

By: Simpson

H.B. No. 2165

A BILL TO BE ENTITLED

AN ACT

relating to repealing marihuana offenses.

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

SECTION 1. The following provisions are repealed:

(1) Article 13.22, Code of Criminal Procedure;

(2) Sections 481.002(26), 481.120, and 481.121, Health and Safety Code; and

(3) Sections 159.001(4) and 159.101(e), Tax Code.

SECTION 2. Article 14.06(d), Code of Criminal Procedure, is amended to read as follows:

(d) Subsection (c) applies only to a person charged with committing an offense under:

(1) ~~[Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;~~

~~[(1-a)]~~ Section 481.1161, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(2) Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(3) Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(1) of that section;

(4) Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;

1 (5) Section 31.04, Penal Code, if the offense is
2 punishable under Subsection (e)(2) of that section;

3 (6) Section 38.114, Penal Code, if the offense is
4 punishable as a Class B misdemeanor; or

5 (7) Section 521.457, Transportation Code.

6 SECTION 3. Article 15.27(h), Code of Criminal Procedure, is
7 amended to read as follows:

8 (h) This article applies to any felony offense and the
9 following misdemeanors:

10 (1) an offense under Section 20.02, 21.08, 22.01,
11 22.05, 22.07, or 71.02, Penal Code;

12 (2) the unlawful use, sale, or possession of a
13 controlled substance or ~~[7]~~ drug paraphernalia, ~~[or marijuana]~~
14 defined by Chapter 481, Health and Safety Code; or

15 (3) the unlawful possession of any of the weapons or
16 devices listed in Sections 46.01(1)-(14) or (16), Penal Code, or a
17 weapon listed as a prohibited weapon under Section 46.05, Penal
18 Code.

19 SECTION 4. Section 4, Article 18.20, Code of Criminal
20 Procedure, is amended to read as follows:

21 Sec. 4. OFFENSES FOR WHICH INTERCEPTIONS MAY BE
22 AUTHORIZED. A judge of competent jurisdiction may issue an order
23 authorizing interception of wire, oral, or electronic
24 communications only if the prosecutor applying for the order shows
25 probable cause to believe that the interception will provide
26 evidence of the commission of:

27 (1) a felony under Section 19.02, 19.03, or 43.26,

1 Penal Code;

2 (2) a felony under:

3 (A) Chapter 481, Health and Safety Code [~~other~~
4 ~~than felony possession of marihuana~~];

5 (B) Section 485.032, Health and Safety Code; or

6 (C) Chapter 483, Health and Safety Code;

7 (3) an offense under Section 20.03 or 20.04, Penal
8 Code;

9 (4) an offense under Chapter 20A, Penal Code;

10 (5) an offense under Chapter 34, Penal Code, if the
11 criminal activity giving rise to the proceeds involves the
12 commission of an offense under Title 5, Penal Code, or an offense
13 under federal law or the laws of another state containing elements
14 that are substantially similar to the elements of an offense under
15 Title 5;

16 (6) an offense under Section 38.11, Penal Code; or

17 (7) an attempt, conspiracy, or solicitation to commit
18 an offense listed in this section.

19 SECTION 5. Section 15(a)(1), Article 42.12, Code of
20 Criminal Procedure, is amended to read as follows:

21 (1) On conviction of a state jail felony under Section
22 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(3),
23 [~~481.121(b)(3)~~] or 481.129(g)(1), Health and Safety Code, that is
24 punished under Section 12.35(a), Penal Code, the judge shall
25 suspend the imposition of the sentence and place the defendant on
26 community supervision, unless the defendant has previously been
27 convicted of a felony, other than a felony punished under Section

1 12.44(a), Penal Code, or unless the conviction resulted from an
2 adjudication of the guilt of a defendant previously placed on
3 deferred adjudication community supervision for the offense, in
4 which event the judge may suspend the imposition of the sentence and
5 place the defendant on community supervision or may order the
6 sentence to be executed. The provisions of this subdivision
7 requiring the judge to suspend the imposition of the sentence and
8 place the defendant on community supervision do not apply to a
9 defendant who:

10 (A) under Section 481.1151(b)(1), Health and
11 Safety Code, possessed more than five abuse units of the controlled
12 substance; or

13 (B) under Section 481.1161(b)(3), Health and
14 Safety Code, possessed more than one pound, by aggregate weight,
15 including adulterants or dilutants, of the controlled substance[+
16 ~~or~~

17 [~~(C) under Section 481.121(b)(3), Health and~~
18 ~~Safety Code, possessed more than one pound of marihuana].~~

19 SECTION 6. Section 15(d), Article 42.12, Code of Criminal
20 Procedure, is amended to read as follows:

21 (d) A judge may impose as a condition of community
22 supervision that a defendant submit at the beginning of the period
23 of community supervision to a term of confinement in a state jail
24 felony facility for a term of not less than 90 days or more than 180
25 days, or a term of not less than 90 days or more than one year if the
26 defendant is convicted of an offense punishable as a state jail
27 felony under Section 481.112, 481.1121, or 481.113, [~~or 481.120,~~]

1 Health and Safety Code. A judge may not require a defendant to
2 submit to both the term of confinement authorized by this
3 subsection and a term of confinement under Section 5 or 12 of this
4 article. For the purposes of this subsection, a defendant
5 previously has been convicted of a felony regardless of whether the
6 sentence for the previous conviction was actually imposed or was
7 probated and suspended.

8 SECTION 7. Section 37.006(a), Education Code, is amended to
9 read as follows:

10 (a) A student shall be removed from class and placed in a
11 disciplinary alternative education program as provided by Section
12 37.008 if the student:

13 (1) engages in conduct involving a public school that
14 contains the elements of the offense of false alarm or report under
15 Section 42.06, Penal Code, or terroristic threat under Section
16 22.07, Penal Code; or

17 (2) commits the following on or within 300 feet of
18 school property, as measured from any point on the school's real
19 property boundary line, or while attending a school-sponsored or
20 school-related activity on or off of school property:

21 (A) engages in conduct punishable as a felony;

22 (B) engages in conduct that contains the elements
23 of the offense of assault under Section 22.01(a)(1), Penal Code;

24 (C) sells, gives, or delivers to another person
25 or possesses or uses or is under the influence of:

26 (i) ~~marjuana or~~ a controlled substance,
27 as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.

1 Section 801 et seq.; or

2 (ii) a dangerous drug, as defined by
3 Chapter 483, Health and Safety Code;

4 (D) sells, gives, or delivers to another person
5 an alcoholic beverage, as defined by Section 1.04, Alcoholic
6 Beverage Code, commits a serious act or offense while under the
7 influence of alcohol, or possesses, uses, or is under the influence
8 of an alcoholic beverage;

9 (E) engages in conduct that contains the elements
10 of an offense relating to an abusable volatile chemical under
11 Sections 485.031 through 485.034, Health and Safety Code; or

12 (F) engages in conduct that contains the elements
13 of the offense of public lewdness under Section 21.07, Penal Code,
14 or indecent exposure under Section 21.08, Penal Code.

15 SECTION 8. Section 37.007(b), Education Code, is amended to
16 read as follows:

17 (b) A student may be expelled if the student:

18 (1) engages in conduct involving a public school that
19 contains the elements of the offense of false alarm or report under
20 Section 42.06, Penal Code, or terroristic threat under Section
21 22.07, Penal Code;

22 (2) while on or within 300 feet of school property, as
23 measured from any point on the school's real property boundary
24 line, or while attending a school-sponsored or school-related
25 activity on or off of school property:

26 (A) sells, gives, or delivers to another person
27 or possesses, uses, or is under the influence of any amount of:

1 (i) [~~marihuana or~~] a controlled substance,
2 as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C.
3 Section 801 et seq.;

4 (ii) a dangerous drug, as defined by
5 Chapter 483, Health and Safety Code; or

6 (iii) an alcoholic beverage, as defined by
7 Section 1.04, Alcoholic Beverage Code;

8 (B) engages in conduct that contains the elements
9 of an offense relating to an abusable volatile chemical under
10 Sections 485.031 through 485.034, Health and Safety Code;

11 (C) engages in conduct that contains the elements
12 of an offense under Section 22.01(a)(1), Penal Code, against a
13 school district employee or a volunteer as defined by Section
14 22.053; or

15 (D) engages in conduct that contains the elements
16 of the offense of deadly conduct under Section 22.05, Penal Code;

17 (3) subject to Subsection (d), while within 300 feet
18 of school property, as measured from any point on the school's real
19 property boundary line:

20 (A) engages in conduct specified by Subsection
21 (a); or

22 (B) possesses a firearm, as defined by 18 U.S.C.
23 Section 921;

24 (4) engages in conduct that contains the elements of
25 any offense listed in Subsection (a)(2)(A) or (C) or the offense of
26 aggravated robbery under Section 29.03, Penal Code, against another
27 student, without regard to whether the conduct occurs on or off of

1 school property or while attending a school-sponsored or
2 school-related activity on or off of school property; or

3 (5) engages in conduct that contains the elements of
4 the offense of breach of computer security under Section 33.02,
5 Penal Code, if:

6 (A) the conduct involves accessing a computer,
7 computer network, or computer system owned by or operated on behalf
8 of a school district; and

9 (B) the student knowingly:

10 (i) alters, damages, or deletes school
11 district property or information; or

12 (ii) commits a breach of any other
13 computer, computer network, or computer system.

14 SECTION 9. Section 37.015(a), Education Code, is amended to
15 read as follows:

16 (a) The principal of a public or private primary or
17 secondary school, or a person designated by the principal under
18 Subsection (d), shall notify any school district police department
19 and the police department of the municipality in which the school is
20 located or, if the school is not in a municipality, the sheriff of
21 the county in which the school is located if the principal has
22 reasonable grounds to believe that any of the following activities
23 occur in school, on school property, or at a school-sponsored or
24 school-related activity on or off school property, whether or not
25 the activity is investigated by school security officers:

26 (1) conduct that may constitute an offense listed
27 under Section 508.149, Government Code;

1 (2) deadly conduct under Section 22.05, Penal Code;

2 (3) a terroristic threat under Section 22.07, Penal
3 Code;

4 (4) the use, sale, or possession of a controlled
5 substance or [7] drug paraphernalia [~~7~~ ~~or marijuana~~] under Chapter
6 481, Health and Safety Code;

7 (5) the possession of any of the weapons or devices
8 listed under Sections 46.01(1)-(14) or Section 46.01(16), Penal
9 Code;

10 (6) conduct that may constitute a criminal offense
11 under Section 71.02, Penal Code; or

12 (7) conduct that may constitute a criminal offense for
13 which a student may be expelled under Section 37.007(a), (d), or
14 (e).

15 SECTION 10. Section 37.016, Education Code, is amended to
16 read as follows:

17 Sec. 37.016. REPORT OF DRUG OFFENSES; LIABILITY. A
18 teacher, school administrator, or school employee is not liable in
19 civil damages for reporting to a school administrator or
20 governmental authority, in the exercise of professional judgment
21 within the scope of the teacher's, administrator's, or employee's
22 duties, a student whom the teacher suspects of using, passing, or
23 selling, on school property:

24 (1) [~~marijuana or~~] a controlled substance, as defined
25 by Chapter 481, Health and Safety Code;

26 (2) a dangerous drug, as defined by Chapter 483,
27 Health and Safety Code;

1 (3) an abusable glue or aerosol paint, as defined by
2 Chapter 485, Health and Safety Code, or a volatile chemical, as
3 listed in Chapter 485 [~~484~~], Health and Safety Code, if the
4 substance is used or sold for the purpose of inhaling its fumes or
5 vapors; or

6 (4) an alcoholic beverage, as defined by Section 1.04,
7 Alcoholic Beverage Code.

8 SECTION 11. Section 76.017(b), Government Code, is amended
9 to read as follows:

10 (b) The program must:

11 (1) include automatic screening and evaluation of a
12 person arrested for an offense, other than a Class C misdemeanor, in
13 which an element of the offense is the use or possession of alcohol
14 or the use, possession, or sale of a controlled substance [~~or~~
15 ~~marihuana~~];

16 (2) include automatic screening and evaluation of a
17 person arrested for an offense, other than a Class C misdemeanor, in
18 which the use of alcohol or drugs is suspected to have significantly
19 contributed to the offense for which the individual has been
20 arrested;

21 (3) coordinate the evaluation and referral to
22 treatment services; and

23 (4) make referrals for the appropriate treatment of a
24 person determined to be in need of treatment, including referrals
25 to a community corrections facility as defined by Section 509.001.

26 SECTION 12. Section 123.002, Government Code, is amended to
27 read as follows:

1 Sec. 123.002. AUTHORITY TO ESTABLISH PROGRAM. The
2 commissioners court of a county or governing body of a municipality
3 may establish the following types of drug court programs:

4 (1) drug courts for persons arrested for, charged
5 with, or convicted of:

6 (A) an offense in which an element of the offense
7 is the use or possession of alcohol or the use, possession, or sale
8 of a controlled substance or [7] a controlled substance analogue [7
9 ~~or marijuana~~]; or

10 (B) an offense in which the use of alcohol or a
11 controlled substance is suspected to have significantly
12 contributed to the commission of the offense and the offense did not
13 involve:

14 (i) carrying, possessing, or using a
15 firearm or other dangerous weapon;

16 (ii) the use of force against the person of
17 another; or

18 (iii) the death of or serious bodily injury
19 to another;

20 (2) drug courts for juveniles detained for, taken into
21 custody for, or adjudicated as having engaged in:

22 (A) delinquent conduct, including habitual
23 felony conduct, or conduct indicating a need for supervision in
24 which an element of the conduct is the use or possession of alcohol
25 or the use, possession, or sale of a controlled substance or [7]
26 controlled substance analogue [~~7 or marijuana~~]; or

27 (B) delinquent conduct, including habitual

1 felony conduct, or conduct indicating a need for supervision in
2 which the use of alcohol or a controlled substance is suspected to
3 have significantly contributed to the commission of the conduct and
4 the conduct did not involve:

5 (i) carrying, possessing, or using a
6 firearm or other dangerous weapon;

7 (ii) the use of force against the person of
8 another; or

9 (iii) the death of or serious bodily injury
10 to another;

11 (3) reentry drug courts for persons with a
12 demonstrated history of using alcohol or a controlled substance who
13 may benefit from a program designed to facilitate the person's
14 transition and reintegration into the community on release from a
15 state or local correctional facility;

16 (4) family dependency drug treatment courts for family
17 members involved in a suit affecting the parent-child relationship
18 in which a parent's use of alcohol or a controlled substance is a
19 primary consideration in the outcome of the suit; or

20 (5) programs for other persons not precisely described
21 by Subdivisions (1)-(4) who may benefit from a program that has the
22 essential characteristics described by Section [123.001](#).

23 SECTION 13. Sections [481.002](#)(17) and (25), Health and
24 Safety Code, are amended to read as follows:

25 (17) "Drug paraphernalia" means equipment, a product,
26 or material that is used or intended for use in planting,
27 propagating, cultivating, growing, harvesting, manufacturing,

1 compounding, converting, producing, processing, preparing,
2 testing, analyzing, packaging, repackaging, storing, containing,
3 or concealing a controlled substance in violation of this chapter
4 or in injecting, ingesting, inhaling, or otherwise introducing into
5 the human body a controlled substance in violation of this chapter.
6 The term includes:

7 (A) a kit used or intended for use in planting,
8 propagating, cultivating, growing, or harvesting a species of plant
9 that is a controlled substance or from which a controlled substance
10 may be derived;

11 (B) a material, compound, mixture, preparation,
12 or kit used or intended for use in manufacturing, compounding,
13 converting, producing, processing, or preparing a controlled
14 substance;

15 (C) an isomerization device used or intended for
16 use in increasing the potency of a species of plant that is a
17 controlled substance;

18 (D) testing equipment used or intended for use in
19 identifying or in analyzing the strength, effectiveness, or purity
20 of a controlled substance;

21 (E) a scale or balance used or intended for use in
22 weighing or measuring a controlled substance;

23 (F) a dilutant or adulterant, such as quinine
24 hydrochloride, mannitol, inositol, nicotinamide, dextrose,
25 lactose, or absorbent, blotter-type material, that is used or
26 intended to be used to increase the amount or weight of or to
27 transfer a controlled substance regardless of whether the dilutant

1 or adulterant diminishes the efficacy of the controlled substance;

2 (G) [~~a separation gin or sifter used or intended~~
3 ~~for use in removing twigs and seeds from or in otherwise cleaning or~~
4 ~~refining marihuana,~~

5 [~~(H)~~] a blender, bowl, container, spoon, or
6 mixing device used or intended for use in compounding a controlled
7 substance;

8 (H) [~~(I)~~] a capsule, balloon, envelope, or other
9 container used or intended for use in packaging small quantities of
10 a controlled substance;

11 (I) [~~(J)~~] a container or other object used or
12 intended for use in storing or concealing a controlled substance;

13 (J) [~~(K)~~] a hypodermic syringe, needle, or other
14 object used or intended for use in parenterally injecting a
15 controlled substance into the human body; and

16 (K) [~~(L)~~] an object used or intended for use in
17 ingesting, inhaling, or otherwise introducing [~~marihuana,~~
18 cocaine, hashish, or hashish oil into the human body, including:

19 (i) a metal, wooden, acrylic, glass, stone,
20 plastic, or ceramic pipe with or without a screen, permanent
21 screen, hashish head, or punctured metal bowl;

22 (ii) a water pipe;

23 (iii) a carburation tube or device;

24 (iv) a smoking or carburation mask;

25 (v) a chamber pipe;

26 (vi) a carburetor pipe;

27 (vii) an electric pipe;

- (viii) an air-driven pipe;
- (ix) a chillum;
- (x) a bong; or
- (xi) an ice pipe or chiller.

(25) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance [~~other than marijuana~~], directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes the packaging or repackaging of the substance or labeling or relabeling of its container. However, the term does not include the preparation, compounding, packaging, or labeling of a controlled substance:

(A) by a practitioner as an incident to the practitioner's administering or dispensing a controlled substance in the course of professional practice; or

(B) by a practitioner, or by an authorized agent under the supervision of the practitioner, for or as an incident to research, teaching, or chemical analysis and not for delivery.

SECTION 14. Section 481.111(c), Health and Safety Code, is amended to read as follows:

(c) A person does not violate Section 481.113, 481.116, 481.1161, [~~481.121~~] or 481.125 if the person possesses or delivers tetrahydrocannabinols or their derivatives, or drug paraphernalia to be used to introduce tetrahydrocannabinols or their derivatives into the human body, for use in a federally approved therapeutic research program.

1 SECTION 15. The heading to Section 481.122, Health and
2 Safety Code, is amended to read as follows:

3 Sec. 481.122. OFFENSE: DELIVERY OF CONTROLLED SUBSTANCE [~~OR~~
4 ~~MARIHUANA~~] TO CHILD.

5 SECTION 16. Sections 481.122(a) and (b), Health and Safety
6 Code, are amended to read as follows:

7 (a) A person commits an offense if the person knowingly
8 delivers a controlled substance listed in Penalty Group 1, 1-A, 2,
9 or 3 [~~or knowingly delivers marihuana~~] and the person delivers the
10 controlled substance [~~or marihuana~~] to a person:

11 (1) who is a child;

12 (2) who is enrolled in a public or private primary or
13 secondary school; or

14 (3) who the actor knows or believes intends to deliver
15 the controlled substance [~~or marihuana~~] to a person described by
16 Subdivision (1) or (2).

17 (b) It is an affirmative defense to prosecution under this
18 section that[+]

19 [~~(1)~~] the actor was a child when the offense was
20 committed[~~, or~~

21 [~~(2) the actor:~~

22 [~~(A) was younger than 21 years of age when the~~
23 ~~offense was committed,~~

24 [~~(B) delivered only marihuana in an amount equal~~
25 ~~to or less than one-fourth ounce, and~~

26 [~~(C) did not receive remuneration for the~~
27 ~~delivery]~~.

1 SECTION 17. Section 481.126, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 481.126. OFFENSE: ILLEGAL BARTER, EXPENDITURE, OR
4 INVESTMENT. (a) A person commits an offense if the person:

5 (1) barter property or expends funds the person knows
6 are derived from the commission of an offense under this chapter
7 punishable by imprisonment in the Texas Department of Criminal
8 Justice for life; or

9 (2) [~~barter property or expends funds the person~~
10 ~~knows are derived from the commission of an offense under Section~~
11 ~~481.121(a) that is punishable under Section 481.121(b)(5)~~];

12 [~~(3)~~] barter property or finances or invests funds
13 the person knows or believes are intended to further the commission
14 of an offense for which the punishment is described by Subdivision
15 (1) [~~or~~

16 [~~(4) barter property or finances or invests funds the~~
17 ~~person knows or believes are intended to further the commission of~~
18 ~~an offense under Section 481.121(a) that is punishable under~~
19 ~~Section 481.121(b)(5)~~].

20 (b) An offense under Subsection (a) [~~(a)(1) or (3)~~] is a
21 felony of the first degree. [~~An offense under Subsection (a)(2) or~~
22 ~~(4) is a felony of the second degree.~~]

23 SECTION 18. Section 481.133(c), Health and Safety Code, is
24 amended to read as follows:

25 (c) In this section, "drug test" means a lawfully
26 administered test designed to detect the presence of a controlled
27 substance [~~or marijuana~~].

1 SECTION 19. Sections 481.134(b), (c), (d), (e), and (f),
2 Health and Safety Code, are amended to read as follows:

3 (b) An offense otherwise punishable as a state jail felony
4 under Section 481.112, 481.113, or 481.114 [~~or 481.120~~] is
5 punishable as a felony of the third degree, and an offense otherwise
6 punishable as a felony of the second degree under any of those
7 sections is punishable as a felony of the first degree, if it is
8 shown at the punishment phase of the trial of the offense that the
9 offense was committed:

10 (1) in, on, or within 1,000 feet of premises owned,
11 rented, or leased by an institution of higher learning, the
12 premises of a public or private youth center, or a playground; or

13 (2) in, on, or within 300 feet of the premises of a
14 public swimming pool or video arcade facility.

15 (c) The minimum term of confinement or imprisonment for an
16 offense otherwise punishable under Section 481.112(c), (d), (e), or
17 (f), 481.113(c), (d), or (e), 481.114(c), (d), or (e),
18 481.115(c)-(f), 481.116(c), (d), or (e), 481.1161(b)(4), (5), or
19 (6), 481.117(c), (d), or (e), or 481.118(c), (d), or (e) [~~or~~
20 ~~481.120(b)(4), (5), or (6), or 481.121(b)(4), (5), or (6)~~] is
21 increased by five years and the maximum fine for the offense is
22 doubled if it is shown on the trial of the offense that the offense
23 was committed:

24 (1) in, on, or within 1,000 feet of the premises of a
25 school, the premises of a public or private youth center, or a
26 playground; or

27 (2) on a school bus.

1 (d) An offense otherwise punishable under Section
2 481.112(b), 481.113(b), 481.114(b), 481.115(b), 481.116(b), or
3 481.1161(b)(3) [~~7~~ 481.120(b)(3), ~~or~~ 481.121(b)(3)] is a felony of
4 the third degree if it is shown on the trial of the offense that the
5 offense was committed:

6 (1) in, on, or within 1,000 feet of any real property
7 that is owned, rented, or leased to a school or school board, the
8 premises of a public or private youth center, or a playground; or

9 (2) on a school bus.

10 (e) An offense otherwise punishable under Section
11 481.117(b) or [~~7~~ 481.119(a) [~~7~~ 481.120(b)(2), ~~or~~ 481.121(b)(2)]] is
12 a state jail felony if it is shown on the trial of the offense that
13 the offense was committed:

14 (1) in, on, or within 1,000 feet of any real property
15 that is owned, rented, or leased to a school or school board, the
16 premises of a public or private youth center, or a playground; or

17 (2) on a school bus.

18 (f) An offense otherwise punishable under Section
19 481.118(b) or [~~7~~ 481.119(b) [~~7~~ 481.120(b)(1), ~~or~~ 481.121(b)(1)]] is
20 a Class A misdemeanor if it is shown on the trial of the offense that
21 the offense was committed:

22 (1) in, on, or within 1,000 feet of any real property
23 that is owned, rented, or leased to a school or school board, the
24 premises of a public or private youth center, or a playground; or

25 (2) on a school bus.

26 SECTION 20. Section 481.140(a), Health and Safety Code, is
27 amended to read as follows:

1 (a) If it is shown at the punishment phase of the trial of an
2 offense otherwise punishable as a state jail felony, felony of the
3 third degree, or felony of the second degree under Section 481.112,
4 481.1121, 481.113, 481.114, [~~481.120~~] or 481.122 that the
5 defendant used or attempted to use a child younger than 18 years of
6 age to commit or assist in the commission of the offense, the
7 punishment is increased by one degree, unless the defendant used or
8 threatened to use force against the child or another to gain the
9 child's assistance, in which event the punishment for the offense
10 is a felony of the first degree.

11 SECTION 21. Section 31.0031(d), Human Resources Code, is
12 amended to read as follows:

13 (d) The responsibility agreement shall require that:

14 (1) the parent of a dependent child cooperate with the
15 department and the Title IV-D agency if necessary to establish the
16 paternity of the dependent child and to establish or enforce child
17 support;

18 (2) if adequate and accessible providers of the
19 services are available in the geographic area and subject to the
20 availability of funds, each dependent child, as appropriate,
21 complete early and periodic screening, diagnosis, and treatment
22 checkups on schedule and receive the immunization series prescribed
23 by Section 161.004, Health and Safety Code, unless the child is
24 exempt under that section;

25 (3) each adult recipient, or teen parent recipient who
26 has completed the requirements regarding school attendance in
27 Subdivision (6), not voluntarily terminate paid employment of at

1 least 30 hours each week without good cause in accordance with rules
2 adopted by the department;

3 (4) each adult recipient for whom a needs assessment
4 is conducted participate in an activity to enable that person to
5 become self-sufficient by:

6 (A) continuing the person's education or
7 becoming literate;

8 (B) entering a job placement or employment skills
9 training program;

10 (C) serving as a volunteer in the person's
11 community; or

12 (D) serving in a community work program or other
13 work program approved by the department;

14 (5) each caretaker relative or parent receiving
15 assistance not use, sell, or possess [~~marihuana or~~] a controlled
16 substance in violation of Chapter 481, Health and Safety Code, or
17 abuse alcohol;

18 (6) each dependent child younger than 18 years of age
19 or teen parent younger than 19 years of age attend school regularly,
20 unless the child has a high school diploma or high school
21 equivalency certificate or is specifically exempted from school
22 attendance under Section 25.086, Education Code;

23 (7) each recipient comply with department rules
24 regarding proof of school attendance; and

25 (8) each recipient attend appropriate parenting
26 skills training classes, as determined by the needs assessment.

27 SECTION 22. Section 1355.006, Insurance Code, is amended to

1 read as follows:

2 Sec. 1355.006. COVERAGE FOR CERTAIN CONDITIONS RELATED TO
3 CONTROLLED SUBSTANCE [~~OR MARIHUANA~~] NOT REQUIRED. (a) In this
4 section, "controlled substance" has [~~and "marihuana" have~~] the
5 meaning [~~meanings~~] assigned by Section 481.002, Health and Safety
6 Code.

7 (b) This subchapter does not require a group health benefit
8 plan to provide coverage for the treatment of:

9 (1) addiction to a controlled substance [~~or marihuana~~]
10 that is used in violation of law; or

11 (2) mental illness that results from the use of a
12 controlled substance [~~or marihuana~~] in violation of law.

13 SECTION 23. Section 71.023(a), Penal Code, is amended to
14 read as follows:

15 (a) A person commits an offense if the person, as part of the
16 identifiable leadership of a criminal street gang, knowingly
17 finances, directs, or supervises the commission of, or a conspiracy
18 to commit, one or more of the following offenses by members of a
19 criminal street gang:

20 (1) a felony offense that is listed in Section
21 3g(a)(1), Article 42.12, Code of Criminal Procedure;

22 (2) a felony offense for which it is shown that a
23 deadly weapon, as defined by Section 1.07, was used or exhibited
24 during the commission of the offense or during immediate flight
25 from the commission of the offense; or

26 (3) an offense that is punishable under Section
27 481.112(e), 481.112(f), 481.1121(b)(4), or 481.115(f), [~~or~~

1 ~~481.120(b)(6),~~] Health and Safety Code.

2 SECTION 24. Sections 159.001(3) and (7), Tax Code, are
3 amended to read as follows:

4 (3) "Dealer" means a person who in violation of the law
5 of this state imports into this state or manufactures, produces,
6 acquires, or possesses in this state:

7 (A) seven grams or more of a taxable substance
8 consisting of or containing a controlled substance, counterfeit
9 substance, or simulated controlled substance; or

10 (B) fifty dosage units or more of a taxable
11 substance not commonly sold by weight, consisting of or containing
12 a controlled substance, counterfeit substance, or simulated
13 controlled substance [~~, or~~

14 [~~(C) more than four ounces of a taxable substance~~
15 ~~consisting of or containing marihuana]~~.

16 (7) "Taxable substance" means a controlled substance,
17 a counterfeit substance, or a simulated controlled substance, [~~or~~
18 ~~marihuana,~~] or a mixture of any materials that contains a
19 controlled substance, counterfeit substance, or simulated
20 controlled substance [~~, or marihuana]~~.

21 SECTION 25. Section 159.004, Tax Code, is amended to read as
22 follows:

23 Sec. 159.004. NO DEFENSE OR IMMUNITY. Nothing in this
24 chapter provides a defense or affirmative defense to, exception to,
25 or immunity from prosecution under the penal laws of this state
26 relating to controlled substances, counterfeit substances, or
27 simulated controlled substances [~~, or marihuana]~~.

1 SECTION 26. Section 159.101(b), Tax Code, is amended to
2 read as follows:

3 (b) The rate of the tax is:

4 (1) \$200 for each gram of a taxable substance
5 consisting of or containing a controlled substance, counterfeit
6 substance, or simulated controlled substance; and

7 ~~(2) [\$3.50 for each gram of a taxable substance~~
8 ~~consisting of or containing marihuana; and~~

9 ~~[(3)]~~ \$2,000 on each 50 dosage units, or portion of 50
10 dosage units, if the total amount is less than 50 dosage units, of a
11 controlled substance that is not sold by weight.

12 SECTION 27. (a) An offense under Section 481.120 or
13 481.121, Health and Safety Code, may not be prosecuted after the
14 effective date of this Act. If on the effective date of this Act a
15 criminal action is pending for an offense under one of those
16 sections, the action is dismissed on that date. However, a final
17 conviction for an offense under one of those sections that exists on
18 the effective date of this Act is unaffected by this Act.

19 (b) The change in law made by this Act applies to an offense
20 under Section 481.122, 481.125, or 481.126, Health and Safety Code,
21 or Section 71.023, Penal Code, committed before, on, or after the
22 effective date of this Act, except that a final conviction for an
23 offense that exists on the effective date of this Act is unaffected
24 by this Act.

25 SECTION 28. This Act takes effect September 1, 2015.