

By: Hopper

H.B. No. 1391

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution and punishment of certain trafficking and sexual offenses; increasing criminal penalties; changing parole eligibility.

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

SECTION 1. Sections 20A.02(b) and (b-1), Penal Code, as amended by Chapters 93 (S.B. 1527), 451 (H.B. 3553), and 452 (H.B. 3554), Acts of the 88th Legislature, Regular Session, 2023, are reenacted and amended to read as follows:

(b) Except as ~~[otherwise]~~ provided by ~~[this subsection and]~~ Subsection (b-1), an offense under this section is a felony of the first ~~[second]~~ degree.

(b-1) An offense under this section is a capital felony ~~[of the first degree]~~ if:

(1) the applicable conduct constitutes an offense under Subsection (a)(5), (6), (7), or (8), regardless of whether the actor knows the age of the child or whether the actor knows the victim is disabled at the time of the offense;

(2) the commission of the offense results in serious bodily injury to or the death of the person who is trafficked;

[~~or~~]

(3) the commission of the offense results in the death of an unborn child of the person who is trafficked; [~~or~~]

(4) the actor:

(A) used or exhibited a deadly weapon during the commission of the offense;

(B) intentionally, knowingly, or recklessly impeded the normal breathing or circulation of the blood of the trafficked person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth; or

(C) recruited, enticed, or obtained the trafficked person from a shelter or facility operating as a residential treatment center that serves runaway youth, foster children, the homeless, or persons subjected to human trafficking, domestic violence, or sexual assault; or[-]

(5) [~~(b-1)~~] ~~An offense under this section is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 25 years if]~~ it is shown on the trial of the offense that the actor committed the offense in a location that was:

(A) [~~(1)~~] on the premises of or within 1,000 feet of the premises of:

(i) [~~(A)~~] a school; [~~or~~]

(ii) [~~(B)~~] an institution of higher education or private or independent institution of higher education, as defined by Section 61.003, Education Code;

(iii) [~~(B)~~] a juvenile detention facility;

(iv) [~~(C)~~] a post-adjudication secure correctional facility;

(v) [(D)] a shelter or facility operating as a residential treatment center that serves runaway youth, foster children, people who are homeless, or persons subjected to human trafficking, domestic violence, or sexual assault;

[~~(E)~~] a community center offering youth services and programs; or

(vi) [~~(F)~~] a child-care facility, as defined by Section 42.002, Human Resources Code; or

(B) [~~(2)~~] on the premises where or within 1,000 feet of the premises where:

(i) [~~(A)~~] an official school function was taking place; or

(ii) [~~(B)~~] an event sponsored or sanctioned by the University Interscholastic League was taking place.

SECTION 2. Section 20A.03(e), Penal Code, is amended to read as follows:

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

SECTION 3. Section 21.02(h), Penal Code, is amended to read as follows:

(h) An offense under this section is a capital felony [~~of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years~~].

SECTION 4. Section 43.03(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the third degree, except that the offense is:

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

(2) a felony of the first degree if the actor engages in conduct described by Subsection (a)(1) or (2) involving a person 14 years of age or older but younger than 18 years of age, regardless of whether the actor knows the age of the person at the time of the offense; or

(3) a capital felony if the actor engages in conduct described by Subsection (a)(1) or (2) involving a person younger

than 14 years of age, regardless of whether the actor knows the age of the person at the time of the offense.

SECTION 5. Section 43.031(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the second [~~third~~] degree, except that the offense is:

(1) a felony of the first [~~second~~] degree if the actor:

(A) [~~(1)~~] has been previously convicted of an offense under this section or Section 43.041; or

(B) [~~(2)~~] engages in conduct described by Subsection (a) involving a person 14 years of age or older but younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the person at the time of the offense; or

(2) a capital felony if the actor engages in conduct described by Subsection (a) involving a person younger than 14 years of age, regardless of whether the actor knows the age of the person at the time of the offense.

SECTION 6. Section 43.041(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the second degree, except that the offense:

(1) is a felony of the first degree if the actor:

(A) [~~(1)~~] has been previously convicted of an offense under this section; or

(B) [~~(2)~~] engages in conduct described by Subsection (a) involving two or more persons 14 years of age or older but younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the persons at the time of the offense; or

(2) a capital felony if the actor engages in conduct described by Subsection (a) involving two or more persons younger than 14 years of age engaging in prostitution, regardless of whether the actor knows the age of the persons at the time of the offense.

SECTION 7. Section 43.05(b), Penal Code, is amended to read as follows:

(b) An offense under this section is a felony of the first degree, except that an offense under Subsection (a)(2) is a capital felony if the victim is younger than 14 years of age at the time the offense is committed, regardless of whether the actor knows the age of the victim at the time of the offense.

SECTION 8. Section 43.23(h), Penal Code, is amended to read as follows:

(h) The punishment for an offense under Subsection (a) or (c) is increased to the punishment for a felony of the first

~~[second]~~ degree if it is shown on the trial of the offense that obscene material that is the subject of the offense visually depicts activities described by Section 43.21(a)(1)(B) engaged in by:

(1) a child younger than 18 years of age at the time the image of the child was made;

(2) an image that to a reasonable person would be virtually indistinguishable from the image of a child younger than 18 years of age; or

(3) an image created, adapted, or modified to be the image of an identifiable child.

SECTION 9. Section 43.25(e), Penal Code, is amended to read as follows:

(e) An offense under this section ~~[Subsection (d)]~~ is a felony of the first ~~[third]~~ degree, except that the offense is a capital felony ~~[of the second degree]~~ if the victim is younger than 14 years of age at the time the offense is committed, regardless of whether the actor knows the age of the victim at the time of the offense.

SECTION 10. Sections 43.251(c) and (d), Penal Code, as amended by Chapters 685 (H.B. 29) and 1038 (H.B. 1808), Acts of the 85th Legislature, Regular Session, 2017, are reenacted and amended to read as follows:

(c) An offense under this section is a felony of the first ~~[second]~~ degree, except that the offense is a capital felony ~~[of the first degree]~~ if the child is younger than 14 years of age at the time the offense is committed, regardless of whether the actor knows the age of the child at the time of the offense.

(d) Conduct under this section constitutes an offense regardless of whether the actor knows the age of the child at the time of the offense.

SECTION 11. Sections 4(a) and (b), Article 37.07, Code of Criminal Procedure, are amended to read as follows:

(a) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense of which the jury has found the defendant guilty is an offense under Section 71.02, Penal Code, other than an offense punishable as a state jail felony under that section, an offense under Section 71.023, Penal Code, or an offense listed in Article 42A.054(a), or if the judgment contains an affirmative finding under Article 42A.054(c) or (d), unless the defendant has been convicted of ~~[an offense under Section 21.02, Penal Code,]~~ an offense under Section 22.021, Penal Code, that is punishable under Subsection (f) of that section, or a capital felony, the court shall charge the jury in writing as follows:

"The length of time for which a defendant is imprisoned may



be reduced by the award of parole.

"Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, the defendant will not become eligible for parole until the actual time served equals one-half of the sentence imposed or 30 years, whichever is less. If the defendant is sentenced to a term of less than four years, the defendant must serve at least two years before the defendant is eligible for parole. Eligibility for parole does not guarantee that parole will be granted.

"It cannot accurately be predicted how the parole law might be applied to this defendant if sentenced to a term of imprisonment, because the application of that law will depend on decisions made by parole authorities.

"You may consider the existence of the parole law. You are not to consider the manner in which the parole law may be applied to this particular defendant."

(b) In the penalty phase of the trial of a felony case in which the punishment is to be assessed by the jury rather than the court, if the offense is punishable as a felony of the first degree, if a prior conviction has been alleged for enhancement of punishment as provided by Section 12.42(b), (c)(1) or (2), or (d), Penal Code, or if the offense is a felony not designated as a capital felony or a felony of the first, second, or third degree

and the maximum term of imprisonment that may be imposed for the offense is longer than 60 years, unless the offense of which the jury has found the defendant guilty is ~~[an offense that is punishable under Section 21.02(h), Penal Code, or is]~~ listed in Article 42A.054(a) or the judgment contains an affirmative finding under Article 42A.054(c) or (d), the court shall charge the jury in writing as follows:

"The length of time for which a defendant is imprisoned may be reduced by the award of parole.

"Under the law applicable in this case, the defendant, if sentenced to a term of imprisonment, may earn early parole eligibility through the award of good conduct time. Prison authorities may award good conduct time to a prisoner who exhibits good behavior, diligence in carrying out prison work assignments, and attempts at rehabilitation. If a prisoner engages in misconduct, prison authorities may also take away all or part of any good conduct time earned by the prisoner.

"Under the law applicable in this case, if the defendant is sentenced to a term of imprisonment, the defendant will not become eligible for parole until the actual time served plus any good conduct time earned equals one-fourth of the sentence imposed or 15 years, whichever is less. Eligibility for parole does not guarantee that parole will be granted.

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

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

SECTION 12. Sections 37.086(b) and (c), Education Code, are amended to read as follows:

(b) Each public school shall post warning signs of the increased penalties for trafficking of persons under Section 20A.02(b-1)(5)(B) [~~20A.02(b-1)(2)~~], Penal Code, in a conspicuous place reasonably likely to be viewed by all school employees and visitors.

(c) The agency, in consultation with the human trafficking prevention task force created under Section 402.035, Government Code, shall adopt rules regarding the wording for the warning signs required under this section and requiring that each warning sign:

(1) include a description of the provisions of Sections 20A.02(b-1)(5)(A)(i) and (B) [~~Section 20A.02(b-1)~~], Penal Code, including the penalties for violating that section;

(2) be written in English and Spanish; and

(3) be at least 8-1/2 by 11 inches in size.

SECTION 13. Section 508.145(a), Government Code, is amended to read as follows:

(a) An inmate is not eligible for release on parole if the inmate is under sentence of death, serving a sentence of life imprisonment without parole, or serving a sentence for any of the following offenses under the Penal Code:

(1) ~~[Section 20A.03, if the offense is based partly or wholly on conduct constituting an offense under Section 20A.02(a) (5), (6), (7), or (8);~~

~~[(2) Section 21.02;~~

~~[(3)]~~ Section 22.021, if the offense is punishable under Subsection (f) of that section; or

(2) ~~[(4)]~~ Section 51.03 or 51.04.

SECTION 14. Section 508.145(d) (1), Government Code, is amended to read as follows:

(d) (1) This subsection applies only to an inmate who is serving a sentence for:

(A) an offense described by Article 42A.054(a), Code of Criminal Procedure, other than an offense punishable as a capital felony ~~[under Section 19.03, Penal Code, or an offense under Chapter 20A, Penal Code, that is described by Subsection~~

~~(a)(1) or (e-1)(1)]~~;

(B) an offense for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure; or

(C) an offense under Section 71.02 or 71.023, Penal Code.

SECTION 15. Sections 12.42(c)(2) and (4), Penal Code, are amended to read as follows:

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

(A) the defendant is convicted of an offense:

(i) under Section ~~[20A.02(a)(7) or (8),]~~ 21.11(a)(1), 22.021, or 22.011, Penal Code;

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

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

(B) the defendant has been previously convicted of

an offense:

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

(ii) under Section 20A.02(a)(7) or (8), 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;

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

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

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

(4) Notwithstanding Subdivision (1) or (2), and except as provided by Subdivision (3) for the trial of an offense under Section 22.021 as described by that subdivision, a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if it is shown on the trial of ~~[an offense under Section 20A.03 or of]~~ a sexually violent offense, other than an offense punishable as a capital felony, committed by

the defendant on or after the defendant's 18th birthday, that the defendant has previously been finally convicted of:

(A) an offense under Section 20A.03 or of a sexually violent offense; or

(B) an offense that was committed under the laws of another state and that contains elements that are substantially similar to the elements of an offense under Section 20A.03 or of a sexually violent offense.

SECTION 16. The following provisions are repealed:

- (1) Article 42.01991, Code of Criminal Procedure;
- (2) Section 508.145(c-1), Government Code; and
- (3) Section 43.25(c), Penal Code.

SECTION 17. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 18. This Act takes effect September 1, 2025.