[or]~~
- (4) an offense for which the judgment in the case

contains an affirmative finding under Article 42.0197, Code of Criminal Procedure; or

(5) an offense:

(A) under Section 20A.02 or 43.05, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections.

SECTION 6.02. Subdivision (2), Subsection (c), Section 12.42, Penal Code, is amended to read as follows:

(2) Notwithstanding Subdivision (1), a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life if:

(A) the defendant is convicted of an offense:

(i) under Section 20A.02(a)(7) or (8), 21.11(a)(1), 22.021, or 22.011, Penal Code;
 (ii) 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
 (iii) under Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the defendant committed the offense with the intent to commit a felony described by Subparagraph (i) or (ii) or a felony under Section 21.11, Penal Code; and

(B) the defendant has been previously convicted of an offense:

(i) under Section 43.25 or 43.26, Penal Code, or an offense under Section 43.23, Penal Code, punishable under Subsection (h) of that section;
 (ii) under Section 20A.02(a)(7) or (8), 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;
 (iii) under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually;
 (iv) under Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the defendant committed the offense with the intent to commit a felony described by Subparagraph (ii) or (iii); or
 (v) under the laws of another state containing elements that are substantially similar to the elements of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

SECTION 6.03. Subsection (b), Section 15.031, Penal Code, is amended to read as follows:

(b) A person commits an offense if, with intent that an offense under Section 20A.02(a)(7) or (8), 21.02, 21.11, 22.011, 22.021, 43.02, 43.05(a)(2), or 43.25 be committed, the person by any means requests, commands, or attempts to induce a minor or another whom the person believes to be a minor to engage in specific conduct that, under the circumstances surrounding the actor's conduct as the actor believes them to be, would constitute an offense under one of those sections or would make the minor or other believed by the person to be a minor a party to the commission of an offense under one of those sections.

SECTION 6.04. Subsection (c), Section 21.02, Penal Code, is amended to read as follows:

(c) For purposes of this section, "act of sexual abuse" means any act that is a violation of one or more of the following penal laws:

(1) aggravated kidnapping under Section 20.04(a)(4), if the actor committed the offense with the intent to violate or

abuse the victim sexually;

(2) indecency with a child under Section 21.11(a)(1), if the actor committed the offense in a manner other than by touching, including touching through clothing, the breast of a child;

(3) sexual assault under Section 22.011;

(4) aggravated sexual assault under Section 22.021;

(5) burglary under Section 30.02, if the offense is punishable under Subsection (d) of that section and the actor committed the offense with the intent to commit an offense listed in Subdivisions (1)-(4); ~~and~~

(6) sexual performance by a child under Section 43.25;

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

(8) compelling prostitution under Section 43.05(a)(2).

SECTION 6.05. Subsection (a), Section 22.021, Penal Code, is amended to read as follows:

(a) A person commits an offense:

(1) if the person:

(A) intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

(ii) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

(iii) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(B) intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of a child by any means;

(ii) causes the penetration of the mouth of a child by the sexual organ of the actor;

(iii) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

(iv) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

(v) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor; and

(2) if:

(A) the person:

(i) causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode;

(ii) by acts or words places the victim in fear that any person will become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or that death, serious bodily injury, or kidnapping will be imminently inflicted on any person;

(iii) by acts or words occurring in the presence of the victim threatens to cause any person to become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or to cause the death, serious bodily injury, or kidnapping of any person;

(iv) uses or exhibits a deadly weapon in the course of the same criminal episode;

(v) acts in concert with another who engages in conduct described by Subdivision (1) directed toward the

same victim and occurring during the course of the same criminal episode; or

(vi) administers or provides flunitrazepam, otherwise known as rohypnol, gamma hydroxybutyrate, or ketamine to the victim of the offense with the intent of facilitating the commission of the offense;

(B) the victim is younger than 14 years of age; or

(C) the victim is an elderly individual or a disabled individual.

ARTICLE 7. TRANSITION; EFFECTIVE DATE

SECTION 7.01. 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 7.02. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 24 passed the Senate on March 23, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 24 passed the House on April 7, 2011, by the following vote: Yeas 144, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor