

1-1 By: Huffman S.B. No. 1802
 1-2 (In the Senate - Filed March 7, 2019; March 18, 2019, read
 1-3 first time and referred to Committee on State Affairs;
 1-4 April 9, 2019, reported favorably by the following vote: Yeas 9,
 1-5 Nays 0; April 9, 2019, sent to printer.)

1-6 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|----------------|-----|-----|--------|-----|
| 1-7 Huffman | X | | | |
| 1-8 Hughes | X | | | |
| 1-9 Birdwell | X | | | |
| 1-10 Creighton | X | | | |
| 1-11 Fallon | X | | | |
| 1-12 Hall | X | | | |
| 1-13 Lucio | X | | | |
| 1-14 Nelson | X | | | |
| 1-15 Zaffirini | X | | | |

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

1-19 relating to the prosecution of and punishment for certain
 1-20 trafficking and prostitution offenses and certain other
 1-21 consequences of those offenses; increasing criminal penalties.

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

1-23 SECTION 1. Article 62.001(5), Code of Criminal Procedure,
 1-24 is amended to read as follows:

1-25 (5) "Reportable conviction or adjudication" means a
 1-26 conviction or adjudication, including an adjudication of
 1-27 delinquent conduct or a deferred adjudication, that, regardless of
 1-28 the pendency of an appeal, is a conviction for or an adjudication
 1-29 for or based on:

1-30 (A) a violation of Section 21.02 (Continuous
 1-31 sexual abuse of young child or children), 21.09 (Bestiality), 21.11
 1-32 (Indecency with a child), 22.011 (Sexual assault), 22.021
 1-33 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct),
 1-34 Penal Code;

1-35 (B) a violation of Section 43.04 (Aggravated
 1-36 promotion of prostitution), 43.05 (Compelling prostitution), 43.25
 1-37 (Sexual performance by a child), or 43.26 (Possession or promotion
 1-38 of child pornography), Penal Code;

1-39 (B-1) a violation of Section 43.02
 1-40 (Prostitution), Penal Code, if the offense is punishable under
 1-41 Subsection (c-1)(3) of that section;

1-42 (C) a violation of Section 20.04(a)(4)
 1-43 (Aggravated kidnapping), Penal Code, if the actor committed the
 1-44 offense or engaged in the conduct with intent to violate or abuse
 1-45 the victim sexually;

1-46 (D) a violation of Section 30.02 (Burglary),
 1-47 Penal Code, if the offense or conduct is punishable under
 1-48 Subsection (d) of that section and the actor committed the offense
 1-49 or engaged in the conduct with intent to commit a felony listed in
 1-50 Paragraph (A) or (C);

1-51 (E) a violation of Section 20.02 (Unlawful
 1-52 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),
 1-53 Penal Code, if, as applicable:

1-54 (i) the judgment in the case contains an
 1-55 affirmative finding under Article 42.015; or

1-56 (ii) the order in the hearing or the papers
 1-57 in the case contain an affirmative finding that the victim or
 1-58 intended victim was younger than 17 years of age;

1-59 (F) the second violation of Section 21.08
 1-60 (Indecent exposure), Penal Code, but not if the second violation
 1-61 results in a deferred adjudication;

2-1 (G) an attempt, conspiracy, or solicitation, as
 2-2 defined by Chapter 15, Penal Code, to commit an offense or engage in
 2-3 conduct listed in Paragraph (A), (B), (C), (D), (E), (K), or (L);

2-4 (H) a violation of the laws of another state,
 2-5 federal law, the laws of a foreign country, or the Uniform Code of
 2-6 Military Justice for or based on the violation of an offense
 2-7 containing elements that are substantially similar to the elements
 2-8 of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E),
 2-9 (G), (J), (K), or (L), but not if the violation results in a
 2-10 deferred adjudication;

2-11 (I) the second violation of the laws of another
 2-12 state, federal law, the laws of a foreign country, or the Uniform
 2-13 Code of Military Justice for or based on the violation of an offense
 2-14 containing elements that are substantially similar to the elements
 2-15 of the offense of indecent exposure, but not if the second violation
 2-16 results in a deferred adjudication;

2-17 (J) a violation of Section 33.021 (Online
 2-18 solicitation of a minor), Penal Code;

2-19 (K) a violation of Section 20A.02(a)(3), (4),
 2-20 (7), or (8) (Trafficking of persons), Penal Code; or

2-21 (L) a violation of Section 20A.03 (Continuous
 2-22 trafficking of persons), Penal Code, if the offense is based partly
 2-23 or wholly on conduct that constitutes an offense under Section
 2-24 20A.02(a)(3), (4), (7), or (8) of that code.

2-25 SECTION 2. Section 20A.02(a-1), Penal Code, is amended to
 2-26 read as follows:

2-27 (a-1) For purposes of Subsection (a)(3), "coercion" as
 2-28 defined by Section 1.07 includes:

2-29 (1) destroying, concealing, confiscating, or
 2-30 withholding from a [the] trafficked person, or threatening to
 2-31 destroy, conceal, confiscate, or withhold from a [the] trafficked
 2-32 person, the [trafficked] person's actual or purported:

2-33 (A) [(-1)] government records; or

2-34 (B) [(-2)] identifying information or documents;

2-35 (2) causing a trafficked person, without the person's
 2-36 consent, to become intoxicated, as defined by Section 49.01, to a
 2-37 degree that impairs the person's ability to appraise the nature of
 2-38 the prohibited conduct or to resist engaging in that conduct; or

2-39 (3) withholding alcohol or a controlled substance to a
 2-40 degree that impairs the ability of a trafficked person with a
 2-41 chemical dependency, as defined by Section 462.001, Health and
 2-42 Safety Code, to appraise the nature of the prohibited conduct or to
 2-43 resist engaging in that conduct.

2-44 SECTION 3. Section 43.03(b), Penal Code, is amended to read
 2-45 as follows:

2-46 (b) An offense under this section is a felony of the third
 2-47 degree ~~[state jail felony]~~, except that the offense is:

2-48 (1) a felony of the second ~~[third]~~ degree if the actor
 2-49 has been previously convicted of an offense under this section; or

2-50 (2) a felony of the first ~~[second]~~ degree if the actor
 2-51 engages in conduct described by Subsection (a)(1) or (2) involving
 2-52 a person younger than 18 years of age engaging in prostitution,
 2-53 regardless of whether the actor knows the age of the person at the
 2-54 time of the offense.

2-55 SECTION 4. Section 43.04(b), Penal Code, is amended to read
 2-56 as follows:

2-57 (b) An offense under this section is a felony of the ~~[second~~
 2-58 ~~degree, except that the offense is a felony of the]~~ first degree ~~[if~~
 2-59 ~~the prostitution enterprise uses as a prostitute one or more~~
 2-60 ~~persons younger than 18 years of age, regardless of whether the~~
 2-61 ~~actor knows the age of the person at the time of the offense].~~

2-62 SECTION 5. Section 43.05, Penal Code, is amended by
 2-63 amending Subsections (a) and (b) and adding Subsection (d) to read
 2-64 as follows:

2-65 (a) A person commits an offense if the person knowingly:

2-66 (1) causes another by force, threat, coercion, or
 2-67 fraud to commit prostitution; or

2-68 (2) causes by any means a child younger than 18 years
 2-69 to commit prostitution, regardless of whether the actor knows the

3-1 age of the child at the time of the offense.

3-2 (b) An offense under this section [~~Subsection (a)(1) is a~~
3-3 ~~felony of the second degree. An offense under Subsection (a)(2)] is~~
3-4 a felony of the first degree.

3-5 (d) For purposes of this section, "coercion" as defined by
3-6 Section 1.07 includes:

3-7 (1) destroying, concealing, confiscating, or
3-8 withholding from a person, or threatening to destroy, conceal,
3-9 confiscate, or withhold from a person, the person's actual or
3-10 purported:

3-11 (A) government records; or

3-12 (B) identifying information or documents;

3-13 (2) causing a person, without the person's consent, to
3-14 become intoxicated, as defined by Section 49.01, to a degree that
3-15 impairs the person's ability to appraise the nature of the person's
3-16 conduct that constitutes prostitution or to resist engaging in that
3-17 conduct; or

3-18 (3) withholding alcohol or a controlled substance to a
3-19 degree that impairs the ability of a person with a chemical
3-20 dependency, as defined by Section 462.001, Health and Safety Code,
3-21 to appraise the nature of the person's conduct that constitutes
3-22 prostitution or to resist engaging in that conduct.

3-23 SECTION 6. (a) The change in law made by this Act to
3-24 Article 62.001(5), Code of Criminal Procedure, applies only to a
3-25 person who is required to register under Chapter 62, Code of
3-26 Criminal Procedure, on the basis of a conviction or adjudication
3-27 for or based on an offense committed on or after the effective date
3-28 of this Act. A person who is required to register under Chapter 62,
3-29 Code of Criminal Procedure, solely on the basis of a conviction or
3-30 adjudication for or based on an offense committed before the
3-31 effective date of this Act is governed by the law in effect on the
3-32 date the offense was committed, and the former law is continued in
3-33 effect for that purpose.

3-34 (b) The changes in law made by this Act to Sections 20A.02,
3-35 43.03, 43.04, and 43.05, Penal Code, apply only to an offense
3-36 committed on or after the effective date of this Act. An offense
3-37 committed before the effective date of this Act is governed by the
3-38 law in effect on the date the offense was committed, and the former
3-39 law is continued in effect for that purpose.

3-40 (c) For purposes of this section, an offense was committed
3-41 before the effective date of this Act if any element of the offense
3-42 occurred before that date.

3-43 SECTION 7. This Act takes effect September 1, 2019.

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