

1 AN ACT

2 relating to the prosecution, punishment, and supervision of certain
3 sex offenders and to certain crimes involving sex offenders.

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

5 ARTICLE 1. CREATION, PROSECUTION, AND PUNISHMENT OF OFFENSES

6 SECTION 1.01. This Act shall be known as the Jessica
7 Lunsford Act.

8 SECTION 1.02. Chapter 2, Code of Criminal Procedure, is
9 amended by adding Article 2.021 to read as follows:

10 Art. 2.021. DUTIES OF ATTORNEY GENERAL. The attorney
11 general may offer to a county or district attorney the assistance of
12 the attorney general's office in the prosecution of an offense
13 described by Article 60.051(g) the victim of which is younger than
14 17 years of age at the time the offense is committed. On request of
15 a county or district attorney, the attorney general shall assist in
16 the prosecution of an offense described by Article 60.051(g) the
17 victim of which is younger than 17 years of age at the time the
18 offense is committed. For purposes of this article, assistance
19 includes investigative, technical, and litigation assistance of
20 the attorney general's office.

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

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

1 afterward:

2 (1) no limitation:

3 (A) murder and manslaughter;

4 (B) sexual assault under Section 22.011(a)(2),
5 Penal Code, or aggravated sexual assault under Section
6 22.021(a)(1)(B), Penal Code;

7 (C) sexual assault, if during the investigation
8 of the offense biological matter is collected and subjected to
9 forensic DNA testing and the testing results show that the matter
10 does not match the victim or any other person whose identity is
11 readily ascertained;

12 (D) continuous sexual abuse of young child or
13 children under Section 21.02, Penal Code;

14 (E) indecent with a child under Section 21.11,
15 Penal Code; or

16 (F) [~~C~~] an offense involving leaving the scene
17 of an accident under Section 550.021, Transportation Code, if the
18 accident resulted in the death of a person;

19 (2) ten years from the date of the commission of the
20 offense:

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

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

27 (C) forgery or the uttering, using or passing of

1 forged instruments;

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

5 (E) sexual assault, except as provided by
6 Subdivision (1) or (5); or

7 (F) arson;

8 (3) seven years from the date of the commission of the
9 offense:

10 (A) misapplication of fiduciary property or
11 property of a financial institution;

12 (B) securing execution of document by deception;
13 or

14 (C) a violation under Sections 162.403(22)-(39),
15 Tax Code;

16 (4) five years from the date of the commission of the
17 offense:

18 (A) theft or [~~burglary~~] robbery;

19 (B) except as provided by Subdivision (5),
20 kidnapping or burglary;

21 (C) injury to a child, elderly individual, or
22 disabled individual that is not punishable as a felony of the first
23 degree under Section 22.04, Penal Code;

24 (D) abandoning or endangering a child; or

25 (E) insurance fraud;

26 (5) if the investigation of the offense shows that the
27 victim is younger than 17 years of age at the time the offense is

1 committed, 20 years from the 18th birthday of the victim of one of
2 the following offenses:

3 (A) sexual performance by a child under Section
4 43.25, Penal Code;

5 (B) aggravated kidnapping under Section
6 20.04(a)(4), Penal Code, if the defendant committed the offense
7 with the intent to violate or abuse the victim sexually; or

8 (C) burglary under Section 30.02, Penal Code, if
9 the offense is punishable under Subsection (d) of that section and
10 the defendant committed the offense with the intent to commit an
11 offense described by Subdivision (1)(B) or (D) of this article or
12 Paragraph (B) of this subdivision ~~ten years from the 18th birthday~~
13 ~~of the victim of the offense.~~

14 ~~[(A) indecency with a child under Section~~
15 ~~21.11(a)(1) or (2), Penal Code, or~~

16 ~~[(B) except as provided by Subdivision (1),~~
17 ~~sexual assault under Section 22.011(a)(2), Penal Code, or~~
18 ~~aggravated sexual assault under Section 22.021(a)(1)(B), Penal~~
19 ~~Code]; or~~

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

22 SECTION 1.04. Chapter 37, Code of Criminal Procedure, is
23 amended by adding Article 37.072 to read as follows:

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

25 Sec. 1. If a defendant is found guilty in a capital felony
26 case punishable under Section 12.42(c)(3), Penal Code, in which the
27 state does not seek the death penalty, the judge shall sentence the

1 defendant to life imprisonment without parole.

2 Sec. 2. (a)(1) If a defendant is tried for an offense
3 punishable under Section 12.42(c)(3), Penal Code, in which the
4 state seeks the death penalty, on a finding that the defendant is
5 guilty of a capital offense, the court shall conduct a separate
6 sentencing proceeding to determine whether the defendant shall be
7 sentenced to death or life imprisonment without parole. The
8 proceeding shall be conducted in the trial court and, except as
9 provided by Article 44.29(d) of this code, before the trial jury as
10 soon as practicable. In the proceeding, evidence may be presented
11 by the state and the defendant or the defendant's counsel as to any
12 matter that the court considers relevant to sentence, including
13 evidence of the defendant's background or character or the
14 circumstances of the offense that mitigates against the imposition
15 of the death penalty. This subdivision may not be construed to
16 authorize the introduction of any evidence secured in violation of
17 the Constitution of the United States or of the State of Texas. The
18 state and the defendant or the defendant's counsel shall be
19 permitted to present argument for or against sentence of death. The
20 introduction of evidence of extraneous conduct is governed by the
21 notice requirements of Section 3(g), Article 37.07. The court, the
22 attorney representing the state, the defendant, or the defendant's
23 counsel may not inform a juror or a prospective juror of the effect
24 of a failure of a jury to agree on issues submitted under Subsection
25 (b) or (e).

26 (2) Notwithstanding Subdivision (1), evidence may not
27 be offered by the state to establish that the race or ethnicity of

1 the defendant makes it likely that the defendant will engage in
2 future criminal conduct.

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

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

8 (2) in cases in which the jury charge at the guilt or
9 innocence stage permitted the jury to find the defendant guilty as a
10 party under Sections 7.01 and 7.02, Penal Code, whether the
11 defendant actually engaged in the conduct prohibited by Section
12 22.021, Penal Code, or did not actually engage in the conduct
13 prohibited by Section 22.021, Penal Code, but intended that the
14 offense be committed against the victim or another intended victim.

15 (c) The state must prove beyond a reasonable doubt each
16 issue submitted under Subsection (b) of this section, and the jury
17 shall return a special verdict of "yes" or "no" on each issue
18 submitted under Subsection (b) of this section.

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

20 (1) in deliberating on the issues submitted under
21 Subsection (b) of this section, it shall consider all evidence
22 admitted at the guilt or innocence stage and the punishment stage,
23 including evidence of the defendant's background or character or
24 the circumstances of the offense that militates for or mitigates
25 against the imposition of the death penalty;

26 (2) it may not answer any issue submitted under
27 Subsection (b) of this section "yes" unless it agrees unanimously

1 and it may not answer any issue "no" unless 10 or more jurors agree;
2 and

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

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

9 Whether, taking into consideration all of the evidence,
10 including the circumstances of the offense, the defendant's
11 character and background, and the personal moral culpability of the
12 defendant, there is a sufficient mitigating circumstance or
13 circumstances to warrant that a sentence of life imprisonment
14 without parole rather than a death sentence be imposed.

15 (2) The court shall:

16 (A) instruct the jury that if the jury answers
17 that a circumstance or circumstances warrant that a sentence of
18 life imprisonment without parole rather than a death sentence be
19 imposed, the court will sentence the defendant to imprisonment in
20 the Texas Department of Criminal Justice for life without parole;
21 and

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

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

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

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

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

6 (4) shall consider mitigating evidence to be evidence
7 that a juror might regard as reducing the defendant's moral
8 blameworthiness.

9 (g) If the jury returns an affirmative finding on each issue
10 submitted under Subsection (b) and a negative finding on an issue
11 submitted under Subsection (e)(1), the court shall sentence the
12 defendant to death. If the jury returns a negative finding on any
13 issue submitted under Subsection (b) or an affirmative finding on
14 an issue submitted under Subsection (e)(1) or is unable to answer
15 any issue submitted under Subsection (b) or (e), the court shall
16 sentence the defendant to imprisonment in the Texas Department of
17 Criminal Justice for life without parole.

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

20 SECTION 1.05. Section 3g(a), Article 42.12, Code of
21 Criminal Procedure, is amended to read as follows:

22 (a) The provisions of Section 3 of this article do not
23 apply:

24 (1) to a defendant adjudged guilty of an offense
25 under:

26 (A) Section 19.02, Penal Code (Murder);

27 (B) Section 19.03, Penal Code (Capital murder);

1 (C) Section 21.11(a)(1), Penal Code (Indecency
2 with a child);

3 (D) Section 20.04, Penal Code (Aggravated
4 kidnapping);

5 (E) Section 22.021, Penal Code (Aggravated
6 sexual assault);

7 (F) Section 29.03, Penal Code (Aggravated
8 robbery);

9 (G) Chapter 481, Health and Safety Code, for
10 which punishment is increased under:

11 (i) Section 481.140, Health and Safety
12 Code; or

13 (ii) Section 481.134(c), (d), (e), or (f),
14 Health and Safety Code, if it is shown that the defendant has been
15 previously convicted of an offense for which punishment was
16 increased under any of those subsections; [~~or~~]

17 (H) Section 22.011, Penal Code (Sexual assault);
18 or

19 (I) Section 43.25, Penal Code (Sexual
20 performance by a child); or

21 (2) to a defendant when it is shown that a deadly
22 weapon as defined in Section 1.07, Penal Code, was used or exhibited
23 during the commission of a felony offense or during immediate
24 flight therefrom, and that the defendant used or exhibited the
25 deadly weapon or was a party to the offense and knew that a deadly
26 weapon would be used or exhibited. On an affirmative finding under
27 this subdivision, the trial court shall enter the finding in the

1 judgment of the court. On an affirmative finding that the deadly
2 weapon was a firearm, the court shall enter that finding in its
3 judgment.

4 SECTION 1.06. Section 4(d), Article 42.12, Code of Criminal
5 Procedure, is amended to read as follows:

6 (d) A defendant is not eligible for community supervision
7 under this section if the defendant:

8 (1) is sentenced to a term of imprisonment that
9 exceeds 10 years;

10 (2) is convicted of a state jail felony for which
11 suspension of the imposition of the sentence occurs automatically
12 under Section 15(a);

13 (3) does not file a sworn motion under Subsection (e)
14 of this section or for whom the jury does not enter in the verdict a
15 finding that the information contained in the motion is true; ~~[or]~~

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

21 (5) is convicted of an offense listed in Section
22 3g(a)(1)(C), (E), or (H), if the victim of the offense was younger
23 than 14 years of age at the time the offense was committed;

24 (6) is convicted of an offense listed in Section
25 3g(a)(1)(D), if the victim of the offense was younger than 14 years
26 of age at the time the offense was committed and the actor committed
27 the offense with the intent to violate or abuse the victim sexually;

1 or

2 (7) is convicted of an offense listed in Section
3 3g(a)(1)(I).

4 SECTION 1.07. Section 5(d), Article 42.12, Code of Criminal
5 Procedure, is amended to read as follows:

6 (d) In all other cases the judge may grant deferred
7 adjudication unless:

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

9 (A) under Section 49.04, 49.05, 49.06, 49.07, or
10 49.08, Penal Code; or

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

16 (2) the defendant:

17 (A) is charged with an offense under Section
18 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the
19 victim, or a felony described by Section 13B(b) of this article; and

20 (B) has previously been placed on community
21 supervision for any offense under Paragraph (A) of this
22 subdivision; or

23 (3) the defendant is charged with an offense under:

24 (A) Section 21.02, Penal Code; or

25 (B) Section 22.021, Penal Code, that is
26 punishable under Subsection (f) of that section or under Section
27 12.42(c)(3), Penal Code.

1 SECTION 1.08. Article 60.051, Code of Criminal Procedure,
2 is amended by adding Subsection (g) to read as follows:

3 (g) In addition to the information described by Subsections
4 (a)-(f), information in the computerized criminal history system
5 must include the age of the victim of the offense if the defendant
6 was arrested for or charged with an offense under:

7 (1) Section 21.02 (Continuous sexual abuse of young
8 child or children), Penal Code;

9 (2) Section 21.11 (Indecency with a child), Penal
10 Code;

11 (3) Section 22.011 (Sexual assault) or 22.021
12 (Aggravated sexual assault), Penal Code;

13 (4) Section 43.25 (Sexual performance by a child),
14 Penal Code;

15 (5) Section 20.04(a)(4) (Aggravated kidnapping),
16 Penal Code, if the defendant committed the offense with intent to
17 violate or abuse the victim sexually; or

18 (6) Section 30.02 (Burglary), Penal Code, if the
19 offense is punishable under Subsection (d) of that section and the
20 defendant committed the offense with intent to commit an offense
21 described by Subdivision (2), (3), or (5).

22 SECTION 1.09. Subchapter C, Chapter 499, Government Code,
23 is amended by adding Section 499.054 to read as follows:

24 Sec. 499.054. SEX OFFENDER TREATMENT PROGRAM. (a) In this
25 section, "sex offender treatment program" means a comprehensive
26 treatment program that:

27 (1) psychologically evaluates inmates who are serving

1 a sentence for an offense described by Section 12.42(c)(2), Penal
2 Code;

3 (2) addresses the motivation and psychosocial
4 education of inmates described by Subdivision (1); and

5 (3) provides relapse prevention training for inmates
6 described by Subdivision (1), including interruption of cognitive
7 and behavioral patterns that have led the inmate to commit criminal
8 offenses.

9 (b) The department shall establish a sex offender treatment
10 program to treat inmates who are serving sentences for offenses
11 punishable under Section 21.02(h) or 22.021(f), Penal Code. The
12 department shall require an inmate described by this subsection to
13 participate in and complete the sex offender treatment program
14 before being released from the department.

15 (c) The department may establish a sex offender treatment
16 program to treat inmates other than those inmates described by
17 Subsection (b).

18 SECTION 1.10. Sections 508.145(a) and (d), Government Code,
19 are amended to read as follows:

20 (a) An inmate under sentence of death, ~~[or]~~ serving a
21 sentence of life imprisonment without parole, servng a sentence
22 for an offense under Section 21.02, Penal Code, or serving a
23 sentence for an offense under Section 22.021, Penal Code, that is
24 punishable under Subsection (f) of that section is not eligible for
25 release on parole.

26 (d) An inmate serving a sentence for an offense described by
27 Section 3g(a)(1)(A), (C), (D), (E), (F), (G), ~~(H)~~, or (I),

1 Article 42.12, Code of Criminal Procedure, or for an offense for
2 which the judgment contains an affirmative finding under Section
3 3g(a)(2) of that article, is not eligible for release on parole
4 until the inmate's actual calendar time served, without
5 consideration of good conduct time, equals one-half of the sentence
6 or 30 calendar years, whichever is less, but in no event is the
7 inmate eligible for release on parole in less than two calendar
8 years.

9 SECTION 1.11. Section 508.149(a), Government Code, is
10 amended to read as follows:

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

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

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

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

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

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

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

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

- 1 (8) a first degree felony under Section 22.021, Penal
- 2 Code;
- 3 (9) a first degree felony under Section 22.04, Penal
- 4 Code;
- 5 (10) a first degree felony under Section 28.02, Penal
- 6 Code;
- 7 (11) a second degree felony under Section 29.02, Penal
- 8 Code;
- 9 (12) a first degree felony under Section 29.03, Penal
- 10 Code;
- 11 (13) a first degree felony under Section 30.02, Penal
- 12 Code; [~~or~~]
- 13 (14) a felony for which the punishment is increased
- 14 under Section 481.134 or Section 481.140, Health and Safety Code;
- 15 (15) an offense under Section 43.25, Penal Code; or
- 16 (16) an offense under Section 21.02, Penal Code.

17 SECTION 1.12. Section 841.082, Health and Safety Code, is
18 amended by adding Subsection (b) to read as follows:

19 (b) A tracking service to which a person is required to
20 submit under Subsection (a)(5) must:

- 21 (1) track the person's location in real time;
- 22 (2) be able to provide a real-time report of the
23 person's location to the case manager at the case manager's request;
24 and
- 25 (3) periodically provide a cumulative report of the
26 person's location to the case manager.

27 SECTION 1.13. Subchapter E, Chapter 841, Health and Safety

1 Code, is amended by adding Section 841.084 to read as follows:

2 Sec. 841.084. COST OF TRACKING SERVICE. Notwithstanding
3 Section 841.146(c), a civilly committed person who is not indigent
4 is responsible for the cost of the tracking service required by
5 Section 841.082 and monthly shall pay to the council the amount that
6 the council determines will be necessary to defray the cost of
7 operating the service with respect to the person during the
8 subsequent month. The council immediately shall transfer the money
9 to the appropriate service provider.

10 SECTION 1.14. Section 12.42(b), Penal Code, is amended to
11 read as follows:

12 (b) Except as provided by Subsection (c)(2), if ~~[If]~~ it is
13 shown on the trial of a second-degree felony that the defendant has
14 been once before convicted of a felony, on conviction he shall be
15 punished for a first-degree felony.

16 SECTION 1.15. Section 12.42(c), Penal Code, is amended to
17 read as follows:

18 (c)(1) If ~~[Except as provided by Subdivision (2), if]~~ it is
19 shown on the trial of a first-degree felony that the defendant has
20 been once before convicted of a felony, on conviction he shall be
21 punished by imprisonment in the ~~[institutional division of the]~~
22 Texas Department of Criminal Justice for life, or for any term of
23 not more than 99 years or less than 15 years. In addition to
24 imprisonment, an individual may be punished by a fine not to exceed
25 \$10,000.

26 (2) Notwithstanding Subdivision (1), a ~~[A]~~ defendant
27 shall be punished by imprisonment in the Texas Department of

1 Criminal Justice [~~institutional division~~] for life if:

2 (A) the defendant is convicted of an offense:

3 (i) under Section 21.11(a)(1), 22.021, or
4 22.011, Penal Code;

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

8 (iii) under Section 30.02, Penal Code,
9 punishable under Subsection (d) of that section, if the defendant
10 committed the offense with the intent to commit a felony described
11 by Subparagraph (i) or (ii) or a felony under Section 21.11 [~~or~~
12 ~~22.011~~], Penal Code; and

13 (B) the defendant has been previously convicted
14 of an offense:

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

18 (ii) under Section 21.02, 21.11, 22.011,
19 22.021, or 25.02, Penal Code;

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

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

27 (v) under the laws of another state

1 containing elements that are substantially similar to the elements
2 of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

3 (3) Notwithstanding Subdivision (1) or (2), a
4 defendant shall be punished for a capital felony if it is shown on
5 the trial of an offense under Section 22.021 otherwise punishable
6 under Subsection (f) of that section that the defendant has
7 previously been finally convicted of:

8 (A) an offense under Section 22.021 that was
9 committed against a victim described by Section 22.021(f)(1) or was
10 committed against a victim described by Section 22.021(f)(2) and in
11 a manner described by Section 22.021(a)(2)(A); or

12 (B) an offense that was committed under the laws
13 of another state that:

14 (i) contains elements that are
15 substantially similar to the elements of an offense under Section
16 22.021; and

17 (ii) was committed against a victim
18 described by Section 22.021(f)(1) or was committed against a victim
19 described by Section 22.021(f)(2) and in a manner substantially
20 similar to a manner described by Section 22.021(a)(2)(A).

21 (4) Notwithstanding Subdivision (1) or (2), a
22 defendant shall be punished by imprisonment in the Texas Department
23 of Criminal Justice for life without parole if it is shown on the
24 trial of an offense under Section 21.02 that the defendant has
25 previously been finally convicted of:

26 (A) an offense under Section 21.02; or

27 (B) an offense that was committed under the laws

1 of another state and that contains elements that are substantially
2 similar to the elements of an offense under Section 21.02.

3 SECTION 1.16. Section 12.42(d), Penal Code, is amended to
4 read as follows:

5 (d) Except as provided by Subsection (c)(2), if [~~if~~] it is
6 shown on the trial of a felony offense other than a state jail
7 felony punishable under Section 12.35(a) that the defendant has
8 previously been finally convicted of two felony offenses, and the
9 second previous felony conviction is for an offense that occurred
10 subsequent to the first previous conviction having become final, on
11 conviction he shall be punished by imprisonment in the
12 institutional division of the Texas Department of Criminal Justice
13 for life, or for any term of not more than 99 years or less than 25
14 years.

15 SECTION 1.17. Chapter 21, Penal Code, is amended by adding
16 Section 21.02 to read as follows:

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

20 (b) A person commits an offense if:

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

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

1 (c) For purposes of this section, "act of sexual abuse"
2 means any act that is a violation of one or more of the following
3 penal laws:

4 (1) aggravated kidnapping under Section 20.04(a)(4),
5 if the actor committed the offense with the intent to violate or
6 abuse the victim sexually;

7 (2) indecency with a child under Section 21.11(a)(1),
8 if the actor committed the offense in a manner other than by
9 touching, including touching through clothing, the breast of a
10 child;

11 (3) sexual assault under Section 22.011;

12 (4) aggravated sexual assault under Section 22.021;

13 (5) burglary under Section 30.02, if the offense is
14 punishable under Subsection (d) of that section and the actor
15 committed the offense with the intent to commit an offense listed in
16 Subdivisions (1)-(4); and

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

18 (d) If a jury is the trier of fact, members of the jury are
19 not required to agree unanimously on which specific acts of sexual
20 abuse were committed by the defendant or the exact date when those
21 acts were committed. The jury must agree unanimously that the
22 defendant, during a period that is 30 or more days in duration,
23 committed two or more acts of sexual abuse.

24 (e) A defendant may not be convicted in the same criminal
25 action of an offense listed under Subsection (c) the victim of which
26 is the same victim as a victim of the offense alleged under
27 Subsection (b) unless the offense listed in Subsection (c):

1 (1) is charged in the alternative;

2 (2) occurred outside the period in which the offense
3 alleged under Subsection (b) was committed; or

4 (3) is considered by the trier of fact to be a lesser
5 included offense of the offense alleged under Subsection (b).

6 (f) A defendant may not be charged with more than one count
7 under Subsection (b) if all of the specific acts of sexual abuse
8 that are alleged to have been committed are alleged to have been
9 committed against a single victim.

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

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

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

15 (B) the youngest victim of the offense, if the
16 offense is alleged to have been committed against more than one
17 victim;

18 (2) did not use duress, force, or a threat against a
19 victim at the time of the commission of any of the acts of sexual
20 abuse alleged as an element of the offense; and

21 (3) at the time of the commission of any of the acts of
22 sexual abuse alleged as an element of the offense:

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

25 (B) was not a person who under Chapter 62 had a
26 reportable conviction or adjudication for an offense under this
27 section or an act of sexual abuse as described by Subsection (c).

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

5 SECTION 1.18. Section 22.021, Penal Code, is amended by
6 adding Subsection (f) to read as follows:

7 (f) The minimum term of imprisonment for an offense under
8 this section is increased to 25 years if:

9 (1) the victim of the offense is younger than six years
10 of age at the time the offense is committed; or

11 (2) the victim of the offense is younger than 14 years
12 of age at the time the offense is committed and the actor commits
13 the offense in a manner described by Subsection (a)(2)(A).

14 SECTION 1.19. Section 38.05, Penal Code, is amended by
15 amending Subsection (c) and adding Subsection (d) to read as
16 follows:

17 (c) Except as provided by Subsection (d), an [An] offense
18 under this section is a Class A misdemeanor.

19 (d) An [~~, except that the~~] offense under this section is a
20 felony of the third degree if the person who is harbored, concealed,
21 provided with a means of avoiding arrest or effecting escape, or
22 warned of discovery or apprehension is under arrest for, charged
23 with, or convicted of a felony, including an offense under Section
24 62.102, Code of Criminal Procedure, or is in custody or detention
25 for, is alleged in a petition to have engaged in, or has been
26 adjudicated as having engaged in delinquent conduct that violates a
27 penal law of the grade of felony, including an offense under Section

1 62.102, Code of Criminal Procedure, and the person charged under
2 this section knew that the person they harbored, concealed,
3 provided with a means of avoiding arrest or effecting escape, or
4 warned of discovery or apprehension is under arrest for, charged
5 with, or convicted of a felony, or is in custody or detention for,
6 is alleged in a petition to have engaged in, or has been adjudicated
7 as having engaged in delinquent conduct that violates a penal law of
8 the grade of felony.

9 SECTION 1.20. Sections 43.25(c) and (e), Penal Code, are
10 amended to read as follows:

11 (c) An offense under Subsection (b) is a felony of the
12 second degree, except that the offense is a felony of the first
13 degree if the victim is younger than 14 years of age at the time the
14 offense is committed.

15 (e) An offense under Subsection (d) is a felony of the third
16 degree, except that the offense is a felony of the second degree if
17 the victim is younger than 14 years of age at the time the offense is
18 committed.

19 ARTICLE 2. PRIORITIZATION OF CASES INVOLVING THE PROSECUTION OF
20 CERTAIN OFFENSES

21 SECTION 2.01. Section 23.101(a), Government Code, is
22 amended to read as follows:

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

- 26 (1) temporary injunctions;
27 (2) criminal actions, with the following actions given

1 preference over other criminal actions:

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

4 (B) criminal actions involving a charge that a
5 person committed an act of family violence, as defined by Section
6 71.004, Family Code; ~~and~~

7 (C) an offense under:

8 (i) Section 21.02 or 21.11, Penal Code;

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

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

13 (iv) Section 25.06, Penal Code; or

14 (v) Section 43.25, Penal Code; and

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

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

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

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

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

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

4 ARTICLE 3. CONFORMING AMENDMENTS

5 SECTION 3.01. Section 16.0045(a), Civil Practice and
6 Remedies Code, is amended to read as follows:

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

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

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

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

15 SECTION 3.02. Section 33.013(b), Civil Practice and
16 Remedies Code, is amended to read as follows:

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

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

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

1 the claimant:

2 (A) Section 19.02 (murder);

3 (B) Section 19.03 (capital murder);

4 (C) Section 20.04 (aggravated kidnapping);

5 (D) Section 22.02 (aggravated assault);

6 (E) Section 22.011 (sexual assault);

7 (F) Section 22.021 (aggravated sexual assault);

8 (G) Section 22.04 (injury to a child, elderly
9 individual, or disabled individual);

10 (H) Section 32.21 (forgery);

11 (I) Section 32.43 (commercial bribery);

12 (J) Section 32.45 (misapplication of fiduciary
13 property or property of financial institution);

14 (K) Section 32.46 (securing execution of
15 document by deception);

16 (L) Section 32.47 (fraudulent destruction,
17 removal, or concealment of writing); [~~or~~]

18 (M) conduct described in Chapter 31 the
19 punishment level for which is a felony of the third degree or
20 higher; or

21 (N) Section 21.02 (continuous sexual abuse of
22 young child or children).

23 SECTION 3.03. Section 41.008(c), Civil Practice and
24 Remedies Code, is amended to read as follows:

25 (c) This section does not apply to a cause of action against
26 a defendant from whom a plaintiff seeks recovery of exemplary
27 damages based on conduct described as a felony in the following

1 sections of the Penal Code if, except for Sections 49.07 and 49.08,
2 the conduct was committed knowingly or intentionally:

- 3 (1) Section 19.02 (murder);
- 4 (2) Section 19.03 (capital murder);
- 5 (3) Section 20.04 (aggravated kidnapping);
- 6 (4) Section 22.02 (aggravated assault);
- 7 (5) Section 22.011 (sexual assault);
- 8 (6) Section 22.021 (aggravated sexual assault);
- 9 (7) Section 22.04 (injury to a child, elderly
10 individual, or disabled individual, but not if the conduct occurred
11 while providing health care as defined by Section 74.001);
- 12 (8) Section 32.21 (forgery);
- 13 (9) Section 32.43 (commercial bribery);
- 14 (10) Section 32.45 (misapplication of fiduciary
15 property or property of financial institution);
- 16 (11) Section 32.46 (securing execution of document by
17 deception);
- 18 (12) Section 32.47 (fraudulent destruction, removal,
19 or concealment of writing);
- 20 (13) Chapter 31 (theft) the punishment level for which
21 is a felony of the third degree or higher;
- 22 (14) Section 49.07 (intoxication assault); [~~or~~]
- 23 (15) Section 49.08 (intoxication manslaughter); or
- 24 (16) Section 21.02 (continuous sexual abuse of young
25 child or children).

26 SECTION 3.04. Section 125.0015(a), Civil Practice and
27 Remedies Code, is amended to read as follows:

1 (a) A person who maintains a place to which persons
2 habitually go for the following purposes and who knowingly
3 tolerates the activity and furthermore fails to make reasonable
4 attempts to abate the activity maintains a common nuisance:

5 (1) discharge of a firearm in a public place as
6 prohibited by the Penal Code;

7 (2) reckless discharge of a firearm as prohibited by
8 the Penal Code;

9 (3) engaging in organized criminal activity as a
10 member of a combination as prohibited by the Penal Code;

11 (4) delivery, possession, manufacture, or use of a
12 controlled substance in violation of Chapter 481, Health and Safety
13 Code;

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

16 (6) prostitution, promotion of prostitution, or
17 aggravated promotion of prostitution as prohibited by the Penal
18 Code;

19 (7) compelling prostitution as prohibited by the Penal
20 Code;

21 (8) commercial manufacture, commercial distribution,
22 or commercial exhibition of obscene material as prohibited by the
23 Penal Code;

24 (9) aggravated assault as described by Section 22.02,
25 Penal Code;

26 (10) sexual assault as described by Section 22.011,
27 Penal Code;

1 (11) aggravated sexual assault as described by Section
2 22.021, Penal Code;

3 (12) robbery as described by Section 29.02, Penal
4 Code;

5 (13) aggravated robbery as described by Section 29.03,
6 Penal Code;

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

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

11 (16) capital murder as described by Section 19.03,
12 Penal Code; or

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

15 SECTION 3.05. Article 7A.01(a), Code of Criminal Procedure,
16 is amended to read as follows:

17 (a) A person who is the victim of an offense under Section
18 21.02, 22.011, or 22.021, Penal Code, or a prosecuting attorney
19 acting on behalf of the person, may file an application for a
20 protective order under this chapter without regard to the
21 relationship between the applicant and the alleged offender.

22 SECTION 3.06. Section 5(a), Article 11.071, Code of
23 Criminal Procedure, is amended to read as follows:

24 (a) If a subsequent application for a writ of habeas corpus
25 is filed after filing an initial application, a court may not
26 consider the merits of or grant relief based on the subsequent
27 application unless the application contains sufficient specific

1 facts establishing that:

2 (1) the current claims and issues have not been and
3 could not have been presented previously in a timely initial
4 application or in a previously considered application filed under
5 this article or Article 11.07 because the factual or legal basis for
6 the claim was unavailable on the date the applicant filed the
7 previous application;

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

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

16 SECTION 3.07. Article 15.051(a), Code of Criminal
17 Procedure, is amended to read as follows:

18 (a) A peace officer or an attorney representing the state
19 may not require a polygraph examination of a person who charges or
20 seeks to charge in a complaint the commission of an offense under
21 Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code.

22 SECTION 3.08. Article 17.03(b), Code of Criminal Procedure,
23 is amended to read as follows:

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

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

- 1 (A) Section 19.03 (Capital Murder);
2 (B) Section 20.04 (Aggravated Kidnapping);
3 (C) Section 22.021 (Aggravated Sexual Assault);
4 (D) Section 22.03 (Deadly Assault on Law
5 Enforcement or Corrections Officer, Member or Employee of Board of
6 Pardons and Paroles, or Court Participant);
7 (E) Section 22.04 (Injury to a Child, Elderly
8 Individual, or Disabled Individual);
9 (F) Section 29.03 (Aggravated Robbery);
10 (G) Section 30.02 (Burglary); [~~or~~]
11 (H) Section 71.02 (Engaging in Organized
12 Criminal Activity); or
13 (I) Section 21.02 (Continuous Sexual Abuse of
14 Young Child or Children);

15 (2) is charged with a felony under Chapter 481, Health
16 and Safety Code, or Section 485.033, Health and Safety Code,
17 punishable by imprisonment for a minimum term or by a maximum fine
18 that is more than a minimum term or maximum fine for a first degree
19 felony; or

20 (3) does not submit to testing for the presence of a
21 controlled substance in the defendant's body as requested by the
22 court or magistrate under Subsection (c) of this article or submits
23 to testing and the test shows evidence of the presence of a
24 controlled substance in the defendant's body.

25 SECTION 3.09. Article 17.032(a), Code of Criminal
26 Procedure, is amended to read as follows:

27 (a) In this article, "violent offense" means an offense

1 under the following sections of the Penal Code:

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

16 SECTION 3.10. Article 17.091, Code of Criminal Procedure,
17 is amended to read as follows:

18 Art. 17.091. NOTICE OF CERTAIN BAIL REDUCTIONS REQUIRED.
19 Before a judge or magistrate reduces the amount of bail set for a
20 defendant charged with an offense listed in Section 3g, Article
21 42.12, or an offense described by Article 62.001(5) [~~62.01(5)~~], the
22 judge or magistrate shall provide:

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

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

1 SECTION 3.11. 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 3.12. 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

1 offense. The person performing the procedure or test shall make the
2 test results available to the local health authority, and the local
3 health authority shall be required to make the notification of the
4 test result to the victim of the alleged offense and to the
5 defendant.

6 SECTION 3.13. Section 3, Article 31.08, Code of Criminal
7 Procedure, is amended to read as follows:

8 Sec. 3. Except for the review of a death sentence under
9 Section 2(h), Article 37.071, or under Section 2(h), Article 37.072
10 [~~37.071(h) of this code~~], an appeal taken in a cause returned to the
11 original county under this article must be docketed in the
12 appellate district in which the county of original venue is
13 located.

14 SECTION 3.14. Section 2(b), Article 37.07, Code of Criminal
15 Procedure, is amended to read as follows:

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

1 punishment.

2 SECTION 3.15. Sections 4(a) and (b), Article 37.07, Code of
3 Criminal Procedure, are amended to read as follows:

4 (a) 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 of which the jury has found the defendant
7 guilty is listed in Section 3g(a)(1), Article 42.12, of this code or
8 if the judgment contains an affirmative finding under Section
9 3g(a)(2), Article 42.12, of this code, unless the defendant has
10 been convicted of an offense under Section 21.02, Penal Code, an
11 offense under Section 22.021, Penal Code, that is punishable under
12 Subsection (f) of that section, or a capital felony, the court shall
13 charge the jury in writing as follows:

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

22 "It is also possible that the length of time for which the
23 defendant will be imprisoned might be reduced by the award of
24 parole.

25 "Under the law applicable in this case, if the defendant is
26 sentenced to a term of imprisonment, he will not become eligible for
27 parole until the actual time served equals one-half of the sentence

1 imposed or 30 years, whichever is less, without consideration of
2 any good conduct time he may earn. If the defendant is sentenced to
3 a term of less than four years, he must serve at least two years
4 before he is eligible for parole. Eligibility for parole does not
5 guarantee that parole will be granted.

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

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

16 (b) In the penalty phase of the trial of a felony case in
17 which the punishment is to be assessed by the jury rather than the
18 court, if the offense is punishable as a felony of the first degree,
19 if a prior conviction has been alleged for enhancement of
20 punishment as provided by Section 12.42(b), (c)(1) or (2) [~~(c)~~], or
21 (d), Penal Code, or if the offense is a felony not designated as a
22 capital felony or a felony of the first, second, or third degree and
23 the maximum term of imprisonment that may be imposed for the offense
24 is longer than 60 years, unless the offense of which the jury has
25 found the defendant guilty is an offense that is punishable under
26 Section 21.02(h), Penal Code, or is listed in Section 3g(a)(1),
27 Article 42.12, of this code or the judgment contains an affirmative

1 finding under Section 3g(a)(2), Article 42.12, of this code, the
2 court shall charge the jury in writing as follows:

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

11 "It is also possible that the length of time for which the
12 defendant will be imprisoned might be reduced by the award of
13 parole.

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

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

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

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

3 SECTION 3.16. 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); ~~[or]~~
- 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).

1 SECTION 3.17. Article 42.017, Code of Criminal Procedure,
2 is amended to read as follows:

3 Art. 42.017. FINDING REGARDING AGE-BASED OFFENSE. In the
4 trial of an offense under Section 21.02, 21.11, 22.011, 22.021, or
5 43.25, Penal Code, the judge shall make an affirmative finding of
6 fact and enter the affirmative finding in the judgment in the case
7 if the judge determines that:

8 (1) at the time of the offense, the defendant was
9 younger than 19 years of age and the victim was at least 13 years of
10 age; and

11 (2) the conviction is based solely on the ages of the
12 defendant and the victim or intended victim at the time of the
13 offense.

14 SECTION 3.18. Article 44.251, Code of Criminal Procedure,
15 is amended by amending Subsections (a) and (c) and adding
16 Subsection (d) to read as follows:

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

24 (c) If the court of criminal appeals finds reversible error
25 that affects the punishment stage of the trial only, as described by
26 Subsection (b) of this article, and the prosecuting attorney does
27 not file a motion for reformation of sentence in the period

1 described by that subsection, the defendant shall receive a new
2 sentencing trial in the manner required by Article 44.29(c) or (d),
3 as applicable [of this code].

4 (d) The court of criminal appeals shall reform a sentence of
5 death imposed under Section 12.42(c)(3), Penal Code, to a sentence
6 of imprisonment in the Texas Department of Criminal Justice for
7 life without parole if the United States Supreme Court:

8 (1) finds that the imposition of the death penalty
9 under Section 12.42(c)(3), Penal Code, violates the United States
10 Constitution; and

11 (2) issues an order that is not inconsistent with this
12 article.

13 SECTION 3.19. Article 44.29, Code of Criminal Procedure, is
14 amended by adding Subsection (d) to read as follows:

15 (d) If any court sets aside or invalidates the sentence of a
16 defendant convicted of an offense punishable as a capital felony
17 under Section 12.42(c)(3), Penal Code, and sentenced to death on
18 the basis of any error affecting punishment only, the court shall
19 not set the conviction aside but rather shall commence a new
20 punishment hearing under Article 37.072, as if a finding of guilt
21 had been returned. The court shall empanel a jury for the
22 sentencing stage of the trial in the same manner as a jury is to be
23 empaneled by the court in other trials before the court for the
24 offense of which the defendant was convicted. At the new punishment
25 hearing, the court shall permit both the state and the defendant to
26 introduce evidence as permitted by Article 37.072.

27 SECTION 3.20. Article 56.01, Code of Criminal Procedure, 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 3.21. Article 56.02(a), Code of Criminal Procedure,
5 is amended to read as follows:

6 (a) A victim, guardian of a victim, or close relative of a
7 deceased victim is entitled to the following rights within the
8 criminal justice system:

9 (1) the right to receive from law enforcement agencies
10 adequate protection from harm and threats of harm arising from
11 cooperation with prosecution efforts;

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

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

16 (A) by the attorney representing the state of
17 relevant court proceedings, including appellate proceedings, and
18 to be informed if those proceedings have been canceled or
19 rescheduled prior to the event; and

20 (B) by an appellate court of decisions of the
21 court, after the decisions are entered but before the decisions are
22 made public;

23 (4) the right to be informed, when requested, by a
24 peace officer concerning the defendant's right to bail and the
25 procedures in criminal investigations and by the district
26 attorney's office concerning the general procedures in the criminal
27 justice system, including general procedures in guilty plea

1 negotiations and arrangements, restitution, and the appeals and
2 parole process;

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

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

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

25 (8) the right to be provided with a waiting area,
26 separate or secure from other witnesses, including the offender and
27 relatives of the offender, before testifying in any proceeding

1 concerning the offender; if a separate waiting area is not
2 available, other safeguards should be taken to minimize the
3 victim's contact with the offender and the offender's relatives and
4 witnesses, before and during court proceedings;

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

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

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

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

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

27 (A) by the attorney representing the state and

1 the judge before sentencing or before a plea bargain agreement is
2 accepted; and

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

5 (14) except as provided by Article 56.06(a), for a
6 victim of a sexual assault, the right to a forensic medical
7 examination if the sexual assault is reported to a law enforcement
8 agency within 96 hours of the assault.

9 SECTION 3.22. (a) Article 62.001(5), Code of Criminal
10 Procedure, as renumbered from former Subdivision (5), Article
11 62.01, Code of Criminal Procedure, and amended by Chapter 1008,
12 Acts of the 79th Legislature, Regular Session, 2005, is reenacted
13 and amended to conform to an amendment to former Subdivision (5),
14 Article 62.01, by Chapter 1273, Acts of the 79th Legislature,
15 Regular Session, 2005, and is further amended to read as follows:

16 (5) "Reportable conviction or adjudication" means a
17 conviction or adjudication, including an adjudication of
18 delinquent conduct or a deferred adjudication, that, regardless of
19 the pendency of an appeal, is a conviction for or an adjudication
20 for or based on:

21 (A) a violation of Section 21.02 (Continuous
22 sexual abuse of young child or children), 21.11 (Indecency with a
23 child), 22.011 (Sexual assault), 22.021 (Aggravated sexual
24 assault), or 25.02 (Prohibited sexual conduct), Penal Code;

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

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

5 (D) a violation of Section 30.02 (Burglary),
6 Penal Code, if the offense or conduct is punishable under
7 Subsection (d) of that section and the actor committed the offense
8 or engaged in the conduct with intent to commit a felony listed in
9 Paragraph (A) or (C);

10 (E) a violation of Section 20.02 (Unlawful
11 restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping),
12 Penal Code, if, as applicable:

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

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

18 (F) the second violation of Section 21.08
19 (Indecent exposure), Penal Code, but not if the second violation
20 results in a deferred adjudication;

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

24 (H) a violation of the laws of another state,
25 federal law, the laws of a foreign country, or the Uniform Code of
26 Military Justice for or based on the violation of an offense
27 containing elements that are substantially similar to the elements

1 of an offense listed under Paragraph (A), (B), (C), (D), (E), [~~or~~]
2 (G), or (J), but not if the violation results in a deferred
3 adjudication; [~~or~~]

4 (I) the second violation of the laws of another
5 state, federal law, the laws of a foreign country, or the Uniform
6 Code of Military Justice for or based on the violation of an offense
7 containing elements that are substantially similar to the elements
8 of the offense of indecent exposure, but not if the second violation
9 results in a deferred adjudication; or

10 (J) a violation of Section 33.021 (Online
11 solicitation of a minor), Penal Code.

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

14 SECTION 3.23. Article 62.001(6), Code of Criminal
15 Procedure, is amended to read as follows:

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

18 (A) an offense under Section 21.02 (Continuous
19 sexual abuse of young child or children), 21.11(a)(1) (Indecency
20 with a child), 22.011 (Sexual assault), or 22.021 (Aggravated
21 sexual assault), Penal Code;

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

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

27 (D) an offense under Section 30.02 (Burglary),

1 Penal Code, if the offense is punishable under Subsection (d) of
2 that section and the defendant committed the offense with intent to
3 commit a felony listed in Paragraph (A) or (C) of Subdivision (5);
4 or

5 (E) an offense under the laws of another state,
6 federal law, the laws of a foreign country, or the Uniform Code of
7 Military Justice if the offense contains elements that are
8 substantially similar to the elements of an offense listed under
9 Paragraph (A), (B), (C), or (D).

10 SECTION 3.24. Article 102.0186(a), Code of Criminal
11 Procedure, is amended to read as follows:

12 (a) A person convicted of an offense under Section 21.02,
13 21.11, 22.011(a)(2), 22.021(a)(1)(B), 43.25, 43.251, or 43.26,
14 Penal Code, shall pay \$100 on conviction of the offense.

15 SECTION 3.25. Section 25.0341(a), Education Code, as added
16 by Chapter 997, Acts of the 79th Legislature, Regular Session,
17 2005, is amended to read as follows:

18 (a) This section applies only to:

19 (1) a student:

20 (A) who has been convicted of continuous sexual
21 abuse of young child or children under Section 21.02, Penal Code, or
22 convicted of or placed on deferred adjudication for the offense of
23 sexual assault under Section 22.011, Penal Code, or aggravated
24 sexual assault under Section 22.021, Penal Code, committed against
25 another student who, at the time the offense occurred, was assigned
26 to the same campus as the student convicted or placed on deferred
27 adjudication;

1 (B) who has been adjudicated under Section 54.03,
2 Family Code, as having engaged in conduct described by Paragraph
3 (A);

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

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

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

12 SECTION 3.26. Section 37.007(a), Education Code, is amended
13 to read as follows:

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

17 (1) uses, exhibits, or possesses:

18 (A) a firearm as defined by Section 46.01(3),
19 Penal Code;

20 (B) an illegal knife as defined by Section
21 46.01(6), Penal Code, or by local policy;

22 (C) a club as defined by Section 46.01(1), Penal
23 Code; or

24 (D) a weapon listed as a prohibited weapon under
25 Section 46.05, Penal Code;

26 (2) engages in conduct that contains the elements of
27 the offense of:

1 (A) aggravated assault under Section 22.02,
2 Penal Code, sexual assault under Section 22.011, Penal Code, or
3 aggravated sexual assault under Section 22.021, Penal Code;

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

5 (C) murder under Section 19.02, Penal Code,
6 capital murder under Section 19.03, Penal Code, or criminal
7 attempt, under Section 15.01, Penal Code, to commit murder or
8 capital murder;

9 (D) indecency with a child under Section 21.11,
10 Penal Code;

11 (E) aggravated kidnapping under Section 20.04,
12 Penal Code;

13 (F) aggravated robbery under Section 29.03,
14 Penal Code;

15 (G) manslaughter under Section 19.04, Penal
16 Code; [~~or~~]

17 (H) criminally negligent homicide under Section
18 19.05, Penal Code; or

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

21 (3) engages in conduct specified by Section
22 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.

23 SECTION 3.27. Section 33.009, Family Code, is amended to
24 read as follows:

25 Sec. 33.009. OTHER REPORTS OF SEXUAL ABUSE OF A MINOR. A
26 court or the guardian ad litem or attorney ad litem for the minor
27 shall report conduct reasonably believed to violate Section 21.02,

1 22.011, 22.021, or 25.02, Penal Code, based on information obtained
2 during a confidential court proceeding held under this chapter to:

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

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

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

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

12 SECTION 3.28. Section 33.010, Family Code, is amended to
13 read as follows:

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

20 SECTION 3.29. Section 156.104, Family Code, is amended to
21 read as follows:

22 Sec. 156.104. MODIFICATION OF ORDER ON CONVICTION FOR CHILD
23 ABUSE; PENALTY. (a) Except as provided by Section 156.1045, the
24 conviction of a conservator for an offense under Section 21.02,
25 Penal Code, or the conviction of a conservator[7] or an order
26 deferring adjudication with regard to the conservator, for an
27 offense involving the abuse of a child under Section 21.11, 22.011,

1 or 22.021, Penal Code, is a material and substantial change of
2 circumstances sufficient to justify a temporary order and
3 modification of an existing court order or portion of a decree that
4 provides for the appointment of a conservator or that sets the terms
5 and conditions of conservatorship or for the possession of or
6 access to a child.

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

14 SECTION 3.30. Section 161.001, Family Code, is amended to
15 read as follows:

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

19 (1) that the parent has:

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

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

27 (C) voluntarily left the child alone or in the

1 possession of another without providing adequate support of the
2 child and remained away for a period of at least six months;

3 (D) knowingly placed or knowingly allowed the
4 child to remain in conditions or surroundings which endanger the
5 physical or emotional well-being of the child;

6 (E) engaged in conduct or knowingly placed the
7 child with persons who engaged in conduct which endangers the
8 physical or emotional well-being of the child;

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

12 (G) abandoned the child without identifying the
13 child or furnishing means of identification, and the child's
14 identity cannot be ascertained by the exercise of reasonable
15 diligence;

16 (H) voluntarily, and with knowledge of the
17 pregnancy, abandoned the mother of the child beginning at a time
18 during her pregnancy with the child and continuing through the
19 birth, failed to provide adequate support or medical care for the
20 mother during the period of abandonment before the birth of the
21 child, and remained apart from the child or failed to support the
22 child since the birth;

23 (I) contumaciously refused to submit to a
24 reasonable and lawful order of a court under Subchapter D, Chapter
25 261;

26 (J) been the major cause of:

27 (i) the failure of the child to be enrolled

1 in school as required by the Education Code; or

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

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

8 (L) been convicted or has been placed on
9 community supervision, including deferred adjudication community
10 supervision, for being criminally responsible for the death or
11 serious injury of a child under the following sections of the Penal
12 Code or adjudicated under Title 3 for conduct that caused the death
13 or serious injury of a child and that would constitute a violation
14 of one of the following Penal Code sections:

15 (i) Section 19.02 (murder);
16 (ii) Section 19.03 (capital murder);
17 (iii) Section 19.04 (manslaughter);
18 (iv) Section 21.11 (indecent with a
19 child);

20 (v) Section 22.01 (assault);
21 (vi) Section 22.011 (sexual assault);
22 (vii) Section 22.02 (aggravated assault);
23 (viii) Section 22.021 (aggravated sexual
24 assault);

25 (ix) Section 22.04 (injury to a child,
26 elderly individual, or disabled individual);

27 (x) Section 22.041 (abandoning or

1 endangering child);

2 (xi) Section 25.02 (prohibited sexual
3 conduct);

4 (xii) Section 43.25 (sexual performance by
5 a child); ~~and~~

6 (xiii) Section 43.26 (possession or
7 promotion of child pornography); and

8 (xiv) Section 21.02 (continuous sexual
9 abuse of young child or children);

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

14 (N) constructively abandoned the child who has
15 been in the permanent or temporary managing conservatorship of the
16 Department of Family and Protective Services or an authorized
17 agency for not less than six months, and:

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

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

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

24 (O) failed to comply with the provisions of a
25 court order that specifically established the actions necessary for
26 the parent to obtain the return of the child who has been in the
27 permanent or temporary managing conservatorship of the Department

1 of Family and Protective Services for not less than nine months as a
2 result of the child's removal from the parent under Chapter 262 for
3 the abuse or neglect of the child;

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

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

9 (ii) after completion of a court-ordered
10 substance abuse treatment program, continued to abuse a controlled
11 substance;

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

14 (i) conviction of an offense; and

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

18 (R) been the cause of the child being born
19 addicted to alcohol or a controlled substance, other than a
20 controlled substance legally obtained by prescription, as defined
21 by Section 261.001;

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

25 (T) been convicted of the murder of the other
26 parent of the child under Section 19.02 or 19.03, Penal Code, or
27 under a law of another state, federal law, the law of a foreign

1 country, or the Uniform Code of Military Justice that contains
2 elements that are substantially similar to the elements of an
3 offense under Section 19.02 or 19.03, Penal Code; and

4 (2) that termination is in the best interest of the
5 child.

6 SECTION 3.31. Section 161.007, Family Code, is amended to
7 read as follows:

8 Sec. 161.007. TERMINATION WHEN PREGNANCY RESULTS FROM
9 CRIMINAL ACT. The court may order the termination of the
10 parent-child relationship of a parent and a child if the court finds
11 that:

12 (1) the parent has been convicted of an offense
13 committed under Section 21.02, 22.011, 22.021, or 25.02, Penal
14 Code;

15 (2) as a direct result of the commission of the offense
16 by the parent, the victim of the offense became pregnant with the
17 parent's child; and

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

19 SECTION 3.32. Section 261.001(1), Family Code, is amended
20 to read as follows:

21 (1) "Abuse" includes the following acts or omissions
22 by a person:

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

26 (B) causing or permitting the child to be in a
27 situation in which the child sustains a mental or emotional injury

1 that results in an observable and material impairment in the
2 child's growth, development, or psychological functioning;

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

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

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

20 (F) failure to make a reasonable effort to
21 prevent sexual conduct harmful to a child;

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

24 (H) causing, permitting, encouraging, engaging
25 in, or allowing the photographing, filming, or depicting of the
26 child if the person knew or should have known that the resulting
27 photograph, film, or depiction of the child is obscene as defined by

1 Section 43.21, Penal Code, or pornographic;

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

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

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

12 SECTION 3.33. Section 262.2015(b), Family Code, is amended
13 to read as follows:

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

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

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

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

24 (A) Section 19.02 (murder);

25 (B) Section 19.03 (capital murder);

26 (C) Section 19.04 (manslaughter);

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

- 1 (E) Section 22.011 (sexual assault);
2 (F) Section 22.02 (aggravated assault);
3 (G) Section 22.021 (aggravated sexual assault);
4 (H) Section 22.04 (injury to a child, elderly
5 individual, or disabled individual);
6 (I) Section 22.041 (abandoning or endangering
7 child);
8 (J) Section 25.02 (prohibited sexual conduct);
9 (K) Section 43.25 (sexual performance by a
10 child); ~~[or]~~
11 (L) Section 43.26 (possession or promotion of
12 child pornography); or
13 (M) Section 21.02 (continuous sexual abuse of
14 young child or children);
15 (4) the parent voluntarily left the child alone or in
16 the possession of another person not the parent of the child for at
17 least six months without expressing an intent to return and without
18 providing adequate support for the child;
19 (5) the parent's parental rights with regard to
20 another child have been involuntarily terminated based on a finding
21 that the parent's conduct violated Section 161.001(1)(D) or (E) or
22 a substantially equivalent provision of another state's law;
23 (6) the parent has been convicted for:
24 (A) the murder of another child of the parent and
25 the offense would have been an offense under 18 U.S.C. Section
26 1111(a) if the offense had occurred in the special maritime or
27 territorial jurisdiction of the United States;

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

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

7 (D) the felony assault of the child or another
8 child of the parent that resulted in serious bodily injury to the
9 child or another child of the parent; or

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

12 SECTION 3.34. Section 411.1471(a), Government Code, is
13 amended to read as follows:

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

15 (1) indicted or waives indictment for a felony
16 prohibited or punishable under any of the following Penal Code
17 sections:

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

19 (B) Section 21.11;

20 (C) Section 22.011;

21 (D) Section 22.021;

22 (E) Section 25.02;

23 (F) Section 30.02(d);

24 (G) Section 43.05;

25 (H) Section 43.25; [~~ex~~]

26 (I) Section 43.26; or

27 (J) Section 21.02;

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

5 (3) convicted of an offense under Section 21.07 or
6 21.08, Penal Code.

7 SECTION 3.35. Section 420.003(4), Government Code, is
8 amended to read as follows:

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

12 SECTION 3.36. Section 499.027(b), Government Code, is
13 amended to read as follows:

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

16 (1) the inmate is awaiting transfer to the
17 institutional division, or serving a sentence, for an offense for
18 which the judgment contains an affirmative finding under Section
19 3g(a)(2), Article 42.12, Code of Criminal Procedure;

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

23 (A) Section 19.02 (murder);

24 (B) Section 19.03 (capital murder);

25 (C) Section 19.04 (manslaughter);

26 (D) Section 20.03 (kidnapping);

27 (E) Section 20.04 (aggravated kidnapping);

- 1 (F) Section 21.11 (indecenty with a child);
2 (G) Section 22.011 (sexual assault);
3 (H) Section 22.02 (aggravated assault);
4 (I) Section 22.021 (aggravated sexual assault);
5 (J) Section 22.04 (injury to a child or an
6 elderly individual);
7 (K) Section 25.02 (prohibited sexual conduct);
8 (L) Section 25.08 (sale or purchase of a child);
9 (M) Section 28.02 (arson);
10 (N) Section 29.02 (robbery);
11 (O) Section 29.03 (aggravated robbery);
12 (P) Section 30.02 (burglary), if the offense is
13 punished as a first-degree felony under that section;
14 (Q) Section 43.04 (aggravated promotion of
15 prostitution);
16 (R) Section 43.05 (compelling prostitution);
17 (S) Section 43.24 (sale, distribution, or
18 display of harmful material to minor);
19 (T) Section 43.25 (sexual performance by a
20 child);
21 (U) Section 46.10 (deadly weapon in penal
22 institution);
23 (V) Section 15.01 (criminal attempt), if the
24 offense attempted is listed in this subsection;
25 (W) Section 15.02 (criminal conspiracy), if the
26 offense that is the subject of the conspiracy is listed in this
27 subsection; [~~ex~~]

1 (X) Section 15.03 (criminal solicitation), if
2 the offense solicited is listed in this subsection; or

3 (Y) Section 21.02 (continuous sexual abuse of
4 young child or children); or

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

10 SECTION 3.37. Section 501.061(a), Government Code, is
11 amended to read as follows:

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

14 (1) the inmate has been convicted of an offense under
15 Section 21.02, 21.11, 22.011(a)(2), or 22.021(a)(2)(B), Penal
16 Code, and has previously been convicted under one or more of those
17 sections;

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

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

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

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

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

1 (B) counsel the inmate before the inmate
2 undergoes the procedure;

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

5 (7) the inmate has not previously requested that the
6 department perform the procedure and subsequently withdrawn the
7 request; and

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

10 SECTION 3.38. Section 508.046, Government Code, is amended
11 to read as follows:

12 Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on
13 parole an inmate who was convicted of an offense under Section
14 21.02, 21.11(a)(1), or 22.021, Penal Code, or who is required under
15 Section 508.145(c) to serve 35 calendar years before becoming
16 eligible for release on parole, all members of the board must vote
17 on the release on parole of the inmate, and at least two-thirds of
18 the members must vote in favor of the release on parole. A member of
19 the board may not vote on the release unless the member first
20 receives a copy of a written report from the department on the
21 probability that the inmate would commit an offense after being
22 released on parole.

23 SECTION 3.39. Section 508.117(g), Government Code, is
24 amended by adding Subdivision (2-a) to read as follows:

25 (2-a) "Sexual assault" includes an offense under
26 Section 21.02, Penal Code.

27 SECTION 3.40. Section 508.151(a), Government Code, is

1 amended to read as follows:

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

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

9 (2) has never had a conviction with a judgment that
10 contains an affirmative finding under Section 3g(a)(2), Article
11 42.12, Code of Criminal Procedure.

12 SECTION 3.41. Section 508.187(a), Government Code, is
13 amended to read as follows:

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

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

17 (2) Section 21.02, 21.11, 22.011, 22.021, or 25.02,
18 Penal Code;

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

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

26 SECTION 3.42. Section 508.189(a), Government Code, is
27 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 3.43. 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

1 complaint, if the report or complaint alleges the existence of
2 circumstances that could result in abuse or neglect and that could
3 place a resident's health or safety in imminent danger.

4 SECTION 3.44. Section 250.006(a), Health and Safety Code,
5 is amended to read as follows:

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

10 (1) an offense under Chapter 19, Penal Code (criminal
11 homicide);

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

14 (3) an offense under Section 21.02, Penal Code
15 (continuous sexual abuse of young child or children), or Section
16 21.11, Penal Code (indecent with a child);

17 (4) an offense under Section 22.011, Penal Code
18 (sexual assault);

19 (5) an offense under Section 22.02, Penal Code
20 (aggravated assault);

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

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

25 (8) an offense under Section 22.08, Penal Code (aiding
26 suicide);

27 (9) an offense under Section 25.031, Penal Code

1 (agreement to abduct from custody);

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

4 (11) an offense under Section 28.02, Penal Code
5 (arson);

6 (12) an offense under Section 29.02, Penal Code
7 (robbery);

8 (13) an offense under Section 29.03, Penal Code
9 (aggravated robbery); or

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

14 SECTION 3.45. Section 841.002(8), Health and Safety Code,
15 is amended to read as follows:

16 (8) "Sexually violent offense" means:

17 (A) an offense under Section 21.02, 21.11(a)(1),
18 22.011, or 22.021, Penal Code;

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

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

26 (D) an offense under Section 19.02 or 19.03,
27 Penal Code, that, during the guilt or innocence phase or the

1 punishment phase for the offense, during the adjudication or
2 disposition of delinquent conduct constituting the offense, or
3 subsequently during a civil commitment proceeding under Subchapter
4 D, is determined beyond a reasonable doubt to have been based on
5 sexually motivated conduct;

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

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

12 (G) an offense under the law of another state,
13 federal law, or the Uniform Code of Military Justice that contains
14 elements substantially similar to the elements of an offense listed
15 in Paragraph (A), (B), (C), (D), or (E).

16 SECTION 3.46. Section 301.4535(a), Occupations Code, is
17 amended to read as follows:

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

21 (1) murder under Section 19.02, Penal Code, capital
22 murder under Section 19.03, Penal Code, or manslaughter under
23 Section 19.04, Penal Code;

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

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

1 (4) aggravated sexual assault under Section 22.021,
2 Penal Code;

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

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

8 (7) intentionally, knowingly, or recklessly injuring
9 a child, elderly individual, or disabled individual under Section
10 22.04, Penal Code;

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

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

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

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

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

21 (13) the sale or purchase of a child under Section
22 25.08, Penal Code;

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

24 (15) aggravated robbery under Section 29.03, Penal
25 Code;

26 (16) an offense for which a defendant is required to
27 register as a sex offender under Chapter 62, Code of Criminal

1 Procedure; or

2 (17) an offense under the law of another state,
3 federal law, or the Uniform Code of Military Justice that contains
4 elements that are substantially similar to the elements of an
5 offense listed in this subsection.

6 SECTION 3.47. Section 3.03(b), Penal Code, is amended to
7 read as follows:

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

12 (1) an offense:

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

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

21 (2) an offense:

22 (A) under Section 21.02, 21.11, 22.011, 22.021,
23 25.02, or 43.25 committed against a victim younger than 17 years of
24 age at the time of the commission of the offense regardless of
25 whether the accused is convicted of violations of the same section
26 more than once or is convicted of violations of more than one
27 section; or

1 (B) for which a plea agreement was reached in a
2 case in which the accused was charged with more than one offense
3 listed in Paragraph (A) committed against a victim younger than 17
4 years of age at the time of the commission of the offense regardless
5 of whether the accused is charged with violations of the same
6 section more than once or is charged with violations of more than
7 one section; or

8 (3) an offense:

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

12 (B) for which a plea agreement was reached in a
13 case in which the accused was charged with more than one offense
14 listed in Paragraph (A), regardless of whether the accused is
15 charged with violations of the same section more than once or is
16 charged with violations of both sections.

17 SECTION 3.48. Section 12.35(c), Penal Code, is amended to
18 read as follows:

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

22 (1) a deadly weapon as defined by Section 1.07 was used
23 or exhibited during the commission of the offense or during
24 immediate flight following the commission of the offense, and that
25 the individual used or exhibited the deadly weapon or was a party to
26 the offense and knew that a deadly weapon would be used or
27 exhibited; or

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

3 (A) under Section 21.02 or listed in Section
4 3g(a)(1), Article 42.12, Code of Criminal Procedure; or

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

8 SECTION 3.49. Section 15.031(b), Penal Code, is amended to
9 read as follows:

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

19 SECTION 3.50. Section 38.17(a), Penal Code, is amended to
20 read as follows:

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

23 (1) the actor observes the commission or attempted
24 commission of an offense prohibited by Section 21.02 or
25 22.021(a)(2)(B) under circumstances in which a reasonable person
26 would believe that an offense of a sexual or assaultive nature was
27 being committed or was about to be committed against the child;

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

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

7 ARTICLE 4. TRANSITION; EFFECTIVE DATE

8 SECTION 4.01. (a) Except as provided by Subsections (b) and
9 (c) of this section, the change in law made by this Act applies only
10 to an offense committed on or after September 1, 2007. An offense
11 committed before September 1, 2007, is covered by the law in effect
12 when the offense was committed, and the former law is continued in
13 effect for that purpose. For the purposes of this section, an
14 offense was committed before September 1, 2007, if any element of
15 the offense occurred before that date.

16 (b) The change in law made by this Act to Chapter 841, Health
17 and Safety Code, applies only to an individual who on or after
18 September 1, 2007, is serving a sentence in the Texas Department of
19 Criminal Justice or is committed to the Department of State Health
20 Services for an offense committed before, on, or after the
21 effective date of this Act.

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

27 SECTION 4.02. This Act takes effect September 1, 2007.

David Beuhner

President of the Senate

Jim Caddick

Speaker of the House

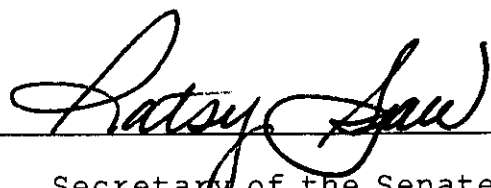
I certify that H.B. No. 8 was passed by the House on March 6, 2007, by the following vote: Yeas 119, Nays 25, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 8 on May 1, 2007, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 8 on May 18, 2007, by the following vote: Yeas 122, Nays 17, 2 present, not voting.

Robert Haney

Chief Clerk of the House

H.B. No. 8

I certify that H.B. No. 8 was passed by the Senate, with amendments, on April 24, 2007, by the following vote: Yeas 30, Nays 1; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 8 on May 17, 2007, by the following vote: Yeas 30, Nays 1.


Secretary of the Senate

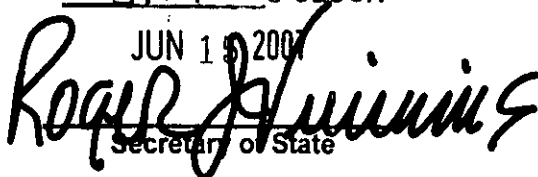
APPROVED: 15 JUN 07

Date


Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
5PM O'CLOCK

JUN 15 2007


Secretary of State