

By: Thompson of Harris, Huberty, Collier,
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H.B. No. 29

A BILL TO BE ENTITLED

AN ACT

relating to prostitution and the trafficking of persons, civil racketeering related to trafficking, the prosecution of and punishment for certain sexual offenses and offenses involving or related to trafficking, reimbursement of certain costs for criminal victims who are children, and the release and reporting of certain information relating to a child; increasing a criminal penalty; creating a criminal offense.

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

SECTION 1. Chapter 140A, Civil Practice and Remedies Code, is amended by designating Sections 140A.001 and 140A.002 as Subchapter A and adding a subchapter heading to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Section 140A.001, Civil Practice and Remedies Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Attorney general" means the attorney general of Texas or any assistant attorney general acting under the direction of the attorney general of Texas.

SECTION 3. Subchapter A, Chapter 140A, Civil Practice and Remedies Code, as added by this Act, is amended by adding Section 140A.0015 to read as follows:

Sec. 140A.0015. APPLICABILITY OF PROVISIONS. (a) The provisions of this chapter are cumulative of each other and any other provision of law in effect relating to the same subject. The

1 provisions of this chapter preserve the constitutional and common
2 law authority of the attorney general to bring any action under
3 state and federal law.

4 (b) If any of the provisions of this chapter are held
5 invalid, the remainder of the provisions are not affected as a
6 result and the application of the provision held invalid to persons
7 or circumstances other than those as to which it is held invalid are
8 not affected as a result.

9 SECTION 4. Chapter 140A, Civil Practice and Remedies Code,
10 is amended by adding Subchapter B to read as follows:

11 SUBCHAPTER B. PROCEDURES AND EVIDENCE

12 Sec. 140A.051. DEFINITIONS. In this subchapter:

13 (1) "Civil investigative demand" means any demand
14 issued by the attorney general under this subchapter.

15 (2) "Documentary material" means the original or a
16 copy of any paper, contract, agreement, book, booklet, brochure,
17 pamphlet, catalog, magazine, notice, announcement, circular,
18 bulletin, instruction, minutes, agenda, study, analysis, report,
19 graph, map, chart, table, schedule, note, letter, telegram,
20 telephone recordings, or data compilations stored in or accessible
21 through computer or other information retrieval systems, together
22 with instructions and all other materials necessary to use or
23 interpret the data compilations, and any product of discovery.

24 (3) "Person" has the meaning assigned by Section
25 311.005, Government Code.

26 (4) "Product of discovery" means:

27 (A) the original or a copy of a deposition,

1 interrogatory, document, thing, result of inspection of land or
2 other property, examination, or admission that is obtained by any
3 method of discovery in a judicial or administrative proceeding of
4 an adversarial nature;

5 (B) a digest, analysis, selection, compilation,
6 or derivation of any item listed in Paragraph (A); and

7 (C) an index, instruction, or other aid or means
8 of access to any item listed in Paragraph (A).

9 (5) "Racketeering investigation" means any inquiry
10 conducted by the attorney general for the purpose of ascertaining
11 whether any person is or has been engaged in or is actively
12 preparing to engage in activities that may constitute a
13 racketeering violation.

14 (6) "Racketeering violation" means any act or omission
15 in violation of any of the prohibitions in Section [140A.002](#).

16 Sec. 140A.052. CIVIL INVESTIGATIVE DEMAND. If the attorney
17 general has reason to believe that a person may be in possession,
18 custody, or control of any documentary material or other evidence
19 or may have any information relevant to a civil racketeering
20 investigation, the attorney general may, before beginning a civil
21 proceeding, issue in writing and serve on the person a civil
22 investigative demand requiring the person to:

23 (1) produce any of the documentary material for
24 inspection and copying;

25 (2) answer in writing any written interrogatories;

26 (3) give oral testimony; or

27 (4) provide any combination of civil investigative

demands under Subdivisions (1)-(3).

Sec. 140A.053. CONTENTS OF DEMAND. (a) A civil investigative demand issued under Section 140A.052 must:

(1) describe the nature of the activities that are the subject of the investigation;

(2) state each statute the activity violates; and

(3) advise the person on whom the demand is served that the person has the right to object to the demand as provided for in this subchapter.

(b) A demand for production of documentary material must:

(1) describe the class of material to be produced with reasonable specificity so that the material demanded is fairly identified;

(2) prescribe a return date that provides a reasonable period of time within which the material is to be produced; and

(3) identify the individual to whom the material is to be made available for inspection and copying.

(c) A demand for answers to written interrogatories must:

(1) propound the interrogatories with definiteness and certainty;

(2) prescribe a date by which answers to the interrogatories must be submitted; and

(3) identify the individual to whom the answers should be submitted.

(d) Each demand for the giving of oral testimony must:

(1) prescribe a reasonable date, time, and place at which the testimony will begin; and

1 (2) identify the individual who will conduct the
2 examination.

3 Sec. 140A.054. SERVICE; PROOF OF SERVICE. (a) Service of
4 any civil investigative demand or petition filed under Section
5 140A.055 or 140A.060 may be made on any natural person by delivering
6 a duly executed copy of the demand or petition to the person to be
7 served or by mailing a copy by registered or certified mail, return
8 receipt requested, to the person at the person's residence or
9 principal office or place of business.

10 (b) Service of any demand or petition filed under Section
11 140A.055 or 140A.060 may be made on any person other than a natural
12 person by delivering a duly executed copy of the demand or petition
13 to a person to whom delivery would be appropriate under state law if
14 the demand or petition were process in a civil suit.

15 (c) A verified return by the individual serving any demand
16 or petition filed under Section 140A.055 or 140A.060 setting forth
17 the manner of service is proof of service. In the case of service by
18 registered or certified mail, the return must be accompanied by the
19 return post office receipt of delivery of the demand or petition.

20 Sec. 140A.055. PETITION FOR ORDER MODIFYING OR SETTING
21 ASIDE DEMAND. (a) At any time before the return date specified in a
22 civil investigative demand or not later than the 30th day after the
23 date the demand was served, whichever period is shorter, the person
24 who has been served, and in the case of a demand for a product of
25 discovery the person from whom the discovery was obtained, may file
26 a petition for an order modifying or setting aside the demand in the
27 district court in the county of the person's residence or principal

1 office or place of business or a district court of Travis County.
2 The petition must specify each ground upon which the petitioner
3 relies in seeking the relief sought. The petition may be based on
4 any failure of a demand to comply with the provisions of this
5 subchapter or on any constitutional or other legal right or
6 privilege of the petitioner.

7 (b) The petitioner shall serve a copy of the petition on the
8 attorney general in accordance with Section 140A.054. The attorney
9 general may submit an answer to the petition.

10 (c) In ruling on the petition under this section, the court
11 shall presume absent evidence to the contrary that the attorney
12 general issued the demand in good faith and within the scope of the
13 attorney general's authority.

14 Sec. 140A.056. COMPLIANCE WITH DEMAND. (a) A person on
15 whom a civil investigative demand is served under this subchapter
16 shall comply with the terms of the demand unless otherwise provided
17 by court order.

18 (b) The time for compliance with the demand wholly or partly
19 does not run during the pendency of any petition filed under Section
20 140A.055, provided that the petitioner shall comply with any
21 portions of the demand not sought to be modified or set aside.

22 Sec. 140A.057. DOCUMENTARY MATERIAL. (a) Any person on
23 whom any civil investigative demand for the production of
24 documentary material has been duly served under this subchapter
25 shall make the material available to the attorney general for
26 inspection and copying during normal business hours on the return
27 date specified in the demand at the person's principal office or

1 place of business or as otherwise may be agreed on by the person and
2 the attorney general. The attorney general shall bear the expense
3 of any copying. The person may substitute copies for originals of
4 all or part of the requested documents if the originals are made
5 available for inspection. The attorney general may elect to obtain
6 or review information in an electronic format. The person shall
7 indicate in writing which, if any, of the documents produced
8 contain trade secrets or confidential information.

9 **(b) The production of documentary material in response to**
10 **any demand must be made under a sworn certificate in the form the**
11 **demand designates by a natural person having knowledge of the facts**
12 **and circumstances relating to the production to the effect that all**
13 **of the requested material in the possession, custody, or control of**
14 **the person to whom the demand is directed has been produced.**

15 **Sec. 140A.058. INTERROGATORIES. (a) Each interrogatory in**
16 **any civil investigative demand duly served must be answered**
17 **separately and fully in writing, unless it is objected to, in which**
18 **case the basis for the objection shall be set forth in lieu of an**
19 **answer. The person shall indicate in writing which, if any, of the**
20 **answers contain trade secrets or confidential information.**

21 **(b) Answers to interrogatories must be submitted under a**
22 **sworn certificate in the form the related demand designates by a**
23 **natural person having knowledge of the facts and circumstances**
24 **relating to the preparation of the answers to the effect that all of**
25 **the requested information in the possession, custody, control, or**
26 **knowledge of the person to whom the demand is directed has been set**
27 **forth fully and accurately.**

1 Sec. 140A.059. ORAL EXAMINATION. (a) The examination of
2 any person pursuant to a civil investigative demand for oral
3 testimony duly served must be taken before any person authorized to
4 administer oaths and affirmations under the laws of this state or
5 the United States. The person before whom the testimony is to be
6 taken shall put the witness on oath or affirmation and shall
7 personally or by someone acting under the person's direction and in
8 the person's presence record the witness's testimony. At the
9 expense of the attorney general, and except as provided by this
10 subsection, the testimony must be taken stenographically and may be
11 transcribed. The attorney general may take audio and video
12 recordings of the testimony by providing notice to the person to be
13 examined not later than the seventh day before the day the person is
14 to be examined.

15 (b) The oral testimony of any person taken pursuant to a
16 demand served must be taken within 100 miles of the county where the
17 person resides, is found, or transacts business or in any other
18 place agreed on by the person and the attorney general.

19 (c) Any person compelled to appear under a demand for oral
20 testimony may be accompanied, represented, and advised by counsel.
21 Counsel may advise the person in confidence, either on the request
22 of the person or on the counsel's own initiative, with respect to
23 any question arising in connection with the examination.

24 (d) The individual conducting the examination on behalf of
25 the attorney general shall exclude from the place of examination
26 all other persons except the person being examined, the person's
27 counsel, the counsel of the person to whom the demand has been

1 issued, the person before whom the testimony is to be taken, any
2 stenographer taking the testimony, audiographer, videographer, and
3 any person assisting the individual conducting the examination.

4 (e) During the examination, the person being examined or the
5 person's counsel may object on the record to any question in
6 accordance with Rule 199.5(e), Texas Rules of Civil Procedure. An
7 objection may properly be made, received, and entered on the record
8 when it is claimed that the person is entitled to refuse to answer
9 the question on grounds of any constitutional or other privilege,
10 including the privilege against self-incrimination. Neither that
11 person nor the person's counsel may otherwise object to or refuse to
12 answer any question or interrupt the oral examination. If the
13 person refuses to answer any question, the attorney general may
14 petition the district court in the county where the examination is
15 being conducted for an order compelling the person to answer the
16 question.

17 (f) After the testimony has been fully transcribed, the
18 person before whom the testimony was taken shall promptly transmit
19 the transcript of the testimony to the witness and a copy of the
20 transcript to the attorney general. The witness must have a
21 reasonable opportunity to examine the transcript and make any
22 changes in form or substance accompanied by a statement of the
23 reasons for the changes. The witness shall then sign and return the
24 transcript. If the witness does not return the transcript to the
25 person before whom the testimony was taken not later than the 20th
26 day after the date the transcript was provided to the witness, the
27 witness may be deemed to have waived the right to make changes. The

1 officer shall then certify on the transcript that the witness was
2 duly sworn and that the transcript is a true record of the testimony
3 given by the witness and promptly transmit a copy of the certified
4 transcript to the attorney general.

5 (g) On request, the attorney general shall furnish a copy of
6 the certified transcript to the witness.

7 (h) The attorney general may provide the witness the same
8 fees and mileage reimbursement that are paid to witnesses in the
9 district courts of this state.

10 Sec. 140A.060. FAILURE TO COMPLY WITH DEMAND PETITION FOR
11 ENFORCEMENT. If a person fails to comply with a civil investigative
12 demand duly served on the person, the attorney general may file in
13 the district court in the county in which the person resides, is
14 found, or transacts business or in a district court of Travis County
15 and may serve on the person a petition for an order of the court for
16 enforcement. If the person transacts business in more than one
17 county and the attorney general elects not to file the petition in
18 Travis County, the petition must be filed in the county of the
19 person's principal office or place of business in the state or in
20 any other county as may be agreed on by the person and the attorney
21 general.

22 Sec. 140A.061. DELIBERATE NONCOMPLIANCE. (a) A person
23 commits an offense if the person, with intent to avoid, evade, or
24 prevent compliance with a civil investigative demand issued under
25 this subchapter, knowingly removes from any place, conceals,
26 withholds, destroys, mutilates, alters, or by any other means
27 falsifies any documentary material or otherwise provides

1 inaccurate information.

2 (b) An offense under this section is a misdemeanor
3 punishable by:

4 (1) a fine of not more than \$5,000;

5 (2) confinement in a county jail for not more than one
6 year; or

7 (3) both a fine and confinement.

8 Sec. 140A.062. DISCLOSURE AND USE OF MATERIAL AND
9 INFORMATION. (a) The civil investigative demand issued by the
10 attorney general, any information obtained, maintained, or created
11 in response to the demand, or any documentary material, product of
12 discovery, or other record derived or created during an
13 investigation from the information, is not subject to disclosure
14 under Chapter 552, Government Code, and is not subject to
15 disclosure, discovery, subpoena, or other means of legal compulsion
16 for the release, except as described in Subsections (b) and (c).

17 (b) The attorney general may not release or disclose
18 information that is obtained in response to a demand or any
19 documentary material, product of discovery, or other record derived
20 from the information except:

21 (1) by court order for good cause shown;

22 (2) with the consent of the person who provided the
23 information to the attorney general;

24 (3) to an employee or other person under the direction
25 of the attorney general;

26 (4) to an agency of this state, the United States, or
27 another state or foreign country;

1 (5) to any party or person in accordance with Sections
2 140A.107 and 140A.108;

3 (6) to a political subdivision of this state; or

4 (7) to a person authorized by the attorney general to
5 receive the information.

6 (c) The attorney general may use information obtained in
7 response to a demand, or any documentary material, product of
8 discovery, or other record derived or created from the information
9 as the attorney general determines necessary in the enforcement of
10 this chapter, including presentation before court.

11 Sec. 140A.063. JURISDICTION. If a petition is filed in the
12 district court in any county, the court has jurisdiction to hear and
13 determine the matter presented and to enter any order required to
14 implement this chapter. Any final order is subject to appeal.
15 Failure to comply with any final order entered by a court under this
16 chapter is punishable by the court as contempt of the order.

17 Sec. 140A.064. NONEXCLUSIVE PROCEDURES. Nothing in this
18 chapter precludes the attorney general from using any procedure not
19 specified in this chapter in conducting a racketeering
20 investigation.

21 SECTION 5. Chapter 140A, Civil Practice and Remedies Code,
22 is amended by adding Subchapter C and adding a subchapter heading to
23 read as follows:

24 SUBCHAPTER C. ENFORCEMENT

25 SECTION 6. Sections 140A.003 through 140A.013, Civil
26 Practice and Remedies Code, are transferred to Subchapter C,
27 Chapter 140A, Civil Practice and Remedies Code, as added by this

Act, redesignated as Sections 140A.101 through 140A.111, Civil Practice and Remedies Code, and amended to read as follows:

Sec. 140A.101 [~~140A.003~~]. SUIT TO ABATE RACKETEERING. (a) The attorney general may bring suit in the name of the state against a person or enterprise for racketeering and may seek civil penalties, costs, reasonable attorney's fees, and appropriate injunctive relief.

(b) This chapter does not authorize suit by a person or enterprise that sustains injury as a result of racketeering.

(c) A suit under this chapter must be brought in a district court in a county in which all or part of the alleged racketeering offense giving rise to the suit occurred.

Sec. 140A.102 [~~140A.004~~]. INJUNCTIVE RELIEF; OTHER REMEDIES. (a) A court in which a proceeding is brought under this chapter may prevent, restrain, and remedy racketeering by issuing appropriate orders. The orders may include a temporary restraining order, a temporary or permanent injunction, the creation of a receivership, and the enforcement of a constructive trust in connection with any property or other interest, prejudgment writs of attachment under Chapter 61 for the purposes of freezing, preserving, and disgorging assets, or another order for a remedy or restraint the court considers proper.

(b) Following a final determination of liability under this chapter, the court may issue an appropriate order, including an order that:

(1) requires a person to divest any direct or indirect interest in an enterprise;

1 (2) imposes reasonable restrictions on the future
2 activities or investments of a person that affect the laws of this
3 state, including prohibiting a person from engaging in the type of
4 endeavor or enterprise that gave rise to the racketeering offense,
5 to the extent permitted by the constitutions of this state and the
6 United States;

7 (3) requires the dissolution or reorganization of an
8 enterprise involved in the suit;

9 (4) orders the recovery of reasonable fees, expenses,
10 and costs incurred in obtaining injunctive relief or civil remedies
11 or in conducting investigations under this chapter, including court
12 costs, investigation costs, attorney's fees, witness fees, and
13 deposition fees;

14 (5) orders payment to the state of an amount equal to:

15 (A) the gain acquired or maintained through
16 racketeering; or

17 (B) the amount for which a person is liable under
18 this chapter;

19 (6) orders payment to the state of a civil penalty by a
20 person or enterprise found liable for racketeering, in an amount
21 not to exceed \$250,000 for each separately alleged and proven act of
22 racketeering;

23 (7) orders payment of damages to the state for
24 racketeering shown to have materially damaged the state; or

25 (8) orders that property attached under Chapter 61 be
26 used to satisfy an award of the court, including damages,
27 penalties, costs, and fees.

1 (c) In determining the amount of a civil penalty ordered
2 under Subsection (b)(6), the court shall consider:

3 (1) the seriousness of the racketeering offense and
4 the consequent financial or personal harm to the state or to any
5 identified victim; ~~and~~

6 (2) the duration of the racketeering activity; and

7 (3) any other matter that justice requires.

8 (d) If any property attached under Chapter 61 is not
9 necessary to satisfy an award of the court after a finding of
10 liability for racketeering of the person or enterprise having an
11 interest in the property, the court may order that the property be
12 disgorged to the state to the extent of the person's or enterprise's
13 interest. To be disgorged, the property must be acquired or
14 maintained by the person or enterprise through racketeering.

15 (e) In determining the amount of damages ordered under
16 Subsection (b)(7), the court shall consider:

17 (1) loss of tax revenue to the state;

18 (2) unpaid state unemployment taxes;

19 (3) unpaid state licensing and regulatory fees;

20 (4) medical and counseling costs incurred by the state
21 on behalf of any victim of the racketeering; and

22 (5) other material damage caused to the state by the
23 racketeering.

24 (f) Except as otherwise provided by this chapter, remedies
25 and awards ordered by a court under this chapter, including costs
26 and reasonable attorney's fees, may be assessed against and paid
27 from money or property awarded under this chapter.

1 (g) This chapter is not intended to provide the exclusive
2 remedy for the activity addressed by this chapter. A proceeding
3 under this chapter may be brought in addition to or in the
4 alternative of any other civil or criminal action available under
5 the laws of this state.

6 (h) Notwithstanding any other provision in this chapter,
7 Articles 59.13 and 59.14, Code of Criminal Procedure, apply to a
8 remedy under this section.

9 (i) A remedy under this section may not impair a security
10 interest in property subject to a bona fide lien.

11 Sec. 140A.103 [~~140A.005~~]. CONSTRUCTIVE TRUST. (a) A
12 person or enterprise that, through racketeering, acquires property
13 or prevents another person from receiving property that by law is
14 required to be transferred or paid to that person is an involuntary
15 trustee. The involuntary trustee or any other person or
16 enterprise, other than a bona fide purchaser for value as described
17 by Subsection (b), holds the property and the proceeds of the
18 property in constructive trust for the benefit of any person
19 entitled to remedies under this chapter.

20 (b) A bona fide purchaser for value who was reasonably
21 without notice of unlawful conduct and who did not knowingly take
22 part in an illegal transaction is not an involuntary trustee under
23 Subsection (a) and is not subject to a constructive trust imposed
24 under this chapter.

25 Sec. 140A.104 [~~140A.006~~]. EVIDENCE. (a) In a proceeding
26 under this chapter, the state bears the burden of proof by a
27 preponderance of the evidence.

1 (b) A person convicted in a criminal proceeding is
2 precluded, in a proceeding under this chapter, from subsequently
3 denying the essential allegations of the criminal offense of which
4 the person was convicted. For purposes of this subsection, a
5 verdict or a plea, including a plea of nolo contendere, is
6 considered a conviction.

7 (c) An individual may not be held liable under this chapter
8 based on the conduct of another person unless the finder of fact
9 finds by a preponderance of the evidence that the individual
10 authorized, requested, commanded, participated in, ratified, or
11 recklessly tolerated the unlawful conduct of the other person.

12 (d) An enterprise may not be held liable under this chapter
13 based on the conduct of an agent unless the finder of fact finds by a
14 preponderance of the evidence that a director or high managerial
15 agent performed, authorized, requested, commanded, participated
16 in, ratified, or recklessly tolerated the unlawful conduct of the
17 agent.

18 (e) A bank or savings and loan association insured by the
19 Federal Deposit Insurance Corporation, a credit union insured by
20 the National Credit Union Administration, or the holder of a money
21 transmission license as defined by Chapter [151](#), Finance Code, may
22 not be held liable in damages or for other relief under this
23 chapter, unless the finder of fact finds by a preponderance of the
24 evidence that the person or agent acquiring or maintaining an
25 interest in or transporting, transacting, transferring, or
26 receiving the funds on behalf of another did so knowing that the
27 funds were the proceeds of an offense and that a director or high

1 managerial agent performed, authorized, requested, commanded,
2 participated in, ratified, or recklessly tolerated the unlawful
3 conduct of the person or agent.

4 Sec. 140A.105 [~~140A.007~~]. LIMITATIONS PERIOD. A
5 proceeding may be commenced under this chapter only if the
6 proceeding is filed on or before the seventh anniversary of the date
7 on which the racketeering offense was actually discovered. This
8 section supersedes any conflicting provision establishing a
9 shorter period of limitations for the same conduct.

10 Sec. 140A.106 [~~140A.008~~]. SPECIAL DOCKETING PROCEDURES.
11 The attorney general may file with the clerk of the district court
12 in which a proceeding is brought under this chapter a certificate
13 stating that the case is of special public importance. The clerk
14 must immediately furnish a copy of the certificate to the
15 administrative judge of the district court of the county in which
16 the proceeding is pending. On receiving the copy of the
17 certificate, the administrative judge shall immediately designate
18 a judge to hear and determine the proceeding. The designated judge
19 shall promptly assign the proceeding for hearing, participate in
20 hearings, make determinations, and cause the action to be
21 expedited.

22 Sec. 140A.107 [~~140A.009~~]. NOTICE TO LOCAL PROSECUTOR. (a)
23 In a reasonable time before initiating suit or on initiating an
24 investigation on racketeering, the attorney general shall provide
25 notice to the district attorney, criminal district attorney, or
26 county attorney with felony criminal jurisdiction that appears to
27 have primary jurisdiction over the criminal prosecution of any

target of an investigation under this chapter at the time of the notice concerning the attorney general's intent to file suit under this chapter or investigate racketeering, as applicable.

(b) The notices described by Subsection (a) must describe or otherwise identify the defendant to the suit or the suspect, as applicable.

Sec. 140A.108 [~~140A.010~~]. COOPERATION WITH LOCAL PROSECUTOR. (a) A district attorney, criminal district attorney, or county attorney with felony criminal jurisdiction that receives notice under Section 140A.107 [~~140A.009~~] may notify the attorney general of a related pending criminal investigation or prosecution.

(b) Notification to the attorney general under Subsection (a) must be in writing and describe or otherwise identify the defendant or suspect in the criminal investigation or proceeding.

(c) On receipt of notice described by Subsection (a), the attorney general shall coordinate and cooperate with the district attorney, criminal district attorney, or county attorney with felony criminal jurisdiction to ensure that the filing of a suit under this chapter does not interfere with an ongoing criminal investigation or prosecution. The attorney general shall update the district attorney, criminal district attorney, or county attorney with felony criminal jurisdiction on matters affecting the suit or the investigation.

Sec. 140A.109 [~~140A.011~~]. ABATEMENT OF SUIT. If the district attorney, criminal district attorney, or county attorney with felony criminal jurisdiction determines that a suit brought under this chapter would interfere with an ongoing criminal

1 investigation or prosecution after notifying the attorney general
2 of the investigation or prosecution under Section 140A.108
3 [~~140A.010~~], the district attorney, criminal district attorney, or
4 county attorney with felony criminal jurisdiction may request, in
5 writing, that the attorney general abate the suit. On receipt of
6 this request, the attorney general shall abate the suit.

7 Sec. 140A.110 [~~140A.012~~]. DISPOSITION OF ASSETS. (a) An
8 award issued in an action brought under this chapter must be paid in
9 accordance with this section.

10 (b) After a deduction of any costs of suit, including
11 reasonable attorney's fees and court costs, 80 percent of the
12 amount of the award remaining must be paid to the state, and the
13 remaining 20 percent must be paid, on a pro rata basis, to each law
14 enforcement agency, district attorney's office, criminal district
15 attorney's office, and office of a county attorney with felony
16 criminal jurisdiction found by the court to have assisted in the
17 suit.

18 (c) The first \$10 million, after any costs of suit described
19 by Subsection (b), that is paid to the state under this chapter in a
20 fiscal year shall be dedicated to the compensation to victims of
21 crime fund described by Article 56.54, Code of Criminal Procedure.

22 Sec. 140A.111 [~~140A.013~~]. PREVIOUSLY SEIZED ASSETS.
23 Notwithstanding another provision of this chapter, no remedies
24 provided by this chapter may be assessed against proceeds,
25 contraband, or other property over which a law enforcement agency
26 has previously asserted jurisdiction under Chapter 59, Code of
27 Criminal Procedure, at the time a suit under this chapter was filed.

SECTION 7. Article 45.0216(f), Code of Criminal Procedure, is amended to read as follows:

(f) The court shall order the conviction, together with all complaints, verdicts, sentences, and prosecutorial and law enforcement records, and any other documents relating to the offense, expunged from the person's record if the court finds that:

(1) for a person applying for the expunction of a conviction for an offense described by Section 8.07(a)(4) or (5), Penal Code, the person was not convicted of any other offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child; and

(2) for a person applying for the expunction of a conviction for an offense described by Section 43.261, Penal Code, the person was not found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(6) [~~51.03(b)(7)~~], Family Code, while the person was a child.

SECTION 8. Article 56.32(a)(9), Code of Criminal Procedure, is amended to read as follows:

(9) "Pecuniary loss" means the amount of expense reasonably and necessarily incurred as a result of personal injury or death for:

(A) medical, hospital, nursing, or psychiatric care or counseling, or physical therapy;

(B) actual loss of past earnings and anticipated loss of future earnings and necessary travel expenses because of:

(i) a disability resulting from the personal injury;

1 (ii) the receipt of medically indicated
2 services related to the disability resulting from the personal
3 injury; or

4 (iii) participation in or attendance at
5 investigative, prosecutorial, or judicial processes related to the
6 criminally injurious conduct and participation in or attendance at
7 any postconviction or postadjudication proceeding relating to
8 criminally injurious conduct;

9 (C) care of a child or dependent, including
10 specialized care for a child who is a victim;

11 (D) funeral and burial expenses, including, for
12 an immediate family member or household member of the victim, the
13 necessary expenses of traveling to and attending the funeral;

14 (E) loss of support to a dependent, consistent
15 with Article 56.41(b)(5);

16 (F) reasonable and necessary costs of cleaning
17 the crime scene;

18 (G) reasonable replacement costs for clothing,
19 bedding, or property of the victim seized as evidence or rendered
20 unusable as a result of the criminal investigation;

21 (H) reasonable and necessary costs for
22 relocation and housing rental assistance payments as provided by
23 Article 56.42(d);

24 (I) for an immediate family member or household
25 member of a deceased victim, bereavement leave of not more than 10
26 work days; and

27 (J) reasonable and necessary costs of traveling

1 to and from a place of execution for the purpose of witnessing the
2 execution, including one night's lodging near the place at which
3 the execution is conducted.

4 SECTION 9. Article 62.001(5), Code of Criminal Procedure,
5 is amended to read as follows:

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

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

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

18 (B-1) a violation of Section 43.02
19 (Prostitution), Penal Code, if the offense is punishable under
20 Subsection (c-1)(3) [~~(c)(3)~~] of that section;

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

25 (D) a violation of Section 30.02 (Burglary),
26 Penal Code, if the offense or conduct is punishable under
27 Subsection (d) of that section and the actor committed the offense

1 or engaged in the conduct with intent to commit a felony listed in
2 Paragraph (A) or (C);

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

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

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

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

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

18 (H) a violation of the laws of another state,
19 federal law, the laws of a foreign country, or the Uniform Code of
20 Military Justice for or based on the violation of an offense
21 containing elements that are substantially similar to the elements
22 of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E),
23 (G), (J), ~~(K)~~, or (L), but not if the violation results in a
24 deferred adjudication;

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

1 containing elements that are substantially similar to the elements
2 of the offense of indecent exposure, but not if the second violation
3 results in a deferred adjudication;

4 (J) a violation of Section 33.021 (Online
5 solicitation of a minor), Penal Code; ~~[or]~~

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

8 (L) a violation of Section 20A.03 (Continuous
9 trafficking of persons), Penal Code, if the offense is based partly
10 or wholly on conduct that constitutes an offense under Section
11 20A.02(a)(3), (4), (7), or (8) of that code.

12 SECTION 10. Article 62.101(a), Code of Criminal Procedure,
13 is amended to read as follows:

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

18 (1) a sexually violent offense;

19 (2) an offense under Section 20A.02(a)(3), (4), (7),
20 or (8), 25.02, 43.05(a)(2), or 43.26, Penal Code;

21 (3) an offense under Section 20A.03, Penal Code, if
22 based partly or wholly on conduct that constitutes an offense under
23 Section 20A.02(a)(3), (4), (7), or (8) of that code;

24 (4) an offense under Section 21.11(a)(2), Penal Code,
25 if before or after the person is convicted or adjudicated for the
26 offense under Section 21.11(a)(2), Penal Code, the person receives
27 or has received another reportable conviction or adjudication,

1 other than an adjudication of delinquent conduct, for an offense or
2 conduct that requires registration under this chapter;

3 (5) [~~(4)~~] an offense under Section 20.02, 20.03, or
4 20.04, Penal Code, if:

5 (A) the judgment in the case contains an
6 affirmative finding under Article 42.015 or, for a deferred
7 adjudication, the papers in the case contain an affirmative finding
8 that the victim or intended victim was younger than 17 years of age;
9 and

10 (B) before or after the person is convicted or
11 adjudicated for the offense under Section 20.02, 20.03, or 20.04,
12 Penal Code, the person receives or has received another reportable
13 conviction or adjudication, other than an adjudication of
14 delinquent conduct, for an offense or conduct that requires
15 registration under this chapter; or

16 (6) [~~(5)~~] an offense under Section 43.23, Penal Code,
17 that is punishable under Subsection (h) of that section.

18 SECTION 11. Subchapter A, Chapter 130, Education Code, is
19 amended by adding Section 130.0105 to read as follows:

20 Sec. 130.0105. COMMERCIAL DRIVER'S LICENSE TRAINING
21 PROGRAM; CERTAIN CURRICULUM REQUIREMENTS. (a) The Texas Higher
22 Education Coordinating Board by rule shall require each public
23 junior college offering a commercial driver's license training
24 program to include as a part of that program education and training
25 on the recognition and prevention of human trafficking.

26 (b) The Texas Higher Education Coordinating Board, in
27 collaboration with the office of the attorney general, shall

1 establish the content of the education and training required by
2 this section.

3 SECTION 12. Subchapter A, Chapter 132, Education Code, is
4 amended by adding Section 132.006 to read as follows:

5 Sec. 132.006. COMMERCIAL DRIVER'S LICENSE TRAINING
6 PROGRAM; CERTAIN CURRICULUM REQUIREMENTS. (a) The commission by
7 rule shall require each career school or college offering a
8 commercial driver's license training program to include as a part
9 of that program education and training on the recognition and
10 prevention of human trafficking.

11 (b) The commission, in collaboration with the office of the
12 attorney general, shall establish the content of the education and
13 training required by this section.

14 SECTION 13. Section 51.03(b), Family Code, as amended by
15 Chapters 935 (H.B. 2398), 944 (S.B. 206), and 1273 (S.B. 825), Acts
16 of the 84th Legislature, Regular Session, 2015, is reenacted and
17 amended to read as follows:

18 (b) Conduct indicating a need for supervision is:

19 (1) subject to Subsection (f), conduct, other than a
20 traffic offense, that violates:

21 (A) the penal laws of this state of the grade of
22 misdemeanor that are punishable by fine only; or

23 (B) the penal ordinances of any political
24 subdivision of this state;

25 (2) the voluntary absence of a child from the child's
26 home without the consent of the child's parent or guardian for a
27 substantial length of time or without intent to return;

1 (3) conduct prohibited by city ordinance or by state
2 law involving the inhalation of the fumes or vapors of paint and
3 other protective coatings or glue and other adhesives and the
4 volatile chemicals itemized in Section 485.001, Health and Safety
5 Code;

6 (4) an act that violates a school district's
7 previously communicated written standards of student conduct for
8 which the child has been expelled under Section 37.007(c),
9 Education Code;

10 (5) ~~[(6)]~~ notwithstanding Subsection (a)(1), conduct
11 described by Section 43.02(a) or (b), Penal Code; or

12 (6) ~~[(7)]~~ notwithstanding Subsection (a)(1), conduct
13 that violates Section 43.261, Penal Code.

14 SECTION 14. Section 51.13(e), Family Code, is amended to
15 read as follows:

16 (e) A finding that a child engaged in conduct indicating a
17 need for supervision as described by Section 51.03(b)(6)
18 ~~[51.03(b)(7)]~~ is a conviction only for the purposes of Sections
19 43.261(c) and (d), Penal Code.

20 SECTION 15. Section 54.0404(a), Family Code, is amended to
21 read as follows:

22 (a) If a child is found to have engaged in conduct
23 indicating a need for supervision described by Section 51.03(b)(6)
24 ~~[51.03(b)(7)]~~, the juvenile court may enter an order requiring the
25 child to attend and successfully complete an educational program
26 described by Section 37.218, Education Code, or another equivalent
27 educational program.

SECTION 16. Section 58.003(c-3), Family Code, is amended to read as follows:

(c-3) Notwithstanding Subsections (a) and (c) and subject to Subsection (b), a juvenile court, on the court's own motion and without a hearing, shall order the sealing of records concerning a child found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(5) [~~51.03(b)(6)~~] or taken into custody to determine whether the child engaged in conduct indicating a need for supervision described by Section 51.03(b)(5) [~~51.03(b)(6)~~]. This subsection applies only to records related to conduct indicating a need for supervision described by Section 51.03(b)(5) [~~51.03(b)(6)~~].

SECTION 17. Section 23.101(a), Government Code, is amended to read as follows:

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

(1) temporary injunctions;

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

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

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

(C) an offense under:

(i) Section 21.02 or 21.11, Penal Code;

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

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

(iv) Section 25.06, Penal Code;

(v) Section 43.25, Penal Code; or

(vi) Section 20A.02(a)(7), 20A.02(a)(8), or 20A.03, Penal Code;

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

(E) criminal actions against persons who are detained as provided by Section 51.12, Family Code, after transfer for prosecution in criminal court under Section 54.02, Family Code;

(3) election contests and suits under the Election Code;

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

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

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

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

(8) appeals brought under Section 42.01 or 42.015, Tax

Code, of orders of appraisal review boards of appraisal districts established for counties with a population of less than 175,000.

SECTION 18. Section 126.002(a), Government Code, as transferred and redesignated from Section 169A.002, Health and Safety Code, by Chapters 604 (S.B. 536) and 1236 (S.B. 1296), Acts of the 84th Legislature, Regular Session, 2015, and as amended by Chapters 604 (S.B. 536) and 1273 (S.B. 825), Acts of the 84th Legislature, Regular Session, 2015, is reenacted to read as follows:

(a) The commissioners court of a county or governing body of a municipality may establish a commercially sexually exploited persons court program for defendants charged with an offense under Section 43.02(a), Penal Code.

SECTION 19. Section 402.035(c), Government Code, as amended by Chapters 146 (H.B. 188), 332 (H.B. 10), and 734 (H.B. 1549), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

(c) The task force is composed of the following:

- (1) the governor or the governor's designee;
- (2) the attorney general or the attorney general's designee;
- (3) the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee;
- (4) the commissioner of the Department of Family and Protective Services or the commissioner's designee;
- (5) the commissioner of the Department of State Health Services or the commissioner's designee;

1 (6) the public safety director of the Department of
2 Public Safety or the director's designee;

3 (7) one representative from each of the following
4 state agencies, appointed by the chief administrative officer of
5 the respective agency:

6 (A) the Texas Workforce Commission;

7 (B) the Texas Department of Criminal Justice;

8 (C) the Texas Juvenile Justice Department;

9 (D) the Texas Education Agency;

10 (E) ~~[(D)]~~ the Texas Alcoholic Beverage
11 Commission;

12 (F) the ~~[Texas]~~ Parks and Wildlife Department;
13 ~~[and]~~

14 (G) the Supreme Court of Texas Permanent Judicial
15 Commission for Children, Youth and Families;

16 (H) the Texas Department of Licensing and
17 Regulation;

18 (I) the Office of Court Administration of the
19 Texas Judicial System;

20 (J) the office of the secretary of state; and

21 (K) the Texas Commission on Law Enforcement; and

22 (8) as appointed by the attorney general:

23 (A) a chief public defender employed by a public
24 defender's office, as defined by Article 26.044(a), Code of
25 Criminal Procedure, or an attorney designated by the chief public
26 defender;

27 (B) an attorney representing the state;

(C) a representative of:

(i) a hotel and motel association;

(ii) a district and county attorneys association;

(iii) a state police association; and

(iv) a statewide medical association;

(D) representatives of sheriff's departments;

(E) representatives of local law enforcement agencies affected by human trafficking; and

(F) representatives of nongovernmental entities making comprehensive efforts to combat human trafficking by:

(i) identifying human trafficking victims;

(ii) providing legal or other services to human trafficking victims;

(iii) participating in community outreach or public awareness efforts regarding human trafficking;

(iv) providing or developing training regarding the prevention of human trafficking; or

(v) engaging in other activities designed to prevent human trafficking.

SECTION 20. Section 402.035(d), Government Code, as amended by Chapters 146 (H.B. 188) and 332 (H.B. 10), Acts of the 84th Legislature, Regular Session, 2015, is reenacted and amended to read as follows:

(d) The task force shall:

(1) collaborate, as needed to fulfill the duties of the task force, with:

1 (A) United States attorneys' offices [~~Attorneys'~~
2 ~~Offices~~] for all of the federal districts of Texas; and

3 (B) special agents or customs and border
4 protection officers and border patrol agents of:

5 (i) the Federal Bureau of Investigation;

6 (ii) the United States Drug Enforcement
7 Administration;

8 (iii) the Bureau of Alcohol, Tobacco,
9 Firearms and Explosives;

10 (iv) United States Immigration and Customs
11 Enforcement; or

12 (v) the United States Department of
13 Homeland Security;

14 (2) collect, organize, and periodically publish
15 statistical data on the nature and extent of human trafficking in
16 this state, including data described by Subdivisions (4)(A), (B),
17 (C), (D), and (E);

18 (3) solicit cooperation and assistance from state and
19 local governmental agencies, political subdivisions of the state,
20 nongovernmental organizations, and other persons, as appropriate,
21 for the purpose of collecting and organizing statistical data under
22 Subdivision (2);

23 (4) ensure that each state or local governmental
24 agency and political subdivision of the state and each state or
25 local law enforcement agency, district attorney, or county attorney
26 that assists in the prevention of human trafficking collects
27 statistical data related to human trafficking, including, as

appropriate:

(A) the number of investigations concerning, arrests and prosecutions for, and convictions of:

(i) the offense of trafficking of persons;

(ii) the offense of forgery or an offense under Chapter 43, Penal Code, if the offense was committed as part of a criminal episode involving the trafficking of persons; and

(iii) an offense punishable under Section 43.02(c-1)(3) [~~43.02(c)(3)~~], Penal Code, regardless of whether the offense was committed as part of a criminal episode involving the trafficking of persons;

(B) demographic information on persons who are convicted of offenses described by Paragraph (A) and persons who are the victims of those offenses;

(C) geographic routes by which human trafficking victims are trafficked, including routes by which victims are trafficked across this state's international border, and geographic patterns in human trafficking, including the country or state of origin and the country or state of destination;

(D) means of transportation and methods used by persons who engage in trafficking to transport their victims; and

(E) social and economic factors that create a demand for the labor or services that victims of human trafficking are forced to provide;

(5) work with the Texas Commission on Law Enforcement to develop and conduct training for law enforcement personnel, victim service providers, and medical service providers to identify

1 victims of human trafficking;

2 (6) work with the Texas Education Agency, the
3 Department of Family and Protective Services, and the Health and
4 Human Services Commission to:

5 (A) develop a list of key indicators that a
6 person is a victim of human trafficking;

7 (B) develop a standardized curriculum for
8 training doctors, nurses, emergency medical services personnel,
9 teachers, school counselors, school administrators, and personnel
10 from the Department of Family and Protective Services and the
11 Health and Human Services Commission to identify and assist victims
12 of human trafficking;

13 (C) train doctors, nurses, emergency medical
14 services personnel, teachers, school counselors, school
15 administrators, and personnel from the Department of Family and
16 Protective Services and the Health and Human Services Commission to
17 identify and assist victims of human trafficking;

18 (D) develop and conduct training for personnel
19 from the Department of Family and Protective Services and the
20 Health and Human Services Commission on methods for identifying
21 children in foster care who may be at risk of becoming victims of
22 human trafficking; and

23 (E) develop a process for referring identified
24 human trafficking victims and individuals at risk of becoming
25 victims to appropriate entities for services;

26 (7) on the request of a judge of a county court, county
27 court at law, or district court or a county attorney, district

1 attorney, or criminal district attorney, assist and train the judge
2 or the judge's staff or the attorney or the attorney's staff in the
3 recognition and prevention of human trafficking;

4 (8) examine training protocols related to human
5 trafficking issues, as developed and implemented by federal, state,
6 and local law enforcement agencies;

7 (9) collaborate with state and local governmental
8 agencies, political subdivisions of the state, and nongovernmental
9 organizations to implement a media awareness campaign in
10 communities affected by human trafficking;

11 (10) develop recommendations on how to strengthen
12 state and local efforts to prevent human trafficking, protect and
13 assist human trafficking victims, curb markets and other economic
14 avenues that facilitate human trafficking and investigate and
15 prosecute human trafficking offenders;

16 (11) examine the extent to which human trafficking is
17 associated with the operation of sexually oriented businesses, as
18 defined by Section 243.002, Local Government Code, and the
19 workplace or public health concerns that are created by the
20 association of human trafficking and the operation of sexually
21 oriented businesses; ~~and~~

22 (12) develop recommendations for addressing the
23 demand for forced labor or services or sexual conduct involving
24 victims of human trafficking, including recommendations for
25 increased penalties for individuals who engage or attempt to engage
26 in prostitution with victims younger than 18 years of age; and

27 (13) ~~(12)~~ identify and report to the governor and

1 legislature on laws, licensure requirements, or other regulations
2 that can be passed at the state and local level to curb trafficking
3 using the Internet and in sexually oriented businesses.

4 SECTION 21. Section 81.046(d), Health and Safety Code, is
5 amended to read as follows:

6 (d) In a case of sexually transmitted disease involving a
7 minor under 14 [~~13~~] years of age, information may not be released,
8 except that the child's name, age, and address and the name of the
9 disease may be released to appropriate agents as required by
10 Chapter 261, Family Code. This subsection does not affect a
11 person's duty to report child abuse or neglect under Subchapter B,
12 Chapter 261, Family Code, except that information made confidential
13 by this chapter may not be released. If that information is
14 required in a court proceeding involving child abuse, the
15 information shall be disclosed in camera.

16 SECTION 22. Section 20A.02(b), Penal Code, is amended to
17 read as follows:

18 (b) Except as otherwise provided by this subsection, an
19 offense under this section is a felony of the second degree. An
20 offense under this section is a felony of the first degree if:

21 (1) the applicable conduct constitutes an offense
22 under Subsection (a)(5), (6), (7), or (8), regardless of whether
23 the actor knows the age of the child at the time of [~~the actor~~
24 ~~commits~~] the offense; or

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

27 SECTION 23. Section 21.02(b), Penal Code, is amended to

read as follows:

(b) A person commits an offense if:

(1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and

(2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is a child younger than 14 years of age, regardless of whether the actor knows the age of the victim at the time of the offense.

SECTION 24. Section 21.11(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, with a child younger than 17 years of age, whether the child is of the same or opposite sex and regardless of whether the person knows the age of the child at the time of the offense, the person:

(1) engages in sexual contact with the child or causes the child to engage in sexual contact; or

(2) with intent to arouse or gratify the sexual desire of any person:

(A) exposes the person's anus or any part of the person's genitals, knowing the child is present; or

(B) causes the child to expose the child's anus or any part of the child's genitals.

SECTION 25. Section 22.011(a), Penal Code, is amended to read as follows:

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

(1) the person intentionally or knowingly:

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

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

(C) 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

(2) regardless of whether the person knows the age of the child at the time of the offense, the person intentionally or knowingly:

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

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

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

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

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

SECTION 26. Section [22.021\(a\)](#), 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) regardless of whether the person knows the age of the child at the time of the offense, 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, and

1 regardless of whether the person knows the age of the victim at the
2 time of the offense; or

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

5 SECTION 27. Section 43.01, Penal Code, is amended by adding
6 Subdivision (1-a) to read as follows:

7 (1-a) "Fee" means the payment or offer of payment in
8 the form of money, goods, services, or other benefit.

9 SECTION 28. Sections 43.02(a) and (b), Penal Code, are
10 amended to read as follows:

11 (a) A person commits an offense if [~~, in return for receipt~~
12 ~~of a fee,~~] the person knowingly offers or agrees to receive a fee
13 from another to engage in sexual conduct [+

14 [~~(1) offers to engage, agrees to engage, or engages in~~
15 ~~sexual conduct, or~~

16 [~~(2) solicits another in a public place to engage with~~
17 ~~the actor in sexual conduct for hire]~~.

18 (b) A person commits an offense if [~~, based on the payment of~~
19 ~~a fee by the actor or another person on behalf of the actor,~~] the
20 person knowingly offers or agrees to pay a fee to another person for
21 the purpose of engaging in sexual conduct with that person or
22 another [+

23 [~~(1) offers to engage, agrees to engage, or engages in~~
24 ~~sexual conduct, or~~

25 [~~(2) solicits another in a public place to engage with~~
26 ~~the actor in sexual conduct for hire]~~.

27 SECTION 29. Section 43.02, Penal Code, as amended by

1 Chapters 332 (H.B. 10) and 1273 (S.B. 825), Acts of the 84th
2 Legislature, Regular Session, 2015, is amended by reenacting
3 Subsection (c) and reenacting and amending Subsection (c-1) to read
4 as follows:

5 (c) An offense under Subsection (a) is a Class B
6 misdemeanor, except that the offense is:

7 (1) a Class A misdemeanor if the actor has previously
8 been convicted one or two times of an offense under Subsection (a);
9 or

10 (2) a state jail felony if the actor has previously
11 been convicted three or more times of an offense under Subsection
12 (a).

13 (c-1) An offense under Subsection (b) is a Class B
14 misdemeanor, except that the offense is:

15 (1) a Class A misdemeanor if the actor has previously
16 been convicted one or two times of an offense under Subsection (b);

17 (2) a state jail felony if the actor has previously
18 been convicted three or more times of an offense under Subsection
19 (b); or

20 (3) a felony of the second degree if the person with
21 whom the actor agrees to engage in sexual conduct ~~[solicited]~~ is:

22 (A) younger than 18 years of age, regardless of
23 whether the actor knows the age of the person ~~[solicited]~~ at the
24 time of the actor commits the offense;

25 (B) represented to the actor as being younger
26 than 18 years of age; or

27 (C) believed by the actor to be younger than 18

1 years of age.

2 SECTION 30. Section 43.03(b), Penal Code, is amended to
3 read as follows:

4 (b) An offense under this section is a state jail felony
5 [~~Class A misdemeanor~~], except that the offense is:

6 (1) a felony of the third degree [~~state jail felony~~] if
7 the actor has been previously convicted of an offense under this
8 section; or

9 (2) a felony of the second degree if the actor engages
10 in conduct described by Subsection (a)(1) or (2) involving a person
11 younger than 18 years of age engaging in prostitution, regardless
12 of whether the actor knows the age of the person at the time of [~~the~~
13 ~~actor commits~~] the offense.

14 SECTION 31. Section 43.04(b), Penal Code, is amended to
15 read as follows:

16 (b) An offense under this section is a felony of the second
17 [~~third~~] degree, except that the offense is a felony of the first
18 degree if the prostitution enterprise uses as a prostitute one or
19 more persons younger than 18 years of age, regardless of whether the
20 actor knows the age of the person at the time of [~~the actor commits~~]
21 the offense.

22 SECTION 32. Section 43.05(a), Penal Code, is amended to
23 read as follows:

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

25 (1) causes another by force, threat, or fraud to
26 commit prostitution; or

27 (2) causes by any means a child younger than 18 years

1 to commit prostitution, regardless of whether the actor knows the
2 age of the child at the time of [~~the actor commits~~] the offense.

3 SECTION 33. Section 43.25, Penal Code, is amended by
4 amending Subsections (c) and (e) and adding Subsection (h) to read
5 as follows:

6 (c) An offense under Subsection (b) is a felony of the
7 second degree, except that the offense is a felony of the first
8 degree if the victim is younger than 14 years of age at the time the
9 offense is committed, regardless of whether the actor knows the age
10 of the victim at the time of the offense.

11 (e) An offense under Subsection (d) is a felony of the third
12 degree, except that the offense is a felony of the second degree if
13 the victim is younger than 14 years of age at the time the offense is
14 committed, regardless of whether the actor knows the age of the
15 victim at the time of the offense.

16 (h) Conduct under this section constitutes an offense
17 regardless of whether the actor knows the age of the victim at the
18 time of the offense.

19 SECTION 34. Section 43.251, Penal Code, is amended by
20 amending Subsection (c) and adding Subsection (d) to read as
21 follows:

22 (c) An offense under this section is a felony of the second
23 degree, except that the offense is a felony of the first degree if
24 the child is younger than 14 years of age at the time the offense is
25 committed, regardless of whether the actor knows the age of the
26 child at the time of the offense.

27 (d) Conduct under this section constitutes an offense

1 regardless of whether the actor knows the age of the child at the
2 time of the offense.

3 SECTION 35. The following laws are repealed:

4 (1) Section 402.035(h), Government Code; and

5 (2) Section 43.02(b-1), Penal Code.

6 SECTION 36. (a) Except as provided by Subsection (b) of
7 this section, the changes in law made by this Act apply only to an
8 offense committed on or after the effective date of this Act. An
9 offense committed before the effective date of this Act is governed
10 by the law in effect on the date the offense was committed, and the
11 former law is continued in effect for that purpose. For purposes of
12 this subsection, an offense was committed before the effective date
13 of this Act if any element of the offense occurred before that date.

14 (b) The changes in law made by this Act in amending Chapter
15 62, Code of Criminal Procedure, apply only to a person who is
16 required to register under Chapter 62, Code of Criminal Procedure,
17 on the basis of a conviction or adjudication for or based on an
18 offense committed on or after the effective date of this Act. A
19 person who is required to register under Chapter 62, Code of
20 Criminal Procedure, solely on the basis of a conviction or
21 adjudication for or based on an offense committed before the
22 effective date of this Act is governed by the law in effect on the
23 date the offense was committed, and the former law is continued in
24 effect for that purpose. For purposes of this subsection, an
25 offense was committed before the effective date of this Act if any
26 element of the offense occurred before that date.

27 SECTION 37. (a) Not later than December 1, 2017, the Texas

1 Higher Education Coordinating Board shall adopt rules necessary to
2 implement Section 130.0105, Education Code, as added by this Act.

3 (b) Not later than December 1, 2017, the Texas Workforce
4 Commission shall adopt rules necessary to implement Section
5 132.006, Education Code, as added by this Act.

6 SECTION 38. To the extent of any conflict, this Act prevails
7 over another Act of the 85th Legislature, Regular Session, 2017,
8 relating to nonsubstantive additions to and corrections in enacted
9 codes.

10 SECTION 39. This Act takes effect September 1, 2017.