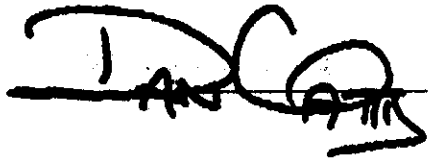


07 MAR -2 PM 4:53



HOUSE OF REPRESENTATIVES

FLOOR AMENDMENT NO. \_\_\_\_\_

BY: 

1 Amend H.B. No. 8 (House Committee Printing) by striking all  
2 below the enacting clause and substituting the following:

3 ARTICLE 1. CREATION OF OFFENSE AND PROSECUTION AND PUNISHMENT OF  
4 OFFENSE

5 SECTION 1.01. Chapter 21, Penal Code, is amended by adding  
6 Section 21.02 to read as follows:

7 Sec. 21.02. CONTINUOUS SEXUAL ABUSE OF YOUNG CHILD OR  
8 CHILDREN. (a) In this section, "child" has the meaning assigned by  
9 Section 22.011(c).

10 (b) A person commits an offense if:

11 (1) during a period that is 90 or more days in  
12 duration, the person commits an offense listed in Subsection (c)  
13 more than once or commits more than one offense listed in Subsection  
14 (c), regardless of whether the offenses are committed against one  
15 or more victims; and

16 (2) at the time of the commission of each of the  
17 offenses, the actor is 17 years of age or older and the victim of the  
18 offense is a child younger than 14 years of age.

19 (c) Any of the following offenses constitute an element of  
20 the offense described by Subsection (b):

21 (1) aggravated kidnapping under Section 20.04(a)(4)  
22 if the defendant committed the offense with the intent to violate or  
23 abuse the victim sexually;

24 (2) indecency with a child under Section 21.11(a)(1);

25 (3) sexual assault under Section 22.011;

26 (4) aggravated sexual assault under Section 22.021;

27 (5) burglary under Section 30.02, if the offense is  
28 punishable under Subsection (d) of that section and the defendant  
29 committed the offense with the intent to commit an offense listed in

1 Subdivisions (1)-(4); and

2 (6) sexual performance by a child under Section 43.25.

3 (d) If a jury is the trier of fact, members of the jury are  
4 not required to agree unanimously on which specific offenses listed  
5 in Subsection (c) were committed by the defendant or when those  
6 offenses were committed. The jury must agree unanimously that the  
7 defendant, during a period that is 90 or more days in duration,  
8 committed an offense listed in Subsection (c) more than one time or  
9 committed more than one offense listed in Subsection (c).

10 (e) An offense listed under Subsection (c) the victim of  
11 which is the same victim as a victim of the offense alleged under  
12 Subsection (b) may not be prosecuted in the same criminal action  
13 unless the offense listed in Subsection (c):

14 (1) is charged in the alternative; or

15 (2) occurred outside the period in which the offense  
16 alleged under Subsection (b) was committed.

17 (f) A defendant may not be charged with more than one count  
18 under Subsection (b) if all of the specific offenses listed in  
19 Subsection (c) that are alleged to have been committed are alleged  
20 to have been committed against a single victim.

21 (g) It is an affirmative defense to prosecution under this  
22 section that the actor:

23 (1) was not more than five years older than:

24 (A) the victim of the offense, if the offense is  
25 alleged to have been committed against only one victim; or

26 (B) the youngest victim of the offense, if the  
27 offense is alleged to have been committed against more than one  
28 victim;

29 (2) did not use duress, force, or a threat against a  
30 victim at the time of the commission of any of the offenses alleged  
31 as an element of the offense under Subsection (b); and

1           (3) at the time of the commission of any of the  
2 offenses alleged as an element of the offense under Subsection (b):

3           (A) was not required under Chapter 62, Code of  
4 Criminal Procedure, to register for life as a sex offender; or

5           (B) was not a person who under Chapter 62 had a  
6 reportable conviction or adjudication for an offense under this  
7 section or a section of this code described by Subsection (c).

8           (h) Except as provided by Subsection (i), an offense under  
9 this section is a felony of the first degree, punishable by  
10 imprisonment in the Texas Department of Criminal Justice for life,  
11 or for any term of not more than 99 years or less than 25 years.

12           (i) If it is shown on the trial of an offense under this  
13 section that the defendant has once before been convicted of an  
14 offense under this section, on conviction the defendant shall be  
15 punished for a capital felony.

16           SECTION 1.02. Chapter 37, Code of Criminal Procedure, is  
17 amended by adding Article 37.072 to read as follows:

18           Art. 37.072. PROCEDURE IN REPEAT SEX OFFENDER CAPITAL CASE.

19           Sec. 1. If a defendant is found guilty in a capital felony case  
20 punishable under Section 21.02(i), Penal Code, in which the state  
21 does not seek the death penalty, the judge shall sentence the  
22 defendant to life imprisonment without parole.

23           Sec. 2. (a)(1) If a defendant is tried for an offense  
24 punishable under Section 21.02(i), Penal Code, in which the state  
25 seeks the death penalty, on a finding that the defendant is guilty  
26 of a capital offense, the court shall conduct a separate sentencing  
27 proceeding to determine whether the defendant shall be sentenced to  
28 death or life imprisonment without parole. The proceeding shall be  
29 conducted in the trial court and, except as provided by Article  
30 44.29(d) of this code, before the trial jury as soon as practicable.  
31 In the proceeding, evidence may be presented by the state and the

1 defendant or the defendant's counsel as to any matter that the court  
2 considers relevant to sentence, including evidence of the  
3 defendant's background or character or the circumstances of the  
4 offense that mitigates against the imposition of the death penalty.  
5 This subdivision may not be construed to authorize the introduction  
6 of any evidence secured in violation of the Constitution of the  
7 United States or of the State of Texas. The state and the defendant  
8 or the defendant's counsel shall be permitted to present argument  
9 for or against sentence of death. The introduction of evidence of  
10 extraneous conduct is governed by the notice requirements of  
11 Section 3(g), Article 37.07. The court, the attorney representing  
12 the state, the defendant, or the defendant's counsel may not inform  
13 a juror or a prospective juror of the effect of a failure of a jury  
14 to agree on issues submitted under Subsection (b) or (e).

15 (2) Notwithstanding Subdivision (1), evidence may not  
16 be offered by the state to establish that the race or ethnicity of  
17 the defendant makes it likely that the defendant will engage in  
18 future criminal conduct.

19 (b) On conclusion of the presentation of the evidence, the  
20 court shall submit the following issues to the jury:

21 (1) whether there is a probability that the defendant  
22 would commit criminal acts of violence that would constitute a  
23 continuing threat to society; and

24 (2) in cases in which the jury charge at the guilt or  
25 innocence stage permitted the jury to find the defendant guilty as a  
26 party under Sections 7.01 and 7.02, Penal Code, whether the  
27 defendant actually engaged in the conduct prohibited by Section  
28 21.02, Penal Code, or did not actually engage in the conduct  
29 prohibited by that section but intended that the offense be  
30 committed against the victim or another intended victim.

31 (c) The state must prove beyond a reasonable doubt each

1 issue submitted under Subsection (b) of this section, and the jury  
2 shall return a special verdict of "yes" or "no" on each issue  
3 submitted under Subsection (b) of this section.

4 (d) The court shall charge the jury that:

5 (1) in deliberating on the issues submitted under  
6 Subsection (b) of this section, it shall consider all evidence  
7 admitted at the guilt or innocence stage and the punishment stage,  
8 including evidence of the defendant's background or character or  
9 the circumstances of the offense that militates for or mitigates  
10 against the imposition of the death penalty;

11 (2) it may not answer any issue submitted under  
12 Subsection (b) of this section "yes" unless it agrees unanimously  
13 and it may not answer any issue "no" unless 10 or more jurors agree;  
14 and

15 (3) members of the jury need not agree on what  
16 particular evidence supports a negative answer to any issue  
17 submitted under Subsection (b) of this section.

18 (e)(1) The court shall instruct the jury that if the jury  
19 returns an affirmative finding to each issue submitted under  
20 Subsection (b), it shall answer the following issue:

21 Whether, taking into consideration all of the evidence,  
22 including the circumstances of the offense, the defendant's  
23 character and background, and the personal moral culpability of the  
24 defendant, there is a sufficient mitigating circumstance or  
25 circumstances to warrant that a sentence of life imprisonment  
26 without parole rather than a death sentence be imposed.

27 (2) The court shall:

28 (A) instruct the jury that if the jury answers  
29 that a circumstance or circumstances warrant that a sentence of  
30 life imprisonment without parole rather than a death sentence be  
31 imposed, the court will sentence the defendant to imprisonment in

1 the Texas Department of Criminal Justice for life without parole;  
2 and

3 (B) charge the jury that a defendant sentenced to  
4 confinement for life without parole under this article is  
5 ineligible for release from the department on parole.

6 (f) The court shall charge the jury that in answering the  
7 issue submitted under Subsection (e) of this section, the jury:

8 (1) shall answer the issue "yes" or "no";

9 (2) may not answer the issue "no" unless it agrees  
10 unanimously and may not answer the issue "yes" unless 10 or more  
11 jurors agree;

12 (3) need not agree on what particular evidence  
13 supports an affirmative finding on the issue; and

14 (4) shall consider mitigating evidence to be evidence  
15 that a juror might regard as reducing the defendant's moral  
16 blameworthiness.

17 (g) If the jury returns an affirmative finding on each issue  
18 submitted under Subsection (b) and a negative finding on an issue  
19 submitted under Subsection (e)(1), the court shall sentence the  
20 defendant to death. If the jury returns a negative finding on any  
21 issue submitted under Subsection (b) or an affirmative finding on  
22 an issue submitted under Subsection (e)(1) or is unable to answer  
23 any issue submitted under Subsection (b) or (e), the court shall  
24 sentence the defendant to imprisonment in the Texas Department of  
25 Criminal Justice for life without parole.

26 (h) The judgment of conviction and sentence of death shall  
27 be subject to automatic review by the Court of Criminal Appeals.

28 SECTION 1.03. Article 12.01, Code of Criminal Procedure, is  
29 amended to read as follows:

30 Art. 12.01. FELONIES. Except as provided in Article 12.03,  
31 felony indictments may be presented within these limits, and not

1 afterward:

2 (1) no limitation:

3 (A) murder and manslaughter;

4 (B) continuous sexual abuse of young child or  
5 children under Section 21.02, Penal Code, or sexual assault, if  
6 during the investigation of the applicable offense biological  
7 matter is collected and subjected to forensic DNA testing and the  
8 testing results show that the matter does not match the victim or  
9 any other person whose identity is readily ascertained; or

10 (C) an offense involving leaving the scene of an  
11 accident under Section 550.021, Transportation Code, if the  
12 accident resulted in the death of a person;

13 (2) ten years from the date of the commission of the  
14 offense:

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

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

21 (C) forgery or the uttering, using or passing of  
22 forged instruments;

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

26 (E) sexual assault, except as provided by  
27 Subdivision (1) or (6) [~~+5~~]; or

28 (F) arson;

29 (3) seven years from the date of the commission of the  
30 offense:

31 (A) misapplication of fiduciary property or

1 property of a financial institution;

2 (B) securing execution of document by deception;

3 or

4 (C) a violation under Sections 162.403(22)-(39),

5 Tax Code;

6 (4) five years from the date of the commission of the

7 offense:

8 (A) theft or [~~burglary,~~] robbery;

9 (B) except as provided by Subdivision (6),

10 kidnapping or burglary;

11 (C) injury to a child, elderly individual, or

12 disabled individual that is not punishable as a felony of the first

13 degree under Section 22.04, Penal Code;

14 (D) abandoning or endangering a child; or

15 (E) insurance fraud;

16 (5) ten years from the 18th birthday of the victim of

17 the offense of [+

18 [~~(A)~~] indecency with a child under Section

19 21.11(a)(2) [~~21.11(a)(1) or (2)~~], Penal Code; [~~or~~

20 [~~(B) except as provided by Subdivision (1),~~

21 ~~sexual assault under Section 22.011(a)(2), Penal Code, or~~

22 ~~aggravated sexual assault under Section 22.021(a)(1)(B), Penal~~

23 ~~Code, or]~~

24 (6) except as provided by Subdivision (1), 20 years

25 from the 18th birthday of the victim of any of the following

26 offenses if the investigation of the offense shows that the victim

27 is younger than 17 years of age at the time the offense is

28 committed:

29 (A) aggravated kidnapping under Section

30 20.04(a)(4), Penal Code, if the defendant committed the offense

31 with the intent to violate or abuse the victim sexually;

1                   (B) indecency with a child under Section  
2 21.11(a)(1), Penal Code;

3                   (C) sexual assault under Section 22.011, Penal  
4 Code;

5                   (D) aggravated sexual assault under Section  
6 22.021, Penal Code;

7                   (E) burglary under Section 30.02, Penal Code, if  
8 the offense is punishable under Subsection (d) of that section and  
9 the defendant committed the offense with the intent to commit an  
10 offense listed in Subdivisions (1) through (4); and

11                   (F) sexual performance by a child under Section  
12 43.25, Penal Code;

13                   (7) except as provided by Subdivision (1), for  
14 continuous sexual abuse of young child or children under Section  
15 21.02, Penal Code, 20 years from the 18th birthday of:

16                   (A) the victim of the offense, if the offense is  
17 alleged to have been committed against only one victim; or

18                   (B) the youngest victim of the offense, if the  
19 offense is alleged to have been committed against more than one  
20 victim; or

21                   (8) three years from the date of the commission of the  
22 offense: all other felonies.

23                   SECTION 1.04. Section 508.145, Government Code, is amended  
24 by adding Subsection (c-1) to read as follows:

25                   (c-1) An inmate serving a sentence for an offense under  
26 Section 21.02, Penal Code, is not eligible for release on parole  
27 until the inmate's actual calendar time served, without  
28 consideration of good conduct time, equals one-half of the sentence  
29 or 30 calendar years, whichever is less, but in no event is the  
30 inmate eligible for release on parole in less than 25 calendar  
31 years.

1 SECTION 1.05. Section 508.149(a), Government Code, is  
2 amended to read as follows:

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

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

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

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

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

14 (5) an offense [~~a second degree felony or a third~~  
15 ~~degree felony~~] under Section 21.11, Penal Code;

16 (6) a [~~second degree~~] felony under Section 22.011,  
17 Penal Code;

18 (7) a first degree felony or a second degree felony  
19 under Section 22.02, Penal Code;

20 (8) a first degree felony under Section 22.021, Penal  
21 Code;

22 (9) a first degree felony under Section 22.04, Penal  
23 Code;

24 (10) a first degree felony under Section 28.02, Penal  
25 Code;

26 (11) a second degree felony under Section 29.02, Penal  
27 Code;

28 (12) a first degree felony under Section 29.03, Penal  
29 Code;

30 (13) a first degree felony under Section 30.02, Penal  
31 Code; [~~or~~]

1           (14) a felony for which the punishment is increased  
2 under Section 481.134 or Section 481.140, Health and Safety Code;  
3 or  
4           (15) an offense under Section 21.02, Penal Code.

5           ARTICLE 2. CONFORMING AMENDMENTS

6           SECTION 2.01. Section 16.0045(a), Civil Practice and  
7 Remedies Code, is amended to read as follows:

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

11           (1) Section 22.011, Penal Code (sexual assault); [~~or~~]

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

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

16           SECTION 2.02. Section 33.013(b), Civil Practice and  
17 Remedies Code, is amended to read as follows:

18           (b) Notwithstanding Subsection (a), each liable defendant  
19 is, in addition to his liability under Subsection (a), jointly and  
20 severally liable for the damages recoverable by the claimant under  
21 Section 33.012 with respect to a cause of action if:

22           (1) the percentage of responsibility attributed to the  
23 defendant with respect to a cause of action is greater than 50  
24 percent; or

25           (2) the defendant, with the specific intent to do harm  
26 to others, acted in concert with another person to engage in the  
27 conduct described in the following provisions of the Penal Code and  
28 in so doing proximately caused the damages legally recoverable by  
29 the claimant:

30           (A) Section 19.02 (murder);

31           (B) Section 19.03 (capital murder);

- 1 (C) Section 20.04 (aggravated kidnapping);  
2 (D) Section 22.02 (aggravated assault);  
3 (E) Section 22.011 (sexual assault);  
4 (F) Section 22.021 (aggravated sexual assault);  
5 (G) Section 22.04 (injury to a child, elderly  
6 individual, or disabled individual);  
7 (H) Section 32.21 (forgery);  
8 (I) Section 32.43 (commercial bribery);  
9 (J) Section 32.45 (misapplication of fiduciary  
10 property or property of financial institution);  
11 (K) Section 32.46 (securing execution of  
12 document by deception);  
13 (L) Section 32.47 (fraudulent destruction,  
14 removal, or concealment of writing); [~~or~~]  
15 (M) conduct described in Chapter 31 the  
16 punishment level for which is a felony of the third degree or  
17 higher; or  
18 (N) Section 21.02 (continuous sexual abuse of  
19 young child or children).

20 SECTION 2.03. Section 41.008(c), Civil Practice and  
21 Remedies Code, is amended to read as follows:

22 (c) This section does not apply to a cause of action against  
23 a defendant from whom a plaintiff seeks recovery of exemplary  
24 damages based on conduct described as a felony in the following  
25 sections of the Penal Code if, except for Sections 49.07 and 49.08,  
26 the conduct was committed knowingly or intentionally:

- 27 (1) Section 19.02 (murder);  
28 (2) Section 19.03 (capital murder);  
29 (3) Section 20.04 (aggravated kidnapping);  
30 (4) Section 22.02 (aggravated assault);  
31 (5) Section 22.011 (sexual assault);

- 1                   (6) Section 22.021 (aggravated sexual assault);
- 2                   (7) Section 22.04 (injury to a child, elderly
- 3 individual, or disabled individual, but not if the conduct occurred
- 4 while providing health care as defined by Section 74.001);
- 5                   (8) Section 32.21 (forgery);
- 6                   (9) Section 32.43 (commercial bribery);
- 7                   (10) Section 32.45 (misapplication of fiduciary
- 8 property or property of financial institution);
- 9                   (11) Section 32.46 (securing execution of document by
- 10 deception);
- 11                   (12) Section 32.47 (fraudulent destruction, removal,
- 12 or concealment of writing);
- 13                   (13) Chapter 31 (theft) the punishment level for which
- 14 is a felony of the third degree or higher;
- 15                   (14) Section 49.07 (intoxication assault); ~~[ex]~~
- 16                   (15) Section 49.08 (intoxication manslaughter); or
- 17                   (16) Section 21.02 (continuous sexual abuse of young
- 18 child or children).

19           SECTION 2.04. Section 125.0015(a), Civil Practice and

20 Remedies Code, is amended to read as follows:

21           (a) A person who maintains a place to which persons

22 habitually go for the following purposes and who knowingly

23 tolerates the activity and furthermore fails to make reasonable

24 attempts to abate the activity maintains a common nuisance:

25                   (1) discharge of a firearm in a public place as

26 prohibited by the Penal Code;

27                   (2) reckless discharge of a firearm as prohibited by

28 the Penal Code;

29                   (3) engaging in organized criminal activity as a

30 member of a combination as prohibited by the Penal Code;

31                   (4) delivery, possession, manufacture, or use of a

1 controlled substance in violation of Chapter 481, Health and Safety  
2 Code;

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

5 (6) prostitution, promotion of prostitution, or  
6 aggravated promotion of prostitution as prohibited by the Penal  
7 Code;

8 (7) compelling prostitution as prohibited by the Penal  
9 Code;

10 (8) commercial manufacture, commercial distribution,  
11 or commercial exhibition of obscene material as prohibited by the  
12 Penal Code;

13 (9) aggravated assault as described by Section 22.02,  
14 Penal Code;

15 (10) sexual assault as described by Section 22.011,  
16 Penal Code;

17 (11) aggravated sexual assault as described by Section  
18 22.021, Penal Code;

19 (12) robbery as described by Section 29.02, Penal  
20 Code;

21 (13) aggravated robbery as described by Section 29.03,  
22 Penal Code;

23 (14) unlawfully carrying a weapon as described by  
24 Section 46.02, Penal Code;

25 (15) murder as described by Section 19.02, Penal Code;  
26 [~~or~~]

27 (16) capital murder as described by Section 19.03,  
28 Penal Code; or

29 (17) continuous sexual abuse of young child or  
30 children as described by Section 21.02, Penal Code.

31 SECTION 2.05. Article 7A.01(a), Code of Criminal Procedure,

1 is amended to read as follows:

2 (a) A person who is the victim of an offense under Section  
3 21.02, 22.011, or 22.021, Penal Code, or a prosecuting attorney  
4 acting on behalf of the person, may file an application for a  
5 protective order under this chapter without regard to the  
6 relationship between the applicant and the alleged offender.

7 SECTION 2.06. Section 5(a), Article 11.071, Code of  
8 Criminal Procedure, is amended to read as follows:

9 (a) If a subsequent application for a writ of habeas corpus  
10 is filed after filing an initial application, a court may not  
11 consider the merits of or grant relief based on the subsequent  
12 application unless the application contains sufficient specific  
13 facts establishing that:

14 (1) the current claims and issues have not been and  
15 could not have been presented previously in a timely initial  
16 application or in a previously considered application filed under  
17 this article or Article 11.07 because the factual or legal basis for  
18 the claim was unavailable on the date the applicant filed the  
19 previous application;

20 (2) by a preponderance of the evidence, but for a  
21 violation of the United States Constitution no rational juror could  
22 have found the applicant guilty beyond a reasonable doubt; or

23 (3) by clear and convincing evidence, but for a  
24 violation of the United States Constitution no rational juror would  
25 have answered in the state's favor one or more of the special issues  
26 that were submitted to the jury in the applicant's trial under  
27 Article 37.071, [~~or~~] 37.0711, or 37.072.

28 SECTION 2.07. Article 15.051(a), Code of Criminal  
29 Procedure, is amended to read as follows:

30 (a) A peace officer or an attorney representing the state  
31 may not require a polygraph examination of a person who charges or

1 seeks to charge in a complaint the commission of an offense under  
2 Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code.

3 SECTION 2.08. Article 17.03(b), Code of Criminal Procedure,  
4 is amended to read as follows:

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

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

9 (A) Section 19.03 (Capital Murder);

10 (B) Section 20.04 (Aggravated Kidnapping);

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

12 (D) Section 22.03 (Deadly Assault on Law  
13 Enforcement or Corrections Officer, Member or Employee of Board of  
14 Pardons and Paroles, or Court Participant);

15 (E) Section 22.04 (Injury to a Child, Elderly  
16 Individual, or Disabled Individual);

17 (F) Section 29.03 (Aggravated Robbery);

18 (G) Section 30.02 (Burglary); ~~[or]~~

19 (H) Section 71.02 (Engaging in Organized  
20 Criminal Activity); or

21 (I) Section 21.02 (Continuous Sexual Abuse of  
22 Young Child or Children);

23 (2) is charged with a felony under Chapter 481, Health  
24 and Safety Code, or Section 485.033, Health and Safety Code,  
25 punishable by imprisonment for a minimum term or by a maximum fine  
26 that is more than a minimum term or maximum fine for a first degree  
27 felony; or

28 (3) does not submit to testing for the presence of a  
29 controlled substance in the defendant's body as requested by the  
30 court or magistrate under Subsection (c) of this article or submits  
31 to testing and the test shows evidence of the presence of a

1 controlled substance in the defendant's body.

2 SECTION 2.09. Article 17.032(a), Code of Criminal  
3 Procedure, is amended to read as follows:

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

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

20 SECTION 2.10. Article 17.091, Code of Criminal Procedure,  
21 is amended to read as follows:

22 Art. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS  
23 REQUIRED. Before a judge or magistrate reduces the amount of bail  
24 set for a defendant charged with an offense listed in Section 3g,  
25 Article 42.12, or an offense described by Article 62.001(5)  
26 [~~62.01(5)~~], the judge or magistrate shall provide:

27 (1) to the attorney representing the state, reasonable  
28 notice of the proposed bail reduction; and

29 (2) on request of the attorney representing the state  
30 or the defendant or the defendant's counsel, an opportunity for a  
31 hearing concerning the proposed bail reduction.

1 SECTION 2.11. Article 18.021(a), Code of Criminal  
2 Procedure, is amended to read as follows:

3 (a) A search warrant may be issued to search for and  
4 photograph a child who is alleged to be the victim of the offenses  
5 of injury to a child as prohibited [~~defined~~] by Section 22.04, Penal  
6 Code[~~, as amended~~]; sexual assault of a child as prohibited  
7 [~~defined~~] by Section 22.011(a), Penal Code[~~, as amended~~]; [~~or~~]  
8 aggravated sexual assault of a child as prohibited [~~defined~~] by  
9 Section 22.021, Penal Code; or continuous sexual abuse of young  
10 child or children as prohibited by Section 21.02, Penal Code.

11 SECTION 2.12. Article 21.31(a), Code of Criminal Procedure,  
12 is amended to read as follows:

13 (a) A person who is indicted for or who waives indictment  
14 for an offense under Section 21.02, 21.11(a)(1), 22.011, or 22.021,  
15 Penal Code, shall, at the direction of the court, undergo a medical  
16 procedure or test designed to show or help show whether the person  
17 has a sexually transmitted disease or has acquired immune  
18 deficiency syndrome (AIDS) or human immunodeficiency virus (HIV)  
19 infection, antibodies to HIV, or infection with any other probable  
20 causative agent of AIDS. The court may direct the person to undergo  
21 the procedure or test on its own motion or on the request of the  
22 victim of the alleged offense. If the person refuses to submit  
23 voluntarily to the procedure or test, the court shall require the  
24 person to submit to the procedure or test. The court may require a  
25 defendant previously required under this article to undergo a  
26 medical procedure or test on indictment for an offense to undergo a  
27 subsequent medical procedure or test following conviction of the  
28 offense. The person performing the procedure or test shall make the  
29 test results available to the local health authority, and the local  
30 health authority shall be required to make the notification of the  
31 test result to the victim of the alleged offense and to the

1 defendant.

2 SECTION 2.13. Section 3, Article 31.08, Code of Criminal  
3 Procedure, is amended to read as follows:

4 Sec. 3. Except for the review of a death sentence under  
5 Section 2(h), Article 37.071, or under Section 2(h), Article 37.072  
6 [~~37.071(h) of this code~~], an appeal taken in a cause returned to the  
7 original county under this article must be docketed in the  
8 appellate district in which the county of original venue is  
9 located.

10 SECTION 2.14. Section 2(b), Article 37.07, Code of Criminal  
11 Procedure, is amended to read as follows:

12 (b) Except as provided by [~~in~~] Article 37.071 or 37.072, if  
13 a finding of guilty is returned, it shall then be the responsibility  
14 of the judge to assess the punishment applicable to the offense;  
15 provided, however, that (1) in any criminal action where the jury  
16 may recommend community supervision and the defendant filed his  
17 sworn motion for community supervision before the trial began, and  
18 (2) in other cases where the defendant so elects in writing before  
19 the commencement of the voir dire examination of the jury panel, the  
20 punishment shall be assessed by the same jury, except as provided in  
21 Section 3(c) of this article and in Article 44.29. If a finding of  
22 guilty is returned, the defendant may, with the consent of the  
23 attorney for the state, change his election of one who assesses the  
24 punishment.

25 SECTION 2.15. Section 4, Article 37.07, Code of Criminal  
26 Procedure, is amended by amending Subsections (a) and (b) and  
27 adding Subsection (e) to read as follows:

28 (a) In the penalty phase of the trial of a felony case in  
29 which the punishment is to be assessed by the jury rather than the  
30 court, if the offense of which the jury has found the defendant  
31 guilty is listed in Section 3g(a)(1), Article 42.12, of this code or

1 if the judgment contains an affirmative finding under Section  
2 3g(a)(2), Article 42.12, of this code, unless the defendant has  
3 been convicted of an offense under Section 21.02, Penal Code, or a  
4 capital felony, the court shall charge the jury in writing as  
5 follows:

6 "Under the law applicable in this case, the defendant, if  
7 sentenced to a term of imprisonment, may earn time off the period of  
8 incarceration imposed through the award of good conduct time.  
9 Prison authorities may award good conduct time to a prisoner who  
10 exhibits good behavior, diligence in carrying out prison work  
11 assignments, and attempts at rehabilitation. If a prisoner engages  
12 in misconduct, prison authorities may also take away all or part of  
13 any good conduct time earned by the prisoner.

14 "It is also possible that the length of time for which the  
15 defendant will be imprisoned might be reduced by the award of  
16 parole.

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

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

30 "You may consider the existence of the parole law and good  
31 conduct time. However, you are not to consider the extent to which

1 good conduct time may be awarded to or forfeited by this particular  
2 defendant. You are not to consider the manner in which the parole  
3 law may be applied to this particular defendant."

4 (b) In the penalty phase of the trial of a felony case in  
5 which the punishment is to be assessed by the jury rather than the  
6 court, if the offense is punishable as a felony of the first degree,  
7 if a prior conviction has been alleged for enhancement of  
8 punishment as provided by Section 12.42(b), (c), or (d), Penal  
9 Code, or if the offense is a felony not designated as a capital  
10 felony or a felony of the first, second, or third degree and the  
11 maximum term of imprisonment that may be imposed for the offense is  
12 longer than 60 years, unless the offense of which the jury has found  
13 the defendant guilty is an offense under Section 21.02, Penal Code,  
14 or is listed in Section 3g(a)(1), Article 42.12, of this code or the  
15 judgment contains an affirmative finding under Section 3g(a)(2),  
16 Article 42.12, of this code, the court shall charge the jury in  
17 writing as follows:

18 "Under the law applicable in this case, the defendant, if  
19 sentenced to a term of imprisonment, may earn time off the period of  
20 incarceration imposed through the award of good conduct time.  
21 Prison authorities may award good conduct time to a prisoner who  
22 exhibits good behavior, diligence in carrying out prison work  
23 assignments, and attempts at rehabilitation. If a prisoner engages  
24 in misconduct, prison authorities may also take away all or part of  
25 any good conduct time earned by the prisoner.

26 "It is also possible that the length of time for which the  
27 defendant will be imprisoned might be reduced by the award of  
28 parole.

29 "Under the law applicable in this case, if the defendant is  
30 sentenced to a term of imprisonment, he will not become eligible for  
31 parole until the actual time served plus any good conduct time

1 earned equals one-fourth of the sentence imposed or 15 years,  
2 whichever is less. Eligibility for parole does not guarantee that  
3 parole will be granted.

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

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

14 (e) In the penalty phase of the trial of an offense under  
15 Section 21.02, Penal Code, other than an offense punishable under  
16 Subsection (i) of that section, in which the punishment is to be  
17 assessed by the jury rather than the court, if the jury finds the  
18 defendant guilty, the court shall charge the jury in writing as  
19 follows:

20 "Under the law applicable in this case, it is possible that  
21 the length of time for which the defendant will be imprisoned might  
22 be reduced by the award of parole.

23 "Under the law applicable in this case, the defendant will  
24 not become eligible for parole until the actual time served equals  
25 25 years, without consideration of any good conduct time.  
26 Eligibility for parole does not guarantee that parole will be  
27 granted.

28 "It cannot accurately be predicted how the parole law might  
29 be applied to this defendant, because the application of that law  
30 will depend on decisions made by parole authorities.

31 "You may consider the existence of the parole law. However,

1 you are not to consider the manner in which the parole law may be  
2 applied to this particular defendant."

3 SECTION 2.16. Section 1, Article 38.071, Code of Criminal  
4 Procedure, is amended to read as follows:

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

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

28 SECTION 2.17. Article 42.017, Code of Criminal Procedure,  
29 is amended to read as follows:

30 Art. 42.017. FINDING REGARDING AGE-BASED OFFENSE. In the  
31 trial of an offense under Section 21.02, 21.11, 22.011, 22.021, or

1 43.25, Penal Code, the judge shall make an affirmative finding of  
2 fact and enter the affirmative finding in the judgment in the case  
3 if the judge determines that:

4 (1) at the time of the offense, the defendant was  
5 younger than 19 years of age and the victim was at least 13 years of  
6 age; and

7 (2) the conviction is based solely on the ages of the  
8 defendant and the victim or intended victim at the time of the  
9 offense.

10 SECTION 2.18. Section 5(d), Article 42.12, Code of Criminal  
11 Procedure, is amended to read as follows:

12 (d) In all other cases the judge may grant deferred  
13 adjudication unless:

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

15 (A) under Section 21.02, Penal Code;

16 (B) under Section 49.04, 49.05, 49.06, 49.07, or  
17 49.08, Penal Code; or

18 (C) [~~B~~] for which punishment may be increased  
19 under Section 481.134(c), (d), (e), or (f), Health and Safety Code,  
20 if it is shown that the defendant has been previously convicted of  
21 an offense for which punishment was increased under any one of those  
22 subsections; or

23 (2) the defendant:

24 (A) is charged with an offense under Section  
25 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the  
26 victim, or a felony described by Section 13B(b) of this article; and

27 (B) has previously been placed on community  
28 supervision for any offense under Paragraph (A) of this  
29 subdivision.

30 SECTION 2.19. Article 44.251, Code of Criminal Procedure,  
31 is amended by amending Subsections (a) and (c) and adding

1 Subsection (d) to read as follows:

2 (a) The court of criminal appeals shall reform a sentence of  
3 death to a sentence of confinement in the [~~institutional division~~  
4 ~~of the~~] Texas Department of Criminal Justice for life without  
5 parole if the court finds that there is legally insufficient  
6 evidence to support an affirmative answer to an issue submitted to  
7 the jury under Section 2(b), Article 37.071, or Section 2(b),  
8 Article 37.072.

9 (c) If the court of criminal appeals finds reversible error  
10 that affects the punishment stage of the trial only, as described by  
11 Subsection (b) of this article, and the prosecuting attorney does  
12 not file a motion for reformation of sentence in the period  
13 described by that subsection, the defendant shall receive a new  
14 sentencing trial in the manner required by Article 44.29(c) or (d),  
15 as applicable [of this code].

16 (d) The court of criminal appeals shall reform a sentence of  
17 death imposed under Section 21.02(i), Penal Code, to a sentence of  
18 imprisonment in the Texas Department of Criminal Justice for life  
19 without parole if the United States Supreme Court finds that the  
20 imposition of the death penalty under Section 21.02(i), Penal Code,  
21 violates the United States Constitution and issues an order that is  
22 not inconsistent with this article.

23 SECTION 2.20. Article 44.29, Code of Criminal Procedure, is  
24 amended by adding Subsection (d) to read as follows:

25 (d) If any court sets aside or invalidates the sentence of a  
26 defendant convicted of an offense punishable as a capital felony  
27 under Section 21.02(i), Penal Code, and sentenced to death on the  
28 basis of any error affecting punishment only, the court shall not  
29 set the conviction aside but rather shall commence a new punishment  
30 hearing under Article 37.072, as if a finding of guilt had been  
31 returned. The court shall empanel a jury for the sentencing stage

1 of the trial in the same manner as a jury is to be empaneled by the  
2 court in other trials before the court for the offense of which the  
3 defendant was convicted. At the new punishment hearing, the court  
4 shall permit both the state and the defendant to introduce evidence  
5 as permitted by Article 37.072.

6 SECTION 2.21. Article 56.01, Code of Criminal Procedure, is  
7 amended by adding Subdivision (2-a) to read as follows:

8 (2-a) "Sexual assault" includes an offense under  
9 Section 21.02, Penal Code.

10 SECTION 2.22. Article 56.02(a), Code of Criminal Procedure,  
11 is amended to read as follows:

12 (a) A victim, guardian of a victim, or close relative of a  
13 deceased victim is entitled to the following rights within the  
14 criminal justice system:

15 (1) the right to receive from law enforcement agencies  
16 adequate protection from harm and threats of harm arising from  
17 cooperation with prosecution efforts;

18 (2) the right to have the magistrate take the safety of  
19 the victim or his family into consideration as an element in fixing  
20 the amount of bail for the accused;

21 (3) the right, if requested, to be informed:

22 (A) by the attorney representing the state of  
23 relevant court proceedings, including appellate proceedings, and  
24 to be informed if those proceedings have been canceled or  
25 rescheduled prior to the event; and

26 (B) by an appellate court of decisions of the  
27 court, after the decisions are entered but before the decisions are  
28 made public;

29 (4) the right to be informed, when requested, by a  
30 peace officer concerning the defendant's right to bail and the  
31 procedures in criminal investigations and by the district

1 attorney's office concerning the general procedures in the criminal  
2 justice system, including general procedures in guilty plea  
3 negotiations and arrangements, restitution, and the appeals and  
4 parole process;

5 (5) the right to provide pertinent information to a  
6 probation department conducting a presentencing investigation  
7 concerning the impact of the offense on the victim and his family by  
8 testimony, written statement, or any other manner prior to any  
9 sentencing of the offender;

10 (6) the right to receive information regarding  
11 compensation to victims of crime as provided by Subchapter B,  
12 including information related to the costs that may be compensated  
13 under that subchapter and the amount of compensation, eligibility  
14 for compensation, and procedures for application for compensation  
15 under that subchapter, the payment for a medical examination under  
16 Article 56.06 for a victim of a sexual assault, and when requested,  
17 to referral to available social service agencies that may offer  
18 additional assistance;

19 (7) the right to be informed, upon request, of parole  
20 procedures, to participate in the parole process, to be notified,  
21 if requested, of parole proceedings concerning a defendant in the  
22 victim's case, to provide to the Board of Pardons and Paroles for  
23 inclusion in the defendant's file information to be considered by  
24 the board prior to the parole of any defendant convicted of any  
25 crime subject to this subchapter, and to be notified, if requested,  
26 of the defendant's release;

27 (8) the right to be provided with a waiting area,  
28 separate or secure from other witnesses, including the offender and  
29 relatives of the offender, before testifying in any proceeding  
30 concerning the offender; if a separate waiting area is not  
31 available, other safeguards should be taken to minimize the

1 victim's contact with the offender and the offender's relatives and  
2 witnesses, before and during court proceedings;

3 (9) the right to prompt return of any property of the  
4 victim that is held by a law enforcement agency or the attorney for  
5 the state as evidence when the property is no longer required for  
6 that purpose;

7 (10) the right to have the attorney for the state  
8 notify the employer of the victim, if requested, of the necessity of  
9 the victim's cooperation and testimony in a proceeding that may  
10 necessitate the absence of the victim from work for good cause;

11 (11) the right to counseling, on request, regarding  
12 acquired immune deficiency syndrome (AIDS) and human  
13 immunodeficiency virus (HIV) infection and testing for acquired  
14 immune deficiency syndrome (AIDS), human immunodeficiency virus  
15 (HIV) infection, antibodies to HIV, or infection with any other  
16 probable causative agent of AIDS, if the offense is an offense under  
17 Section 21.02, 21.11(a)(1), 22.011, or 22.021, Penal Code;

18 (12) the right to request victim-offender mediation  
19 coordinated by the victim services division of the Texas Department  
20 of Criminal Justice;

21 (13) the right to be informed of the uses of a victim  
22 impact statement and the statement's purpose in the criminal  
23 justice system, to complete the victim impact statement, and to  
24 have the victim impact statement considered:

25 (A) by the attorney representing the state and  
26 the judge before sentencing or before a plea bargain agreement is  
27 accepted; and

28 (B) by the Board of Pardons and Paroles before an  
29 inmate is released on parole; and

30 (14) except as provided by Article 56.06(a), for a  
31 victim of a sexual assault, the right to a forensic medical

1 examination if the sexual assault is reported to a law enforcement  
2 agency within 96 hours of the assault.

3 SECTION 2.23. (a) Article 62.001(5), Code of Criminal  
4 Procedure, as renumbered from former Article 62.01(5), Code of  
5 Criminal Procedure, and amended by Chapter 1008, Acts of the 79th  
6 Legislature, Regular Session, 2005, is reenacted and amended to  
7 conform to an amendment to former Article 62.01(5) by Chapter 1273,  
8 Acts of the 79th Legislature, Regular Session, 2005, and is further  
9 amended to read as follows:

10 (5) "Reportable conviction or adjudication" means a  
11 conviction or adjudication, including an adjudication of  
12 delinquent conduct or a deferred adjudication, that, regardless of  
13 the pendency of an appeal, is a conviction for or an adjudication  
14 for or based on:

15 (A) a violation of Section 21.02 (Continuous  
16 sexual abuse of young child or children), 21.11 (Indecency with a  
17 child), 22.011 (Sexual assault), 22.021 (Aggravated sexual  
18 assault), or 25.02 (Prohibited sexual conduct), Penal Code;

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

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

26 (D) a violation of Section 30.02 (Burglary),  
27 Penal Code, if the offense or conduct is punishable under  
28 Subsection (d) of that section and the actor committed the offense  
29 or engaged in the conduct with intent to commit a felony listed in  
30 Paragraph (A) or (C);

31 (E) a violation of Section 20.02 (Unlawful

1 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),  
2 Penal Code, if, as applicable:

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

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

8 (F) the second violation of Section 21.08  
9 (Indecent exposure), Penal Code, but not if the second violation  
10 results in a deferred adjudication;

11 (G) an attempt, conspiracy, or solicitation, as  
12 defined by Chapter 15, Penal Code, to commit an offense or engage in  
13 conduct listed in Paragraph (A), (B), (C), (D), or (E);

14 (H) a violation of the laws of another state,  
15 federal law, the laws of a foreign country, or the Uniform Code of  
16 Military Justice for or based on the violation of an offense  
17 containing elements that are substantially similar to the elements  
18 of an offense listed under Paragraph (A), (B), (C), (D), (E), [~~or~~]  
19 (G), or (J), but not if the violation results in a deferred  
20 adjudication; [~~or~~]

21 (I) the second violation of the laws of another  
22 state, federal law, the laws of a foreign country, or the Uniform  
23 Code of Military Justice for or based on the violation of an offense  
24 containing elements that are substantially similar to the elements  
25 of the offense of indecent exposure, but not if the second violation  
26 results in a deferred adjudication; or

27 (J) a violation of Section 33.021 (Online  
28 solicitation of a minor), Penal Code.

29 (b) Section 2, Chapter 1273, Acts of the 79th Legislature,  
30 Regular Session, 2005, is repealed.

31 SECTION 2.24. Article 62.001(6), Code of Criminal

1 Procedure, is amended to read as follows:

2 (6) "Sexually violent offense" means any of the  
3 following offenses committed by a person 17 years of age or older:

4 (A) an offense under Section 21.02 (Continuous  
5 sexual abuse of young child or children), 21.11(a)(1) (Indecency  
6 with a child), 22.011 (Sexual assault), or 22.021 (Aggravated  
7 sexual assault), Penal Code;

8 (B) an offense under Section 43.25 (Sexual  
9 performance by a child), Penal Code;

10 (C) an offense under Section 20.04(a)(4)  
11 (Aggravated kidnapping), Penal Code, if the defendant committed the  
12 offense with intent to violate or abuse the victim sexually;

13 (D) an offense under Section 30.02 (Burglary),  
14 Penal Code, if the offense is punishable under Subsection (d) of  
15 that section and the defendant committed the offense with intent to  
16 commit a felony listed in Paragraph (A) or (C) of Subdivision (5);  
17 or

18 (E) an offense under the laws of another state,  
19 federal law, the laws of a foreign country, or the Uniform Code of  
20 Military Justice if the offense contains elements that are  
21 substantially similar to the elements of an offense listed under  
22 Paragraph (A), (B), (C), or (D).

23 SECTION 2.25. Article 102.0186(a), Code of Criminal  
24 Procedure, is amended to read as follows:

25 (a) A person convicted of an offense under Section 21.02,  
26 21.11, 22.011(a)(2), 22.021(a)(1)(B), 43.25, 43.251, or 43.26,  
27 Penal Code, shall pay \$100 on conviction of the offense.

28 SECTION 2.26. Section 25.0341(a), Education Code, as added  
29 by Chapter 997, Acts of the 79th Legislature, Regular Session,  
30 2005, is amended to read as follows:

31 (a) This section applies only to:

1 (1) a student:

2 (A) who has been convicted of continuous sexual  
3 abuse of young child or children under Section 21.02, Penal Code, or  
4 convicted of or placed on deferred adjudication for the offense of  
5 sexual assault under Section 22.011, Penal Code, or aggravated  
6 sexual assault under Section 22.021, Penal Code, committed against  
7 another student who, at the time the offense occurred, was assigned  
8 to the same campus as the student convicted or placed on deferred  
9 adjudication;

10 (B) who has been adjudicated under Section 54.03,  
11 Family Code, as having engaged in conduct described by Paragraph  
12 (A);

13 (C) whose prosecution under Section 53.03,  
14 Family Code, for engaging in conduct described by Paragraph (A) has  
15 been deferred; or

16 (D) who has been placed on probation under  
17 Section 54.04(d)(1), Family Code, for engaging in conduct described  
18 by Paragraph (A); and

19 (2) a student who is the victim of conduct described by  
20 Subdivision (1)(A).

21 SECTION 2.27. Section 37.007(a), Education Code, is amended  
22 to read as follows:

23 (a) A student shall be expelled from a school if the  
24 student, on school property or while attending a school-sponsored  
25 or school-related activity on or off of school property:

26 (1) uses, exhibits, or possesses:

27 (A) a firearm as defined by Section 46.01(3),  
28 Penal Code;

29 (B) an illegal knife as defined by Section  
30 46.01(6), Penal Code, or by local policy;

31 (C) a club as defined by Section 46.01(1), Penal

1 Code; or

2 (D) a weapon listed as a prohibited weapon under  
3 Section 46.05, Penal Code;

4 (2) engages in conduct that contains the elements of  
5 the offense of:

6 (A) aggravated assault under Section 22.02,  
7 Penal Code, sexual assault under Section 22.011, Penal Code, or  
8 aggravated sexual assault under Section 22.021, Penal Code;

9 (B) arson under Section 28.02, Penal Code;

10 (C) murder under Section 19.02, Penal Code,  
11 capital murder under Section 19.03, Penal Code, or criminal  
12 attempt, under Section 15.01, Penal Code, to commit murder or  
13 capital murder;

14 (D) indecency with a child under Section 21.11,  
15 Penal Code;

16 (E) aggravated kidnapping under Section 20.04,  
17 Penal Code;

18 (F) aggravated robbery under Section 29.03,  
19 Penal Code;

20 (G) manslaughter under Section 19.04, Penal  
21 Code; ~~[or]~~

22 (H) criminally negligent homicide under Section  
23 19.05, Penal Code; or

24 (I) continuous sexual abuse of young child or  
25 children under Section 21.02, Penal Code; or

26 (3) engages in conduct specified by Section  
27 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

28 SECTION 2.28. Section 33.009, Family Code, is amended to  
29 read as follows:

30 Sec. 33.009. OTHER REPORTS OF SEXUAL ABUSE OF A MINOR. A  
31 court or the guardian ad litem or attorney ad litem for the minor

1 shall report conduct reasonably believed to violate Section 21.02,  
2 22.011, 22.021, or 25.02, Penal Code, based on information obtained  
3 during a confidential court proceeding held under this chapter to:

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

5 (2) the Department of Family and Protective [~~and~~  
6 ~~Regulatory~~] Services, if the alleged conduct involves a person  
7 responsible for the care, custody, or welfare of the child;

8 (3) the state agency that operates, licenses,  
9 certifies, or registers the facility in which the alleged conduct  
10 occurred, if the alleged conduct occurred in a facility operated,  
11 licensed, certified, or registered by a state agency; or

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

13 SECTION 2.29. Section 33.010, Family Code, is amended to  
14 read as follows:

15 Sec. 33.010. CONFIDENTIALITY. Notwithstanding any other  
16 law, information obtained by the Department of Family and  
17 Protective [~~and Regulatory~~] Services or another entity under  
18 Section 33.008 or 33.009 is confidential except to the extent  
19 necessary to prove a violation of Section 21.02, 22.011, 22.021, or  
20 25.02, Penal Code.

21 SECTION 2.30. Section 156.104, Family Code, is amended to  
22 read as follows:

23 Sec. 156.104. MODIFICATION OF ORDER ON CONVICTION FOR CHILD  
24 ABUSE; PENALTY. (a) Except as provided by Section 156.1045, the  
25 conviction of a conservator for an offense under Section 21.02,  
26 Penal Code, or the conviction of a conservator[7] or an order  
27 deferring adjudication with regard to the conservator[7] for an  
28 offense involving the abuse of a child under Section 21.11, 22.011,  
29 or 22.021, Penal Code, is a material and substantial change of  
30 circumstances sufficient to justify a temporary order and  
31 modification of an existing court order or portion of a decree that

1 provides for the appointment of a conservator or that sets the terms  
2 and conditions of conservatorship or for the possession of or  
3 access to a child.

4 (b) A person commits an offense if the person files a suit to  
5 modify an order or portion of a decree based on the grounds  
6 permitted under Subsection (a) and the person knows that the person  
7 against whom the motion is filed has not been convicted of an  
8 offense under Section 21.02, Penal Code, or convicted of, or  
9 received deferred adjudication for an offense, under Section 21.11,  
10 22.011, or 22.021, Penal Code. An offense under this subsection is  
11 a Class B misdemeanor.

12 SECTION 2.31. Section 161.001, Family Code, is amended to  
13 read as follows:

14 Sec. 161.001. INVOLUNTARY TERMINATION OF PARENT-CHILD  
15 RELATIONSHIP. The court may order termination of the parent-child  
16 relationship if the court finds by clear and convincing evidence:

17 (1) that the parent has:

18 (A) voluntarily left the child alone or in the  
19 possession of another not the parent and expressed an intent not to  
20 return;

21 (B) voluntarily left the child alone or in the  
22 possession of another not the parent without expressing an intent  
23 to return, without providing for the adequate support of the child,  
24 and remained away for a period of at least three months;

25 (C) voluntarily left the child alone or in the  
26 possession of another without providing adequate support of the  
27 child and remained away for a period of at least six months;

28 (D) knowingly placed or knowingly allowed the  
29 child to remain in conditions or surroundings which endanger the  
30 physical or emotional well-being of the child;

31 (E) engaged in conduct or knowingly placed the

1 child with persons who engaged in conduct which endangers the  
2 physical or emotional well-being of the child;

3 (F) failed to support the child in accordance  
4 with the parent's ability during a period of one year ending within  
5 six months of the date of the filing of the petition;

6 (G) abandoned the child without identifying the  
7 child or furnishing means of identification, and the child's  
8 identity cannot be ascertained by the exercise of reasonable  
9 diligence;

10 (H) voluntarily, and with knowledge of the  
11 pregnancy, abandoned the mother of the child beginning at a time  
12 during her pregnancy with the child and continuing through the  
13 birth, failed to provide adequate support or medical care for the  
14 mother during the period of abandonment before the birth of the  
15 child, and remained apart from the child or failed to support the  
16 child since the birth;

17 (I) contumaciously refused to submit to a  
18 reasonable and lawful order of a court under Subchapter D, Chapter  
19 261;

20 (J) been the major cause of:

21 (i) the failure of the child to be enrolled  
22 in school as required by the Education Code; or

23 (ii) the child's absence from the child's  
24 home without the consent of the parents or guardian for a  
25 substantial length of time or without the intent to return;

26 (K) executed before or after the suit is filed an  
27 unrevoked or irrevocable affidavit of relinquishment of parental  
28 rights as provided by this chapter;

29 (L) been convicted or has been placed on  
30 community supervision, including deferred adjudication community  
31 supervision, for being criminally responsible for the death or

1 serious injury of a child under the following sections of the Penal  
2 Code or adjudicated under Title 3 for conduct that caused the death  
3 or serious injury of a child and that would constitute a violation  
4 of one of the following Penal Code sections:

5 (i) Section 19.02 (murder);

6 (ii) Section 19.03 (capital murder);

7 (iii) Section 19.04 (manslaughter);

8 (iv) Section 21.11 (indecent with a  
9 child);

10 (v) Section 22.01 (assault);

11 (vi) Section 22.011 (sexual assault);

12 (vii) Section 22.02 (aggravated assault);

13 (viii) Section 22.021 (aggravated sexual  
14 assault);

15 (ix) Section 22.04 (injury to a child,  
16 elderly individual, or disabled individual);

17 (x) Section 22.041 (abandoning or  
18 endangering child);

19 (xi) Section 25.02 (prohibited sexual  
20 conduct);

21 (xii) Section 43.25 (sexual performance by  
22 a child); ~~and~~

23 (xiii) Section 43.26 (possession or  
24 promotion of child pornography); and

25 (xiv) Section 21.02 (continuous sexual  
26 abuse of young child or children);

27 (M) had his or her parent-child relationship  
28 terminated with respect to another child based on a finding that the  
29 parent's conduct was in violation of Paragraph (D) or (E) or  
30 substantially equivalent provisions of the law of another state;

31 (N) constructively abandoned the child who has

1 been in the permanent or temporary managing conservatorship of the  
2 Department of Family and Protective Services or an authorized  
3 agency for not less than six months, and:

4 (i) the department or authorized agency has  
5 made reasonable efforts to return the child to the parent;

6 (ii) the parent has not regularly visited  
7 or maintained significant contact with the child; and

8 (iii) the parent has demonstrated an  
9 inability to provide the child with a safe environment;

10 (O) failed to comply with the provisions of a  
11 court order that specifically established the actions necessary for  
12 the parent to obtain the return of the child who has been in the  
13 permanent or temporary managing conservatorship of the Department  
14 of Family and Protective Services for not less than nine months as a  
15 result of the child's removal from the parent under Chapter 262 for  
16 the abuse or neglect of the child;

17 (P) used a controlled substance, as defined by  
18 Chapter 481, Health and Safety Code, in a manner that endangered the  
19 health or safety of the child, and:

20 (i) failed to complete a court-ordered  
21 substance abuse treatment program; or

22 (ii) after completion of a court-ordered  
23 substance abuse treatment program, continued to abuse a controlled  
24 substance;

25 (Q) knowingly engaged in criminal conduct that  
26 has resulted in the parent's:

27 (i) conviction of an offense; and

28 (ii) confinement or imprisonment and  
29 inability to care for the child for not less than two years from the  
30 date of filing the petition;

31 (R) been the cause of the child being born

1 addicted to alcohol or a controlled substance, other than a  
2 controlled substance legally obtained by prescription, as defined  
3 by Section 261.001;

4 (S) voluntarily delivered the child to a  
5 designated emergency infant care provider under Section 262.302  
6 without expressing an intent to return for the child; or

7 (T) been convicted of the murder of the other  
8 parent of the child under Section 19.02 or 19.03, Penal Code, or  
9 under a law of another state, federal law, the law of a foreign  
10 country, or the Uniform Code of Military Justice that contains  
11 elements that are substantially similar to the elements of an  
12 offense under Section 19.02 or 19.03, Penal Code; and

13 (2) that termination is in the best interest of the  
14 child.

15 SECTION 2.32. Section 161.007, Family Code, is amended to  
16 read as follows:

17 Sec. 161.007. TERMINATION WHEN PREGNANCY RESULTS FROM  
18 CRIMINAL ACT. The court may order the termination of the  
19 parent-child relationship of a parent and a child if the court finds  
20 that:

21 (1) the parent has been convicted of an offense  
22 committed under Section 21.02, 22.011, 22.021, or 25.02, Penal  
23 Code;

24 (2) as a direct result of the commission of the offense  
25 by the parent, the victim of the offense became pregnant with the  
26 parent's child; and

27 (3) termination is in the best interest of the child.

28 SECTION 2.33. Section 261.001(1), Family Code, is amended  
29 to read as follows:

30 (1) "Abuse" includes the following acts or omissions  
31 by a person:

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

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

8 (C) physical injury that results in substantial  
9 harm to the child, or the genuine threat of substantial harm from  
10 physical injury to the child, including an injury that is at  
11 variance with the history or explanation given and excluding an  
12 accident or reasonable discipline by a parent, guardian, or  
13 managing or possessory conservator that does not expose the child  
14 to a substantial risk of harm;

15 (D) failure to make a reasonable effort to  
16 prevent an action by another person that results in physical injury  
17 that results in substantial harm to the child;

18 (E) sexual conduct harmful to a child's mental,  
19 emotional, or physical welfare, including conduct that constitutes  
20 the offense of continuous sexual abuse of young child or children  
21 under Section 21.02, Penal Code, indecency with a child under  
22 Section 21.11, Penal Code, sexual assault under Section 22.011,  
23 Penal Code, or aggravated sexual assault under Section 22.021,  
24 Penal Code;

25 (F) failure to make a reasonable effort to  
26 prevent sexual conduct harmful to a child;

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

29 (H) causing, permitting, encouraging, engaging  
30 in, or allowing the photographing, filming, or depicting of the  
31 child if the person knew or should have known that the resulting

1 photograph, film, or depiction of the child is obscene as defined by  
2 Section 43.21, Penal Code, or pornographic;

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

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

10 (K) causing, permitting, encouraging, engaging  
11 in, or allowing a sexual performance by a child as defined by  
12 Section 43.25, Penal Code.

13 SECTION 2.34. Section 262.2015(b), Family Code, is amended  
14 to read as follows:

15 (b) The court may find under Subsection (a) that a parent  
16 has subjected the child to aggravated circumstances if:

17 (1) the parent abandoned the child without  
18 identification or a means for identifying the child;

19 (2) the child is a victim of serious bodily injury or  
20 sexual abuse inflicted by the parent or by another person with the  
21 parent's consent;

22 (3) the parent has engaged in conduct against the  
23 child that would constitute an offense under the following  
24 provisions of the Penal Code:

25 (A) Section 19.02 (murder);

26 (B) Section 19.03 (capital murder);

27 (C) Section 19.04 (manslaughter);

28 (D) Section 21.11 (indecent with a child);

29 (E) Section 22.011 (sexual assault);

30 (F) Section 22.02 (aggravated assault);

31 (G) Section 22.021 (aggravated sexual assault);

1 (H) Section 22.04 (injury to a child, elderly  
2 individual, or disabled individual);

3 (I) Section 22.041 (abandoning or endangering  
4 child);

5 (J) Section 25.02 (prohibited sexual conduct);

6 (K) Section 43.25 (sexual performance by a  
7 child); ~~[ex]~~

8 (L) Section 43.26 (possession or promotion of  
9 child pornography); or

10 (M) Section 21.02 (continuous sexual abuse of  
11 young child or children);

12 (4) the parent voluntarily left the child alone or in  
13 the possession of another person not the parent of the child for at  
14 least six months without expressing an intent to return and without  
15 providing adequate support for the child;

16 (5) the parent's parental rights with regard to  
17 another child have been involuntarily terminated based on a finding  
18 that the parent's conduct violated Section 161.001(1)(D) or (E) or  
19 a substantially equivalent provision of another state's law;

20 (6) the parent has been convicted for:

21 (A) the murder of another child of the parent and  
22 the offense would have been an offense under 18 U.S.C. Section  
23 1111(a) if the offense had occurred in the special maritime or  
24 territorial jurisdiction of the United States;

25 (B) the voluntary manslaughter of another child  
26 of the parent and the offense would have been an offense under 18  
27 U.S.C. Section 1112(a) if the offense had occurred in the special  
28 maritime or territorial jurisdiction of the United States;

29 (C) aiding or abetting, attempting, conspiring,  
30 or soliciting an offense under Subdivision (A) or (B); or

31 (D) the felony assault of the child or another

1 child of the parent that resulted in serious bodily injury to the  
2 child or another child of the parent; or

3 (7) the parent's parental rights with regard to two  
4 other children have been involuntarily terminated.

5 SECTION 2.35. Section 411.1471(a), Government Code, is  
6 amended to read as follows:

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

8 (1) indicted or waives indictment for a felony  
9 prohibited or punishable under any of the following Penal Code  
10 sections:

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

12 (B) Section 21.11;

13 (C) Section 22.011;

14 (D) Section 22.021;

15 (E) Section 25.02;

16 (F) Section 30.02(d);

17 (G) Section 43.05;

18 (H) Section 43.25; [~~or~~]

19 (I) Section 43.26; or

20 (J) Section 21.02;

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

25 (3) convicted of an offense under Section 21.07 or  
26 21.08, Penal Code.

27 SECTION 2.36. Section 420.003(4), Government Code, is  
28 amended to read as follows:

29 (4) "Sexual assault" means any act or attempted act as  
30 described by Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal  
31 Code.

1 SECTION 2.37. Section 499.027(b), Government Code, is  
2 amended to read as follows:

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

5 (1) the inmate is awaiting transfer to the  
6 institutional division, or serving a sentence, for an offense for  
7 which the judgment contains an affirmative finding under Section  
8 3g(a)(2), Article 42.12, Code of Criminal Procedure;

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

12 (A) Section 19.02 (murder);

13 (B) Section 19.03 (capital murder);

14 (C) Section 19.04 (manslaughter);

15 (D) Section 20.03 (kidnapping);

16 (E) Section 20.04 (aggravated kidnapping);

17 (F) Section 21.11 (indecent with a child);

18 (G) Section 22.011 (sexual assault);

19 (H) Section 22.02 (aggravated assault);

20 (I) Section 22.021 (aggravated sexual assault);

21 (J) Section 22.04 (injury to a child or an  
22 elderly individual);

23 (K) Section 25.02 (prohibited sexual conduct);

24 (L) Section 25.08 (sale or purchase of a child);

25 (M) Section 28.02 (arson);

26 (N) Section 29.02 (robbery);

27 (O) Section 29.03 (aggravated robbery);

28 (P) Section 30.02 (burglary), if the offense is  
29 punished as a first-degree felony under that section;

30 (Q) Section 43.04 (aggravated promotion of  
31 prostitution);

- 1 (R) Section 43.05 (compelling prostitution);  
2 (S) Section 43.24 (sale, distribution, or  
3 display of harmful material to minor);  
4 (T) Section 43.25 (sexual performance by a  
5 child);  
6 (U) Section 46.10 (deadly weapon in penal  
7 institution);  
8 (V) Section 15.01 (criminal attempt), if the  
9 offense attempted is listed in this subsection;  
10 (W) Section 15.02 (criminal conspiracy), if the  
11 offense that is the subject of the conspiracy is listed in this  
12 subsection; ~~[or]~~  
13 (X) Section 15.03 (criminal solicitation), if  
14 the offense solicited is listed in this subsection; or  
15 (Y) Section 21.02 (continuous sexual abuse of  
16 young child or children); or

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

22 SECTION 2.38. Section 501.061(a), Government Code, is  
23 amended to read as follows:

24 (a) A physician employed or retained by the department may  
25 perform an orchiectomy on an inmate only if:

26 (1) the inmate has been convicted of an offense under  
27 Section 21.02, 21.11, 22.011(a)(2), or 22.021(a)(2)(B), Penal  
28 Code, and has previously been convicted under one or more of those  
29 sections;

30 (2) the inmate is 21 years of age or older;

31 (3) the inmate requests the procedure in writing;

1           (4) the inmate signs a statement admitting the inmate  
2 committed the offense described by Subsection (a)(1) for which the  
3 inmate has been convicted;

4           (5) a psychiatrist and a psychologist who are  
5 appointed by the department and have experience in the treatment of  
6 sex offenders:

7           (A) evaluate the inmate and determine that the  
8 inmate is a suitable candidate for the procedure; and

9           (B) counsel the inmate before the inmate  
10 undergoes the procedure;

11           (6) the physician obtains the inmate's informed,  
12 written consent to undergo the procedure;

13           (7) the inmate has not previously requested that the  
14 department perform the procedure and subsequently withdrawn the  
15 request; and

16           (8) the inmate consults with a monitor as provided by  
17 Subsection (f).

18           SECTION 2.39. Section 508.046, Government Code, is amended  
19 to read as follows:

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

31           SECTION 2.40. Section 508.117(g), Government Code, is

1 amended by adding Subdivision (2-a) to read as follows:

2 (2-a) "Sexual assault" includes an offense under  
3 Section 21.02, Penal Code.

4 SECTION 2.41. Section 508.151(a), Government Code, is  
5 amended to read as follows:

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

10 (1) has never been convicted of an offense listed  
11 under Section 3g(a)(1), Article 42.12, Code of Criminal Procedure,  
12 or an offense under Section 21.02, Penal Code; and

13 (2) has never had a conviction with a judgment that  
14 contains an affirmative finding under Section 3g(a)(2), Article  
15 42.12, Code of Criminal Procedure.

16 SECTION 2.42. Section 508.187(a), Government Code, is  
17 amended to read as follows:

18 (a) This section applies only to a releasee serving a  
19 sentence for an offense under:

20 (1) Section 43.25 or 43.26, Penal Code;

21 (2) Section 21.02, 21.11, 22.011, 22.021, or 25.02,  
22 Penal Code;

23 (3) Section 20.04(a)(4), Penal Code, if the releasee  
24 committed the offense with the intent to violate or abuse the victim  
25 sexually; or

26 (4) Section 30.02, Penal Code, punishable under  
27 Subsection (d) of that section, if the releasee committed the  
28 offense with the intent to commit a felony listed in Subdivision (2)  
29 or (3).

30 SECTION 2.43. Section 508.189(a), Government Code, is  
31 amended to read as follows:

1 (a) A parole panel shall require as a condition of parole or  
2 mandatory supervision that a releasee convicted of an offense under  
3 Section 21.02, 21.08, 21.11, 22.011, 22.021, 25.02, 43.25, or  
4 43.26, Penal Code, pay to the division a parole supervision fee of  
5 \$5 each month during the period of parole supervision.

6 SECTION 2.44. Section 242.126(c), Health and Safety Code,  
7 is amended to read as follows:

8 (c) The agency shall begin the investigation:

9 (1) within 24 hours of receipt of the report or other  
10 allegation, if the report of abuse or neglect or other complaint  
11 alleges that:

12 (A) a resident's health or safety is in imminent  
13 danger;

14 (B) a resident has recently died because of  
15 conduct alleged in the report of abuse or neglect or other  
16 complaint;

17 (C) a resident has been hospitalized or been  
18 treated in an emergency room because of conduct alleged in the  
19 report of abuse or neglect or other complaint;

20 (D) a resident has been a victim of any act or  
21 attempted act described by Section 21.02, 21.11, 22.011, or 22.021,  
22 Penal Code; or

23 (E) a resident has suffered bodily injury, as  
24 that term is defined by Section 1.07, Penal Code, because of conduct  
25 alleged in the report of abuse or neglect or other complaint; or

26 (2) before the end of the next working day after the  
27 date of receipt of the report of abuse or neglect or other  
28 complaint, if the report or complaint alleges the existence of  
29 circumstances that could result in abuse or neglect and that could  
30 place a resident's health or safety in imminent danger.

31 SECTION 2.45. Section 250.006(a), Health and Safety Code,

1 is amended to read as follows:

2 (a) A person for whom the facility is entitled to obtain  
3 criminal history record information may not be employed in a  
4 facility if the person has been convicted of an offense listed in  
5 this subsection:

6 (1) an offense under Chapter 19, Penal Code (criminal  
7 homicide);

8 (2) an offense under Chapter 20, Penal Code  
9 (kidnapping and unlawful restraint);

10 (3) an offense under Section 21.02, Penal Code  
11 (continuous sexual abuse of young child or children), or Section  
12 21.11, Penal Code (indecent with a child);

13 (4) an offense under Section 22.011, Penal Code  
14 (sexual assault);

15 (5) an offense under Section 22.02, Penal Code  
16 (aggravated assault);

17 (6) an offense under Section 22.04, Penal Code (injury  
18 to a child, elderly individual, or disabled individual);

19 (7) an offense under Section 22.041, Penal Code  
20 (abandoning or endangering child);

21 (8) an offense under Section 22.08, Penal Code (aiding  
22 suicide);

23 (9) an offense under Section 25.031, Penal Code  
24 (agreement to abduct from custody);

25 (10) an offense under Section 25.08, Penal Code (sale  
26 or purchase of a child);

27 (11) an offense under Section 28.02, Penal Code  
28 (arson);

29 (12) an offense under Section 29.02, Penal Code  
30 (robbery);

31 (13) an offense under Section 29.03, Penal Code

1 (aggravated robbery); or

2 (14) a conviction under the laws of another state,  
3 federal law, or the Uniform Code of Military Justice for an offense  
4 containing elements that are substantially similar to the elements  
5 of an offense listed under Subdivisions (1)-(13).

6 SECTION 2.46. Section 841.002(8), Health and Safety Code,  
7 is amended to read as follows:

8 (8) "Sexually violent offense" means:

9 (A) an offense under Section 21.02, 21.11(a)(1),  
10 22.011, or 22.021, Penal Code;

11 (B) an offense under Section 20.04(a)(4), Penal  
12 Code, if the person committed the offense with the intent to violate  
13 or abuse the victim sexually;

14 (C) an offense under Section 30.02, Penal Code,  
15 if the offense is punishable under Subsection (d) of that section  
16 and the person committed the offense with the intent to commit an  
17 offense listed in Paragraph (A) or (B);

18 (D) an offense under Section 19.02 or 19.03,  
19 Penal Code, that, during the guilt or innocence phase or the  
20 punishment phase for the offense, during the adjudication or  
21 disposition of delinquent conduct constituting the offense, or  
22 subsequently during a civil commitment proceeding under Subchapter  
23 D, is determined beyond a reasonable doubt to have been based on  
24 sexually motivated conduct;

25 (E) an attempt, conspiracy, or solicitation, as  
26 defined by Chapter 15, Penal Code, to commit an offense listed in  
27 Paragraph (A), (B), (C), or (D);

28 (F) an offense under prior state law that  
29 contains elements substantially similar to the elements of an  
30 offense listed in Paragraph (A), (B), (C), (D), or (E); or

31 (G) an offense under the law of another state,

1 federal law, or the Uniform Code of Military Justice that contains  
2 elements substantially similar to the elements of an offense listed  
3 in Paragraph (A), (B), (C), (D), or (E).

4 SECTION 2.47. Section 301.4535(a), Occupations Code, is  
5 amended to read as follows:

6 (a) The board shall suspend a nurse's license or refuse to  
7 issue a license to an applicant on proof that the nurse or applicant  
8 has been initially convicted of:

9 (1) murder under Section 19.02, Penal Code, capital  
10 murder under Section 19.03, Penal Code, or manslaughter under  
11 Section 19.04, Penal Code;

12 (2) kidnapping or unlawful restraint under Chapter 20,  
13 Penal Code, and the offense was punished as a felony or state jail  
14 felony;

15 (3) sexual assault under Section 22.011, Penal Code;

16 (4) aggravated sexual assault under Section 22.021,  
17 Penal Code;

18 (5) continuous sexual abuse of young child or children  
19 under Section 21.02, Penal Code, or indecency with a child under  
20 Section 21.11, Penal Code;

21 (6) aggravated assault under Section 22.02, Penal  
22 Code;

23 (7) intentionally, knowingly, or recklessly injuring  
24 a child, elderly individual, or disabled individual under Section  
25 22.04, Penal Code;

26 (8) intentionally, knowingly, or recklessly  
27 abandoning or endangering a child under Section 22.041, Penal Code;

28 (9) aiding suicide under Section 22.08, Penal Code,  
29 and the offense was punished as a state jail felony;

30 (10) an offense under Section 25.07, Penal Code,  
31 punished as a felony;

1 (11) an offense under Section 25.071, Penal Code,  
2 punished as a felony;

3 (12) an agreement to abduct a child from custody under  
4 Section 25.031, Penal Code;

5 (13) the sale or purchase of a child under Section  
6 25.08, Penal Code;

7 (14) robbery under Section 29.02, Penal Code;

8 (15) aggravated robbery under Section 29.03, Penal  
9 Code;

10 (16) an offense for which a defendant is required to  
11 register as a sex offender under Chapter 62, Code of Criminal  
12 Procedure; or

13 (17) an offense under the law of another state,  
14 federal law, or the Uniform Code of Military Justice that contains  
15 elements that are substantially similar to the elements of an  
16 offense listed in this subsection.

17 SECTION 2.48. Section 3.03(b), Penal Code, is amended to  
18 read as follows:

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

23 (1) an offense:

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

27 (B) for which a plea agreement was reached in a  
28 case in which the accused was charged with more than one offense  
29 listed in Paragraph (A), regardless of whether the accused is  
30 charged with violations of the same section more than once or is  
31 charged with violations of both sections;

1 (2) an offense:

2 (A) under Section 21.02, 21.11, 22.011, 22.021,  
3 25.02, or 43.25 committed against a victim younger than 17 years of  
4 age at the time of the commission of the offense regardless of  
5 whether the accused is convicted of violations of the same section  
6 more than once or is convicted of violations of more than one  
7 section; or

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

15 (3) an offense:

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

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

24 SECTION 2.49. Section 12.35(c), Penal Code, is amended to  
25 read as follows:

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

29 (1) a deadly weapon as defined by Section 1.07 was used  
30 or exhibited during the commission of the offense or during  
31 immediate flight following the commission of the offense, and that

1 the individual used or exhibited the deadly weapon or was a party to  
2 the offense and knew that a deadly weapon would be used or  
3 exhibited; or

4 (2) the individual has previously been finally  
5 convicted of any felony:

6 (A) under Section 21.02 or listed in Section  
7 3g(a)(1), Article 42.12, Code of Criminal Procedure; or

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

11 SECTION 2.50. Section 15.031(b), Penal Code, is amended to  
12 read as follows:

13 (b) A person commits an offense if, with intent that an  
14 offense under Section 21.02, 21.11, 22.011, 22.021, or 43.25 be  
15 committed, the person by any means requests, commands, or attempts  
16 to induce a minor or another whom the person believes to be a minor  
17 to engage in specific conduct that, under the circumstances  
18 surrounding the actor's conduct as the actor believes them to be,  
19 would constitute an offense under one of those sections or would  
20 make the minor or other believed by the person to be a minor a party  
21 to the commission of an offense under one of those sections.

22 SECTION 2.51. Section 19.03(a), Penal Code, is amended to  
23 read as follows:

24 (a) A person commits an offense if the person commits murder  
25 as defined under Section 19.02(b)(1) and:

26 (1) the person murders a peace officer or fireman who  
27 is acting in the lawful discharge of an official duty and who the  
28 person knows is a peace officer or fireman;

29 (2) the person intentionally commits the murder in the  
30 course of committing or attempting to commit kidnapping, burglary,  
31 robbery, continuous sexual abuse of young child or children,

1 aggravated sexual assault, arson, obstruction or retaliation, or  
2 terroristic threat under Section 22.07(a)(1), (3), (4), (5), or  
3 (6);

4 (3) the person commits the murder for remuneration or  
5 the promise of remuneration or employs another to commit the murder  
6 for remuneration or the promise of remuneration;

7 (4) the person commits the murder while escaping or  
8 attempting to escape from a penal institution;

9 (5) the person, while incarcerated in a penal  
10 institution, murders another:

11 (A) who is employed in the operation of the penal  
12 institution; or

13 (B) with the intent to establish, maintain, or  
14 participate in a combination or in the profits of a combination;

15 (6) the person:

16 (A) while incarcerated for an offense under this  
17 section or Section 19.02, murders another; or

18 (B) while serving a sentence of life imprisonment  
19 or a term of 99 years for an offense under Section 20.04, 22.021, or  
20 29.03, murders another;

21 (7) the person murders more than one person:

22 (A) during the same criminal transaction; or

23 (B) during different criminal transactions but  
24 the murders are committed pursuant to the same scheme or course of  
25 conduct;

26 (8) the person murders an individual under six years  
27 of age; or

28 (9) the person murders another person in retaliation  
29 for or on account of the service or status of the other person as a  
30 judge or justice of the supreme court, the court of criminal  
31 appeals, a court of appeals, a district court, a criminal district

1 court, a constitutional county court, a statutory county court, a  
2 justice court, or a municipal court.

3 SECTION 2.52. Section 38.17(a), Penal Code, is amended to  
4 read as follows:

5 (a) A person, other than a person who has a relationship  
6 with a child described by Section 22.04(b), commits an offense if:

7 (1) the actor observes the commission or attempted  
8 commission of an offense prohibited by Section 21.02 or  
9 22.021(a)(2)(B) under circumstances in which a reasonable person  
10 would believe that an offense of a sexual or assaultive nature was  
11 being committed or was about to be committed against the child;

12 (2) the actor fails to assist the child or immediately  
13 report the commission of the offense to a peace officer or law  
14 enforcement agency; and

15 (3) the actor could assist the child or immediately  
16 report the commission of the offense without placing the actor in  
17 danger of suffering serious bodily injury or death.

18 ARTICLE 3. TRANSITION; EFFECTIVE DATE

19 SECTION 3.01. (a) Except as provided by Subsections (b)  
20 and (c) of this section, the change in law made by this Act applies  
21 only to an offense committed on or after September 1, 2007. An  
22 offense committed before September 1, 2007, is covered by the law in  
23 effect when the offense was committed, and the former law is  
24 continued in effect for that purpose. For the purposes of this  
25 section, an offense was committed before September 1, 2007, if any  
26 element of the offense occurred before that date.

27 (b) The change in law made by this Act to Section 841.002,  
28 Health and Safety Code, applies only to an individual who on or  
29 after September 1, 2007, is serving a sentence in the Texas  
30 Department of Criminal Justice or is committed to the Department of  
31 State Health Services for an offense committed before, on, or after

1 the effective date of this Act.

2 (c) The change in law made by this Act to Article 12.01, Code  
3 of Criminal Procedure, does not apply to an offense if the  
4 prosecution of that offense becomes barred by limitation before the  
5 effective date of this Act. The prosecution of that offense remains  
6 barred as if this Act had not taken effect.

7 SECTION 3.02. This Act takes effect September 1, 2007.