

By: Van de Putte

S.B. No. 98

A BILL TO BE ENTITLED

AN ACT

relating to the trafficking of persons.

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

ARTICLE 1. PROSECUTION AND PUNISHMENT OF TRAFFICKING OF PERSONS

SECTION 1.01. Section 20A.01, Penal Code, is amended by amending Subdivision (1) and adding Subdivision (3) to read as follows:

(1) "Forced labor or services" means labor or services, including conduct that constitutes an offense under Section 43.02, 43.03, 43.04, 43.05, or 43.25 [~~43.02~~], that are performed or provided by another person and obtained through an actor's use of force, threat, 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~~

1 ~~purported:~~

2 ~~[(i) government records,~~

3 ~~[(ii) identifying information, or~~

4 ~~[(iii) personal property,~~

5 ~~[(D) threatening the person with abuse of the law~~

6 ~~or the legal process in relation to the person or another person,~~

7 ~~[(E) threatening to report the person or another~~

8 ~~person to immigration officials or other law enforcement officials~~

9 ~~or otherwise blackmailing or extorting the person or another~~

10 ~~person,~~

11 ~~[(F) exerting financial control over the person~~

12 ~~or another person by placing the person or another person under the~~

13 ~~actor's control as security for a debt to the extent that:~~

14 ~~[(i) the value of the services provided by~~

15 ~~the person or another person as reasonably assessed is not applied~~

16 ~~toward the liquidation of the debt,~~

17 ~~[(ii) the duration of the services provided~~

18 ~~by the person or another person is not limited and the nature of the~~

19 ~~services provided by the person or another person is not defined, or~~

20 ~~[(iii) the principal amount of the debt~~

21 ~~does not reasonably reflect the value of the items or services for~~

22 ~~which the debt was incurred, or~~

23 ~~[(G) using any scheme, plan, or pattern intended~~

24 ~~to cause the person to believe that the person or another person~~

25 ~~will be subjected to serious harm or restraint if the person does~~

26 ~~not perform or provide the labor or services].~~

27 (3) "Child" means a person younger than 17 years of

1 age.

2 SECTION 1.02. Section 20A.02(b), Penal Code, is amended to
3 read as follows:

4 (b) An [~~Except as otherwise provided by this subsection, an~~]
5 offense under this section is a felony of the second degree, except
6 that the offense [~~. An offense under this section~~] is a felony of
7 the first degree if [~~+~~

8 [~~(1) the applicable conduct constitutes an offense~~
9 ~~under Section 43.05 or 43.25 and the person who is trafficked is a~~
10 ~~child younger than 18 years of age at the time of the offense,~~
11 ~~regardless of whether the actor knows the age of the child at the~~
12 ~~time the actor commits the offense; or~~

13 [~~(2)~~] the commission of the offense results in the
14 death of the person who is trafficked.

15 SECTION 1.03. Chapter 20A, Penal Code, is amended by adding
16 Sections 20A.03 and 20A.04 to read as follows:

17 Sec. 20A.03. TRAFFICKING OF CHILD IN FURTHERANCE OF SEXUAL
18 CONDUCT OR PERFORMANCE. (a) A person commits an offense if the
19 person:

20 (1) knowingly traffics a child, regardless of whether
21 the actor knows that the person who is trafficked is a child at the
22 time the actor commits the offense, with the intent or knowledge
23 that the child will engage in conduct that is prohibited by Section
24 43.02, 43.03, 43.04, 43.05, or 43.25; or

25 (2) receives a benefit from participating in a venture
26 that involves an activity described by Subdivision (1).

27 (b) An offense under this section is a felony of the first

1 degree.

2 (c) If conduct constituting an offense under this section
3 also constitutes an offense under another section of this code
4 other than Section 20A.04, the actor may be prosecuted under either
5 section or under both sections.

6 Sec. 20A.04. CONTINUOUS TRAFFICKING OF PERSONS. (a) A
7 person commits an offense if, during a period that is 30 or more
8 days in duration, the person engages two or more times in conduct
9 that constitutes an offense under Section 20A.02 or 20A.03.

10 (b) If a jury is the trier of fact, members of the jury are
11 not required to agree unanimously on which specific conduct engaged
12 in by the defendant constituted an offense under Section 20A.02 or
13 20A.03 or on which exact date the defendant engaged in that conduct.
14 The jury must agree unanimously that the defendant, during a period
15 that is 30 or more days in duration, engaged in conduct that
16 constituted an offense under Section 20A.02 or 20A.03.

17 (c) If the victim of an offense under Subsection (a) is the
18 same victim as a victim of an offense under Section 20A.02 or
19 20A.03, a defendant may not be convicted of the offense under
20 Section 20A.02 or 20A.03 in the same criminal action as the offense
21 under Subsection (a), unless the offense under Section 20A.02 or
22 20A.03:

23 (1) is charged in the alternative;

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

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

1 (d) A defendant may not be charged with more than one count
2 under Subsection (a) if all of the conduct that constitutes an
3 offense under Section 20A.02 or 20A.03 is alleged to have been
4 committed against the same victim.

5 (e) An offense under this section is a felony of the first
6 degree, punishable by imprisonment in the Texas Department of
7 Criminal Justice for life or for any term of not more than 99 years
8 or less than 25 years.

9 SECTION 1.04. Section 3.03(b), Penal Code, is amended to
10 read as follows:

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

15 (1) an offense:

16 (A) under Section 49.07 or 49.08, regardless of
17 whether the accused is convicted of violations of the same section
18 more than once or is convicted of violations of both sections; or

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

24 (2) an offense:

25 (A) under Section 33.021 or an offense under
26 Section 21.02, 21.11, 22.011, 22.021, 25.02, or 43.25 committed
27 against a victim younger than 17 years of age at the time of the

1 commission of the offense regardless of whether the accused is
2 convicted of violations of the same section more than once or is
3 convicted of violations of more than one section; or

4 (B) for which a plea agreement was reached in a
5 case in which the accused was charged with more than one offense
6 listed in Paragraph (A) committed against a victim younger than 17
7 years of age at the time of the commission of the offense regardless
8 of whether the accused is charged with violations of the same
9 section more than once or is charged with violations of more than
10 one section;

11 (3) an offense:

12 (A) under Section 21.15 or 43.26, regardless of
13 whether the accused is convicted of violations of the same section
14 more than once or is convicted of violations of both sections; or

15 (B) for which a plea agreement was reached in a
16 case in which the accused was charged with more than one offense
17 listed in Paragraph (A), regardless of whether the accused is
18 charged with violations of the same section more than once or is
19 charged with violations of both sections; [~~or~~]

20 (4) an offense for which the judgment in the case
21 contains an affirmative finding under Article 42.0197, Code of
22 Criminal Procedure; or

23 (5) an offense:

24 (A) under Section 20A.02, 20A.03, or 20A.04,
25 regardless of whether the accused is convicted of violations of the
26 same section more than once or is convicted of violations of two or
27 more sections; or

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

6 SECTION 1.05. Section 16.0045(a), Civil Practice and
7 Remedies Code, is amended to read as follows:

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

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

12 (2) Section 22.021, Penal Code (aggravated sexual
13 assault); ~~or~~

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

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

18 (5) Section 20A.03, Penal Code (trafficking of child
19 in furtherance of sexual conduct or performance); or

20 (6) Section 20A.04, Penal Code (continuous
21 trafficking of persons).

22 SECTION 1.06. Article 62.001(5), Code of Criminal
23 Procedure, is amended to read as follows:

24 (5) "Reportable conviction or adjudication" means a
25 conviction or adjudication, including an adjudication of
26 delinquent conduct or a deferred adjudication, that, regardless of
27 the pendency of an appeal, is a conviction for or an adjudication

1 for or based on:

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

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

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

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

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

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

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

26 (F) the second violation of Section 21.08
27 (Indecent exposure), Penal Code, but not if the second violation

1 results in a deferred adjudication;

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

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

12 (I) the second violation of the laws of another
13 state, federal law, the laws of a foreign country, or the Uniform
14 Code of Military Justice for or based on the violation of an offense
15 containing elements that are substantially similar to the elements
16 of the offense of indecent exposure, but not if the second violation
17 results in a deferred adjudication; [~~or~~]

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

20 (K) a violation of Section 20A.03 (Trafficking of
21 child in furtherance of sexual conduct or performance), Penal Code;
22 or

23 (L) a violation of Section 20A.02 (Trafficking of
24 persons) or 20A.04 (Continuous trafficking of persons), Penal Code,
25 if the actor committed the offense with the intent or knowledge that
26 the victim would engage in conduct that constitutes an offense
27 under or is prohibited by Section 43.02, 43.03, 43.04, 43.05, or

1 43.25, Penal Code.

2 SECTION 1.07. Section 508.145(d), Government Code, is
3 amended to read as follows:

4 (d) An inmate serving a sentence for an offense described by
5 Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), or (K),
6 Article 42.12, Code of Criminal Procedure, or for an offense for
7 which the judgment contains an affirmative finding under Section
8 3g(a)(2) of that article, or for an offense under Section 20A.04,
9 Penal Code, is not eligible for release on parole until the inmate's
10 actual calendar time served, without consideration of good conduct
11 time, equals one-half of the sentence or 30 calendar years,
12 whichever is less, but in no event is the inmate eligible for
13 release on parole in less than two calendar years.

14 SECTION 1.08. Section 508.149(a), Government Code, is
15 amended to read as follows:

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

19 (1) an offense for which the judgment contains an
20 affirmative finding under Section 3g(a)(2), Article 42.12, Code of
21 Criminal Procedure;

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

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

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

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

- 1 (6) a felony under Section 22.011, Penal Code;
- 2 (7) a first degree felony or a second degree felony
- 3 under Section 22.02, Penal Code;
- 4 (8) a first degree felony under Section 22.021, Penal
- 5 Code;
- 6 (9) a first degree felony under Section 22.04, Penal
- 7 Code;
- 8 (10) a first degree felony under Section 28.02, Penal
- 9 Code;
- 10 (11) a second degree felony under Section 29.02, Penal
- 11 Code;
- 12 (12) a first degree felony under Section 29.03, Penal
- 13 Code;
- 14 (13) a first degree felony under Section 30.02, Penal
- 15 Code;
- 16 (14) a felony for which the punishment is increased
- 17 under Section 481.134 or Section 481.140, Health and Safety Code;
- 18 (15) an offense under Section 43.25, Penal Code;
- 19 (16) an offense under Section 21.02, Penal Code; ~~or~~
- 20 (17) a first degree felony under Section 15.03, Penal
- 21 Code; or
- 22 (18) an offense under Section 20A.04, Penal Code.

ARTICLE 2. CONFORMING AMENDMENTS

SECTION 2.01. Section 33.013(b), Civil Practice and Remedies Code, is amended to read as follows:

(b) Notwithstanding Subsection (a), each liable defendant is, in addition to his liability under Subsection (a), jointly and

1 severally liable for the damages recoverable by the claimant under
2 Section 33.012 with respect to a cause of action if:

3 (1) the percentage of responsibility attributed to the
4 defendant with respect to a cause of action is greater than 50
5 percent; or

6 (2) the defendant, with the specific intent to do harm
7 to others, acted in concert with another person to engage in the
8 conduct described in the following provisions of the Penal Code and
9 in so doing proximately caused the damages legally recoverable by
10 the claimant:

11 (A) Section 19.02 (murder);

12 (B) Section 19.03 (capital murder);

13 (C) Section 20.04 (aggravated kidnapping);

14 (D) Section 22.02 (aggravated assault);

15 (E) Section 22.011 (sexual assault);

16 (F) Section 22.021 (aggravated sexual assault);

17 (G) Section 22.04 (injury to a child, elderly
18 individual, or disabled individual);

19 (H) Section 32.21 (forgery);

20 (I) Section 32.43 (commercial bribery);

21 (J) Section 32.45 (misapplication of fiduciary
22 property or property of financial institution);

23 (K) Section 32.46 (securing execution of
24 document by deception);

25 (L) Section 32.47 (fraudulent destruction,
26 removal, or concealment of writing);

27 (M) conduct described in Chapter 31 the

1 punishment level for which is a felony of the third degree or
2 higher; ~~[or]~~

3 (N) Section 21.02 (continuous sexual abuse of
4 young child or children);

5 (O) Section 20A.03 (trafficking of child in
6 furtherance of sexual conduct or performance); or

7 (P) Section 20A.04 (continuous trafficking of
8 persons).

9 SECTION 2.02. Section 125.0015(a), Civil Practice and
10 Remedies Code, is amended to read as follows:

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

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

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

19 (3) engaging in organized criminal activity as a
20 member of a combination as prohibited by the Penal Code;

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

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

26 (6) prostitution, promotion of prostitution, or
27 aggravated promotion of prostitution as prohibited by the Penal

1 Code;
2 (7) compelling prostitution as prohibited by the Penal
3 Code;
4 (8) commercial manufacture, commercial distribution,
5 or commercial exhibition of obscene material as prohibited by the
6 Penal Code;
7 (9) aggravated assault as described by Section 22.02,
8 Penal Code;
9 (10) sexual assault as described by Section 22.011,
10 Penal Code;
11 (11) aggravated sexual assault as described by Section
12 22.021, Penal Code;
13 (12) robbery as described by Section 29.02, Penal
14 Code;
15 (13) aggravated robbery as described by Section 29.03,
16 Penal Code;
17 (14) unlawfully carrying a weapon as described by
18 Section 46.02, Penal Code;
19 (15) murder as described by Section 19.02, Penal Code;
20 (16) capital murder as described by Section 19.03,
21 Penal Code;
22 (17) continuous sexual abuse of young child or
23 children as described by Section 21.02, Penal Code; ~~or~~
24 (18) massage therapy or other massage services in
25 violation of Chapter 455, Occupations Code; or
26 (19) continuous trafficking of persons as described by
27 Section 20A.04, Penal Code.

1 SECTION 2.03. The heading to Chapter 7A, Code of Criminal
2 Procedure, is amended to read as follows:

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

5 SECTION 2.04. Article 7A.01(a), Code of Criminal Procedure,
6 is amended to read as follows:

7 (a) A person who is the victim of an offense under Section
8 20A.03, 20A.04, 21.02, 21.11, 22.011, or 22.021, Penal Code, a
9 parent or guardian acting on behalf of a person younger than 17
10 years of age who is the victim of such an offense, or a prosecuting
11 attorney acting on behalf of the person may file an application for
12 a protective order under this chapter without regard to the
13 relationship between the applicant and the alleged offender.

14 SECTION 2.05. Article 12.01, Code of Criminal Procedure, is
15 amended to read as follows:

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

19 (1) no limitation:

20 (A) murder and manslaughter;

21 (B) sexual assault under Section 22.011(a)(2),
22 Penal Code, or aggravated sexual assault under Section
23 22.021(a)(1)(B), Penal Code;

24 (C) sexual assault, if during the investigation
25 of the offense biological matter is collected and subjected to
26 forensic DNA testing and the testing results show that the matter
27 does not match the victim or any other person whose identity is

1 readily ascertained;

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

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

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

9 (G) continuous trafficking of persons under
10 Section 20A.04, Penal Code;

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

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

17 (B) theft by a public servant of government
18 property over which he exercises control in his official capacity;

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

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

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

26 (F) arson;

27 (3) seven years from the date of the commission of the

1 offense:

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

4 (B) securing execution of document by deception;

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

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

9 (E) money laundering;

10 (F) credit card or debit card abuse under Section
11 32.31, Penal Code; or

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

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

16 (A) theft or robbery;

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

19 (C) injury to an elderly or disabled individual
20 that is not punishable as a felony of the first degree under Section
21 22.04, Penal Code;

22 (D) abandoning or endangering a child; or

23 (E) insurance fraud;

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

1 (A) sexual performance by a child under Section
2 43.25, Penal Code;

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

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

11 (D) trafficking of child in furtherance of sexual
12 conduct or performance under Section 20A.03, Penal Code;

13 (6) ten years from the 18th birthday of the victim of
14 the offense: injury to a child under Section 22.04, Penal Code; or

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

17 SECTION 2.06. Article 17.03(b), Code of Criminal Procedure,
18 is amended to read as follows:

19 (b) Only the court before whom the case is pending may
20 release on personal bond a defendant who:

21 (1) is charged with an offense under the following
22 sections of the Penal Code:

23 (A) Section 19.03 (Capital Murder);

24 (B) Section 20.04 (Aggravated Kidnapping);

25 (C) Section 22.021 (Aggravated Sexual Assault);

26 (D) Section 22.03 (Deadly Assault on Law
27 Enforcement or Corrections Officer, Member or Employee of Board of

1 Pardons and Paroles, or Court Participant);

2 (E) Section 22.04 (Injury to a Child, Elderly
3 Individual, or Disabled Individual);

4 (F) Section 29.03 (Aggravated Robbery);

5 (G) Section 30.02 (Burglary);

6 (H) Section 71.02 (Engaging in Organized
7 Criminal Activity); ~~[or]~~

8 (I) Section 21.02 (Continuous Sexual Abuse of
9 Young Child or Children);

10 (J) Section 20A.03 (Trafficking of Child in
11 Furtherance of Sexual Conduct or Performance); or

12 (K) Section 20A.04 (Continuous Trafficking of
13 Persons);

14 (2) is charged with a felony under Chapter 481, Health
15 and Safety Code, or Section 485.033, Health and Safety Code,
16 punishable by imprisonment for a minimum term or by a maximum fine
17 that is more than a minimum term or maximum fine for a first degree
18 felony; or

19 (3) does not submit to testing for the presence of a
20 controlled substance in the defendant's body as requested by the
21 court or magistrate under Subsection (c) of this article or submits
22 to testing and the test shows evidence of the presence of a
23 controlled substance in the defendant's body.

24 SECTION 2.07. Article 17.032(a), Code of Criminal
25 Procedure, is amended to read as follows:

26 (a) In this article, "violent offense" means an offense
27 under the following sections of the Penal Code:

- 1 (1) Section 19.02 (murder);
- 2 (2) Section 19.03 (capital murder);
- 3 (3) Section 20.03 (kidnapping);
- 4 (4) Section 20.04 (aggravated kidnapping);
- 5 (5) Section 21.11 (indecent with a child);
- 6 (6) Section 22.01(a)(1) (assault);
- 7 (7) Section 22.011 (sexual assault);
- 8 (8) Section 22.02 (aggravated assault);
- 9 (9) Section 22.021 (aggravated sexual assault);
- 10 (10) Section 22.04 (injury to a child, elderly
- 11 individual, or disabled individual);
- 12 (11) Section 29.03 (aggravated robbery); [~~or~~]
- 13 (12) Section 21.02 (continuous sexual abuse of young
- 14 child or children); or
- 15 (13) Section 20A.04 (continuous trafficking of
- 16 persons).

17 SECTION 2.08. Article 17.091, Code of Criminal Procedure,
18 is amended to read as follows:

19 Art. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS REQUIRED.
20 Before a judge or magistrate reduces the amount of bail set for a
21 defendant charged with an offense listed in Section 3g, Article
22 42.12, [~~or~~] an offense described by Article 62.001(5), or an
23 offense under Section 20A.04, Penal Code, the judge or magistrate
24 shall provide:

- 25 (1) to the attorney representing the state, reasonable
- 26 notice of the proposed bail reduction; and
- 27 (2) on request of the attorney representing the state

1 or the defendant or the defendant's counsel, an opportunity for a
2 hearing concerning the proposed bail reduction.

3 SECTION 2.09. Article 18.021(a), Code of Criminal
4 Procedure, is amended to read as follows:

5 (a) A search warrant may be issued to search for and
6 photograph a child who is alleged to be the victim of the offenses
7 of injury to a child as prohibited by Section 22.04, Penal Code;
8 sexual assault of a child as prohibited by Section 22.011(a), Penal
9 Code; aggravated sexual assault of a child as prohibited by Section
10 22.021, Penal Code; ~~or~~ continuous sexual abuse of young child or
11 children as prohibited by Section 21.02, Penal Code; or trafficking
12 of child in furtherance of sexual conduct or performance as
13 prohibited by Section 20A.03, Penal Code.

14 SECTION 2.10. Section 4(a), Article 37.07, Code of Criminal
15 Procedure, is amended to read as follows:

16 (a) In the penalty phase of the trial of a felony case in
17 which the punishment is to be assessed by the jury rather than the
18 court, if the offense of which the jury has found the defendant
19 guilty is an offense under Section 20A.04, Penal Code, or an offense
20 listed in Section 3g(a)(1), Article 42.12, of this code or if the
21 judgment contains an affirmative finding under Section 3g(a)(2),
22 Article 42.12, of this code, unless the defendant has been
23 convicted of an offense under Section 21.02, Penal Code, an offense
24 under Section 22.021, Penal Code, that is punishable under
25 Subsection (f) of that section, or a capital felony, the court shall
26 charge the jury in writing as follows:

27 "Under the law applicable in this case, the defendant, if

1 sentenced to a term of imprisonment, may earn time off the period of
2 incarceration imposed through the award of good conduct
3 time. Prison authorities may award good conduct time to a prisoner
4 who exhibits good behavior, diligence in carrying out prison work
5 assignments, and attempts at rehabilitation. If a prisoner engages
6 in misconduct, prison authorities may also take away all or part of
7 any good conduct time earned by the prisoner.

8 "It is also possible that the length of time for which the
9 defendant will be imprisoned might be reduced by the award of
10 parole.

11 "Under the law applicable in this case, if the defendant is
12 sentenced to a term of imprisonment, he will not become eligible for
13 parole until the actual time served equals one-half of the sentence
14 imposed or 30 years, whichever is less, without consideration of
15 any good conduct time he may earn. If the defendant is sentenced to
16 a term of less than four years, he must serve at least two years
17 before he is eligible for parole. Eligibility for parole does not
18 guarantee that parole will be granted.

19 "It cannot accurately be predicted how the parole law and
20 good conduct time might be applied to this defendant if he is
21 sentenced to a term of imprisonment, because the application of
22 these laws will depend on decisions made by prison and parole
23 authorities.

24 "You may consider the existence of the parole law and good
25 conduct time. However, you are not to consider the extent to which
26 good conduct time may be awarded to or forfeited by this particular
27 defendant. You are not to consider the manner in which the parole

1 law may be applied to this particular defendant."

2 SECTION 2.11. Section 1, Article 38.071, Code of Criminal
3 Procedure, is amended to read as follows:

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

- 9 (1) Section 19.02 (Murder);
- 10 (2) Section 19.03 (Capital Murder);
- 11 (3) Section 19.04 (Manslaughter);
- 12 (4) Section 20.04 (Aggravated Kidnapping);
- 13 (5) Section 21.11 (Indecency with a Child);
- 14 (6) Section 22.011 (Sexual Assault);
- 15 (7) Section 22.02 (Aggravated Assault);
- 16 (8) Section 22.021 (Aggravated Sexual Assault);
- 17 (9) Section 22.04(e) (Injury to a Child, Elderly
18 Individual, or Disabled Individual);
- 19 (10) Section 22.04(f) (Injury to a Child, Elderly
20 Individual, or Disabled Individual), if the conduct is committed
21 intentionally or knowingly;
- 22 (11) Section 25.02 (Prohibited Sexual Conduct);
- 23 (12) Section 29.03 (Aggravated Robbery);
- 24 (13) Section 43.25 (Sexual Performance by a Child);
- 25 [~~or~~]
- 26 (14) Section 21.02 (Continuous Sexual Abuse of Young
27 Child or Children);

1 (15) Section 20A.03 (Trafficking of Child in
2 Furtherance of Sexual Conduct or Performance); or
3 (16) Section 20A.04 (Continuous Trafficking of
4 Persons).

5 SECTION 2.12. Section 5(d), Article 42.12, Code of Criminal
6 Procedure, is amended to read as follows:

7 (d) In all other cases the judge may grant deferred
8 adjudication unless:

9 (1) the defendant is charged with an offense:

10 (A) under Sections 49.04-49.08, Penal Code; or

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

16 (2) the defendant:

17 (A) is charged with an offense under Section
18 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
19 victim, or a felony described by Section 13B(b) of this article; and

20 (B) has previously been placed on community
21 supervision for any offense under Paragraph (A) of this
22 subdivision; or

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

24 (A) Section 20A.04 or 21.02, Penal Code; or

25 (B) Section 22.021, Penal Code, that is
26 punishable under Subsection (f) of that section or under Section
27 12.42(c)(3), Penal Code.

1 SECTION 2.13. Article 62.101(a), Code of Criminal
2 Procedure, is amended to read as follows:

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

7 (1) a sexually violent offense;

8 (2) an offense under Section 25.02, 43.05(a)(2), or
9 43.26, Penal Code;

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

16 (4) an offense under Section 20.02, 20.03, or 20.04,
17 Penal Code, if:

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

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

1 registration under this chapter; [~~or~~]

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

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

5 (7) an offense under Section 20A.02 or 20A.04, Penal
6 Code, if the actor committed the offense with the intent or
7 knowledge that the victim would engage in conduct that constitutes
8 an offense under or is prohibited by Section 43.02, 43.03, 43.04,
9 43.05, or 43.25, Penal Code.

10 SECTION 2.14. Section 33.009, Family Code, is amended to
11 read as follows:

12 Sec. 33.009. OTHER REPORTS OF SEXUAL ABUSE OF A MINOR. A
13 court or the guardian ad litem or attorney ad litem for the minor
14 shall report conduct reasonably believed to violate Section 20A.03,
15 21.02, 22.011, 22.021, or 25.02, Penal Code, based on information
16 obtained during a confidential court proceeding held under this
17 chapter to:

18 (1) any local or state law enforcement agency;

19 (2) the Department of Family and Protective Services,
20 if the alleged conduct involves a person responsible for the care,
21 custody, or welfare of the child;

22 (3) the state agency that operates, licenses,
23 certifies, or registers the facility in which the alleged conduct
24 occurred, if the alleged conduct occurred in a facility operated,
25 licensed, certified, or registered by a state agency; or

26 (4) an appropriate agency designated by the court.

27 SECTION 2.15. Section 33.010, Family Code, is amended to

1 read as follows:

2 Sec. 33.010. CONFIDENTIALITY. Notwithstanding any other
3 law, information obtained by the Department of Family and
4 Protective Services or another entity under Section 33.008 or
5 33.009 is confidential except to the extent necessary to prove a
6 violation of Section 20A.03, 21.02, 22.011, 22.021, or 25.02, Penal
7 Code.

8 SECTION 2.16. Section 261.001(1), Family Code, is amended
9 to read as follows:

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

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

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

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

26 (D) failure to make a reasonable effort to
27 prevent an action by another person that results in physical injury

1 that results in substantial harm to the child;

2 (E) sexual conduct harmful to a child's mental,
3 emotional, or physical welfare, including conduct that constitutes
4 the offense of continuous sexual abuse of young child or children
5 under Section 21.02, Penal Code, indecency with a child under
6 Section 21.11, Penal Code, sexual assault under Section 22.011,
7 Penal Code, [~~or~~] aggravated sexual assault under Section 22.021,
8 Penal Code, or trafficking of child in furtherance of sexual
9 conduct or performance under Section 20A.03, Penal Code;

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

12 (G) compelling or encouraging the child to engage
13 in sexual conduct as defined by Section 43.01, Penal Code;

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

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

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

26 (K) causing, permitting, encouraging, engaging
27 in, or allowing a sexual performance by a child as defined by

1 Section 43.25, Penal Code.

2 SECTION 2.17. Section 23.101(a), Government Code, is
3 amended to read as follows:

4 (a) The trial courts of this state shall regularly and
5 frequently set hearings and trials of pending matters, giving
6 preference to hearings and trials of the following:

7 (1) temporary injunctions;

8 (2) criminal actions, with the following actions given
9 preference over other criminal actions:

10 (A) criminal actions against defendants who are
11 detained in jail pending trial;

12 (B) criminal actions involving a charge that a
13 person committed an act of family violence, as defined by Section
14 71.004, Family Code;

15 (C) an offense under:

16 (i) Section 21.02 or 21.11, Penal Code;

17 (ii) Chapter 22, Penal Code, if the victim
18 of the alleged offense is younger than 17 years of age;

19 (iii) Section 25.02, Penal Code, if the
20 victim of the alleged offense is younger than 17 years of age;

21 (iv) Section 25.06, Penal Code; ~~or~~

22 (v) Section 43.25, Penal Code; or

23 (vi) Section 20A.03 or 20A.04, Penal Code;

24 and

25 (D) an offense described by Article 62.001(6)(C)
26 or (D), Code of Criminal Procedure;

27 (3) election contests and suits under the Election

1 Code;

2 (4) orders for the protection of the family under
3 Subtitle B, Title 4, Family Code;

4 (5) appeals of final rulings and decisions of the
5 division of workers' compensation of the Texas Department of
6 Insurance regarding workers' compensation claims and claims under
7 the Federal Employers' Liability Act and the Jones Act;

8 (6) appeals of final orders of the commissioner of the
9 General Land Office under Section 51.3021, Natural Resources Code;

10 (7) actions in which the claimant has been diagnosed
11 with malignant mesothelioma, other malignant asbestos-related
12 cancer, malignant silica-related cancer, or acute silicosis; and

13 (8) appeals brought under Section 42.01 or 42.015, Tax
14 Code, of orders of appraisal review boards of appraisal districts
15 established for counties with a population of less than 175,000.

16 SECTION 2.18. Section 411.1471(a), Government Code, is
17 amended to read as follows:

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

19 (1) indicted or waives indictment for a felony
20 prohibited or punishable under any of the following Penal Code
21 sections:

22 (A) Section 20.04(a)(4);

23 (B) Section 21.11;

24 (C) Section 22.011;

25 (D) Section 22.021;

26 (E) Section 25.02;

27 (F) Section 30.02(d);

- 1 (G) Section 43.05;
- 2 (H) Section 43.25;
- 3 (I) Section 43.26; [~~or~~]
- 4 (J) Section 21.02;
- 5 (K) Section 20A.03; or
- 6 (L) Section 20A.04;

7 (2) arrested for a felony described by Subdivision (1)
8 after having been previously convicted of or placed on deferred
9 adjudication for an offense described by Subdivision (1) or an
10 offense punishable under Section 30.02(c)(2), Penal Code; or

11 (3) convicted of an offense under Section 21.07 or
12 21.08, Penal Code.

13 SECTION 2.19. Section 499.027(b), Government Code, is
14 amended to read as follows:

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

17 (1) the inmate is awaiting transfer to the
18 institutional division, or serving a sentence, for an offense for
19 which the judgment contains an affirmative finding under Section
20 3g(a)(2), Article 42.12, Code of Criminal Procedure;

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

- 24 (A) Section 19.02 (murder);
- 25 (B) Section 19.03 (capital murder);
- 26 (C) Section 19.04 (manslaughter);
- 27 (D) Section 20.03 (kidnapping);

- 1 (E) Section 20.04 (aggravated kidnapping);
2 (F) Section 21.11 (indecenty with a child);
3 (G) Section 22.011 (sexual assault);
4 (H) Section 22.02 (aggravated assault);
5 (I) Section 22.021 (aggravated sexual assault);
6 (J) Section 22.04 (injury to a child or an
7 elderly individual);
8 (K) Section 25.02 (prohibited sexual conduct);
9 (L) Section 25.08 (sale or purchase of a child);
10 (M) Section 28.02 (arson);
11 (N) Section 29.02 (robbery);
12 (O) Section 29.03 (aggravated robbery);
13 (P) Section 30.02 (burglary), if the offense is
14 punished as a first-degree felony under that section;
15 (Q) Section 43.04 (aggravated promotion of
16 prostitution);
17 (R) Section 43.05 (compelling prostitution);
18 (S) Section 43.24 (sale, distribution, or
19 display of harmful material to minor);
20 (T) Section 43.25 (sexual performance by a
21 child);
22 (U) Section 46.10 (deadly weapon in penal
23 institution);
24 (V) Section 15.01 (criminal attempt), if the
25 offense attempted is listed in this subsection;
26 (W) Section 15.02 (criminal conspiracy), if the
27 offense that is the subject of the conspiracy is listed in this

1 subsection;

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

4 (Y) Section 21.02 (continuous sexual abuse of
5 young child or children);

6 (Z) Section 20A.03 (trafficking of child in
7 furtherance of sexual conduct or performance); or

8 (AA) Section 20A.04 (continuous trafficking of
9 persons); or

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

15 SECTION 2.20. Section 508.046, Government Code, is amended
16 to read as follows:

17 Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on
18 parole an inmate who was convicted of an offense under Section
19 20A.04, 21.02, 21.11(a)(1), or 22.021, Penal Code, or who is
20 required under Section 508.145(c) to serve 35 calendar years before
21 becoming eligible for release on parole, all members of the board
22 must vote on the release on parole of the inmate, and at least
23 two-thirds of the members must vote in favor of the release on
24 parole. A member of the board may not vote on the release unless the
25 member first receives a copy of a written report from the department
26 on the probability that the inmate would commit an offense after
27 being released on parole.

1 SECTION 2.21. Section 508.151(a), Government Code, is
2 amended to read as follows:

3 (a) For the purpose of diverting inmates to halfway houses
4 under Section 508.118, a parole panel, after reviewing all
5 available pertinent information, may designate a presumptive
6 parole date for an inmate who:

7 (1) has never been convicted of an offense listed
8 under Section 3g(a)(1), Article 42.12, Code of Criminal Procedure,
9 or an offense under Section 20A.04 or 21.02, Penal Code; and

10 (2) has never had a conviction with a judgment that
11 contains an affirmative finding under Section 3g(a)(2), Article
12 42.12, Code of Criminal Procedure.

13 SECTION 2.22. Section 12.35(c), Penal Code, is amended to
14 read as follows:

15 (c) An individual adjudged guilty of a state jail felony
16 shall be punished for a third degree felony if it is shown on the
17 trial of the offense that:

18 (1) a deadly weapon as defined by Section 1.07 was used
19 or exhibited during the commission of the offense or during
20 immediate flight following the commission of the offense, and that
21 the individual used or exhibited the deadly weapon or was a party to
22 the offense and knew that a deadly weapon would be used or
23 exhibited; or

24 (2) the individual has previously been finally
25 convicted of any felony:

26 (A) under Section 20A.04 or 21.02 or listed in
27 Section 3g(a)(1), Article 42.12, Code of Criminal Procedure; or

1 (B) for which the judgment contains an
2 affirmative finding under Section 3g(a)(2), Article 42.12, Code of
3 Criminal Procedure.

4 SECTION 2.23. Section 12.42(c)(2), Penal Code, is amended
5 to read as follows:

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

9 (A) the defendant is convicted of an offense:

10 (i) under Section 20A.04, 21.11(a)(1),
11 22.021, or 22.011, Penal Code;

12 (ii) under Section 20.04(a)(4), Penal Code,
13 if the defendant committed the offense with the intent to violate or
14 abuse the victim sexually; or

15 (iii) under Section 30.02, Penal Code,
16 punishable under Subsection (d) of that section, if the defendant
17 committed the offense with the intent to commit a felony described
18 by Subparagraph (i) or (ii) or a felony under Section 21.11, Penal
19 Code; and

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

22 (i) under Section 43.25 or 43.26, Penal
23 Code, or an offense under Section 43.23, Penal Code, punishable
24 under Subsection (h) of that section;

25 (ii) under Section 20A.04, 21.02, 21.11,
26 22.011, 22.021, or 25.02, Penal Code;

27 (iii) under Section 20.04(a)(4), Penal

1 Code, if the defendant committed the offense with the intent to
2 violate or abuse the victim sexually;

3 (iv) under Section 30.02, Penal Code,
4 punishable under Subsection (d) of that section, if the defendant
5 committed the offense with the intent to commit a felony described
6 by Subparagraph (ii) or (iii); or

7 (v) under the laws of another state
8 containing elements that are substantially similar to the elements
9 of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

10 ARTICLE 3. TRANSITION; EFFECTIVE DATE

11 SECTION 3.01. The change in law made by this Act applies
12 only to an offense committed on or after the effective date of this
13 Act. An offense committed before the effective date of this Act is
14 governed by the law in effect on the date the offense was committed,
15 and the former law is continued in effect for that purpose. For
16 purposes of this section, an offense was committed before the
17 effective date of this Act if any element of the offense occurred
18 before that date.

19 SECTION 3.02. This Act takes effect September 1, 2011.