

CHAPTER 573

S.B. No. 210

AN ACT

relating to the regulation of the provision of health care services and mental health services to certain persons and to referrals of certain persons for such services; transferring certain funds; creating offenses and providing penalties.

Be it enacted by the Legislature of the State of Texas:

ARTICLE 1

SECTION 1.01. Chapter 161, Health and Safety Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. ABUSE, NEGLECT, AND UNPROFESSIONAL OR UNETHICAL CONDUCT IN HEALTH CARE FACILITIES

Sec. 161.131. DEFINITIONS. In this subchapter:

(1) "Abuse" has the meaning assigned by the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. Section 10801 et seq.).

(2) "Comprehensive medical rehabilitation" means the provision of rehabilitation services that are designed to improve or minimize a person's physical or cognitive disabilities, maximize a person's functional ability, or restore a person's lost functional capacity through close coordination of services, communication, interaction, and integration among several professions that share the responsibility to achieve team treatment goals for the person.

(3) "Hospital" has the meaning assigned by Section 241.003.

(4) "Illegal conduct" means conduct prohibited by law.

(5) "Inpatient mental health facility" has the meaning assigned by Section 571.003.

(6) "License" means a state agency permit, certificate, approval, registration, or other form of permission required by state law.

(7) "Mental health facility" has the meaning assigned by Section 571.003.

(8) "Neglect" has the meaning assigned by the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. Section 10801 et seq.).

(9) "State health care regulatory agency" means a state agency that licenses a health care professional.

(10) "Treatment facility" has the meaning assigned by Section 464.001.

(11) "Unethical conduct" means conduct prohibited by the ethical standards adopted by state or national professional organizations for their respective professions or by rules established by the state licensing agency for the respective profession.

(12) "Unprofessional conduct" means conduct prohibited under rules adopted by the state licensing agency for the respective profession.

Sec. 161.132. REPORTS OF ABUSE AND NEGLECT OR OF ILLEGAL, UNPROFESSIONAL, OR UNETHICAL CONDUCT. (a) A person, including an employee, volunteer, or other person associated with an inpatient mental health facility, a treatment facility, or a hospital that provides comprehensive medical rehabilitation services, who reasonably believes or who knows of information that would reasonably cause a person to believe that the physical or mental health or welfare of a patient or client of the facility who is receiving chemical dependency, mental health, or rehabilitation services has been, is, or will be adversely affected by abuse or neglect caused by any person shall as soon as possible report the information supporting the belief to the agency that licenses the facility or to the appropriate state health care regulatory agency.

(b) An employee of or other person associated with an inpatient mental health facility, a treatment facility, or a hospital that provides comprehensive medical rehabilitation services, including a health care professional, who reasonably believes or who knows of information that would reasonably cause a person to believe that the facility or an employee of or health care professional associated with the facility has, is, or will be engaged in conduct that is or might be illegal, unprofessional, or unethical and that relates to the operation of the facility or mental health, chemical dependency, or rehabilitation services provided in the facility shall as soon as possible report the information supporting the belief to the agency that licenses the facility or to the appropriate state health care regulatory agency.

(c) The requirement prescribed by this section is in addition to the requirements provided by Chapter 34, Family Code, and Chapter 48, Human Resources Code.

(d) The Texas Board of Mental Health and Mental Retardation, Texas Board of Health, Texas Commission on Alcohol and Drug Abuse, and each state health care regulatory agency by rule shall:

(1) prescribe procedures for the investigation of reports received under Subsection (a) or (b) and for coordination with and referral of reports to law enforcement agencies or other appropriate agencies; and

(2) prescribe follow-up procedures to ensure that a report referred to another agency receives appropriate action.

(e) Each hospital, inpatient mental health facility, and treatment facility shall prominently and conspicuously post for display in a public area of the facility that is readily available to patients, residents, volunteers, employees, and visitors a statement of the duty to report under this section. The statement must be in English and in a second language and contain a toll-free telephone number that a person may call to report.

(f) Each state health care regulatory agency by rule shall provide for appropriate disciplinary action against a health care professional licensed by the agency who fails to report as required by this section.

(g) An individual who in good faith reports under this section is immune from civil or criminal liability arising from the report. That immunity extends to participation in an administrative or judicial proceeding resulting from the report but does not extend to an individual who caused the abuse or neglect or who engaged in the illegal, unprofessional, or unethical conduct.

(h) A person commits an offense if the person:

(1) intentionally, maliciously, or recklessly reports false material information under this section; or

(2) fails to report as required by Subsection (a).

(i) An offense under Subsection (h) is a Class A misdemeanor.

(j) In this section, "abuse" includes coercive or restrictive actions that are illegal or not justified by the patient's condition and that are in response to the patient's request for discharge or refusal of medication, therapy, or treatment.

Sec. 161.133. MEMORANDUM OF UNDERSTANDING ON INSERVICE TRAINING.

(a) The Texas Board of Mental Health and Mental Retardation, Texas Board of Health, and Texas Commission on Alcohol and Drug Abuse by rule shall adopt a joint memorandum of understanding that requires each inpatient mental health facility, treatment facility, or hospital that provides comprehensive medical rehabilitation services to annually provide as a condition of continued licensure a minimum of eight hours of inservice training designed to assist employees and health care professionals associated with the facility in identifying patient abuse or neglect and illegal, unprofessional, or unethical conduct by or in the facility.

(b) The memorandum must prescribe:

(1) minimum standards for the training program; and

(2) a means for monitoring compliance with the requirement.

(c) Each agency shall review and modify the memorandum as necessary not later than the last month of each state fiscal year.

Sec. 161.134. RETALIATION AGAINST EMPLOYEES PROHIBITED. (a) A hospital, mental health facility, or treatment facility may not suspend or terminate the employment of or discipline or otherwise discriminate against an employee for reporting to the employee's supervisor, an administrator of the facility, a state regulatory agency, or a law enforcement agency a violation of law, including a violation of this chapter, a rule adopted under this chapter, or a rule adopted by the Texas Board of Mental Health and Mental Retardation, the Texas Board of Health, or the Texas Commission on Alcohol and Drug Abuse.

(b) A hospital, mental health facility, or treatment facility that violates Subsection (a) is liable to the person discriminated against. A person who has been discriminated against in violation of Subsection (a) may sue for injunctive relief, damages, or both.

(c) A plaintiff who prevails in a suit under this section may recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown.

(d) In addition to an award under Subsection (c), a plaintiff who prevails in a suit under this section may recover exemplary damages and reasonable attorney fees.

(e) In addition to amounts recovered under Subsections (c) and (d), a plaintiff is entitled to, if applicable:

(1) reinstatement in the plaintiff's former position;

(2) compensation for lost wages; and

(3) reinstatement of lost fringe benefits or seniority rights.

(f) A plaintiff suing under this section has the burden of proof, except that it is a rebuttable presumption that the plaintiff's employment was suspended or terminated, or that the employee was disciplined or discriminated against, for making a report related to a violation if the suspension, termination, discipline, or discrimination occurs before the 60th day after the date on which the plaintiff made a report in good faith.

(g) A suit under this section may be brought in the district court of the county in which:

(1) the plaintiff was employed by the defendant; or

(2) the defendant conducts business.

(h) A person who alleges a violation of Subsection (a) must sue under this section before the 180th day after the date the alleged violation occurred or was discovered by the employee through the use of reasonable diligence.

(i) This section does not abrogate any other right to sue or interfere with any other cause of action.

(j) Each hospital, mental health facility, and treatment facility shall prominently and conspicuously post for display in a public area of the facility that is readily available to patients, residents, employees, and visitors a statement that employees and staff are protected from discrimination or retaliation for reporting a violation of law. The statement must be in English and in a second language.

Sec. 161.135. **RETALIATION AGAINST NONEMPLOYEES PROHIBITED.** (a) A hospital, mental health facility, or treatment facility may not retaliate against a person who is not an employee for reporting a violation of law, including a violation of this chapter, a rule adopted under this chapter, or a rule adopted by the Texas Board of Mental Health and Mental Retardation, the Texas Board of Health, or the Texas Commission on Alcohol and Drug Abuse.

(b) A hospital, mental health facility, or treatment facility that violates Subsection (a) is liable to the person retaliated against. A person who has been retaliated against in violation of Subsection (a) may sue for injunctive relief, damages, or both.

(c) A person suing under this section has the burden of proof, except that it is a rebuttable presumption that the plaintiff was retaliated against if:

(1) before the 60th day after the date on which the plaintiff made a report in good faith, the hospital, mental health facility, or treatment facility:

(A) discriminates in violation of Section 161.134 against a relative who is an employee of the facility;

(B) transfers, disciplines, suspends, terminates, or otherwise discriminates against the person or a relative who is a volunteer in the facility or who is employed under the patient work program administered by the Texas Department of Mental Health and Mental Retardation;

(C) commits or threatens to commit, without justification, the person or a relative of the person; or

(D) transfers, discharges, punishes, or restricts the privileges of the person or a relative of the person who is receiving inpatient or outpatient services in the facility; or

(2) a person expected to testify on behalf of the plaintiff is intentionally made unavailable through an action of the facility, including a discharge, resignation, or transfer.

(d) A plaintiff who prevails in a suit under this section may recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown.

(e) In addition to an award under Subsection (c), a plaintiff who prevails in a suit under this section may recover exemplary damages and reasonable attorney fees.

(f) A suit under this section may be brought in the district court of the county in which:

(1) the plaintiff received care or treatment; or

(2) the defendant conducts business.

(g) This section does not abrogate any other right to sue or interfere with any other cause of action.

(h) Each hospital, mental health facility, and treatment facility shall prominently and conspicuously post for display in a public area of the facility that is readily available to patients, residents, employees, and visitors a statement that nonemployees are protected from discrimination or retaliation for reporting a violation of law. The statement must be in English and in a second language. The sign may be combined with the sign required by Section 161.134(j).

Sec. 161.136. **BROCHURE RELATING TO SEXUAL EXPLOITATION.** (a) A state health care regulatory agency by rule may require a mental health services provider licensed by that agency to provide a standardized written brochure, in wording a patient can understand, that summarizes the law prohibiting sexual exploitation of patients. The brochure must be available in English and in a second language.

(b) *The brochure shall include:*

(1) *procedures for filing a complaint relating to sexual exploitation, including any toll-free telephone number available; and*

(2) *the rights of a victim of sexual exploitation.*

(c) *In this section, "mental health services provider" has the meaning assigned by Section 81.001, Civil Practice and Remedies Code.*

Sec. 161.137. PENALTIES. In addition to the penalties prescribed by this subchapter, a violation of a provision of this subchapter by an individual or facility that is licensed by a state health care regulatory agency is subject to the same consequence as a violation of the licensing law applicable to the individual or facility or of a rule adopted under that licensing law.

SECTION 1.02. The changes in law made by this article apply only to a cause of action that accrues on or after the effective date of this article. A cause of action that accrues before the effective date of this article is governed by the law in effect on the date the cause of action accrues, and that law is continued in effect for this purpose.

ARTICLE 2

SECTION 2.01. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 81 to read as follows:

CHAPTER 81. SEXUAL EXPLOITATION BY MENTAL HEALTH SERVICES PROVIDER

Sec. 81.001. DEFINITIONS. In this chapter:

(1) *"Mental health services" means assessment, diagnosis, treatment, or counseling in a professional relationship to assist an individual or group in:*

(A) *alleviating mental or emotional illness, symptoms, conditions, or disorders, including alcohol or drug addiction;*

(B) *understanding conscious or subconscious motivations;*

(C) *resolving emotional, attitudinal, or relationship conflicts; or*

(D) *modifying feelings, attitudes, or behaviors that interfere with effective emotional, social, or intellectual functioning.*

(2) *"Mental health services provider" means an individual, licensed or unlicensed, who performs or purports to perform mental health services, including a:*

(A) *"certified social worker" as defined by Section 50.001, Human Resources Code;*

(B) *"chemical dependency counselor" as defined by Section 1, Chapter 635, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4512o, Vernon's Texas Civil Statutes);*

(C) *"licensed professional counselor" as defined by Section 2, Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes);*

(D) *"licensed marriage and family therapist" as defined by Section 2, Licensed Marriage and Family Therapist Act (Article 4512c-1, Vernon's Texas Civil Statutes);*

(E) *member of the clergy;*

(F) *"physician" who is "practicing medicine" as defined by Section 1.03, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes); and*

(G) *"psychologist" offering "psychological services" as defined by Section 2, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes).*

(3) *"Patient" means an individual who seeks or obtains mental health services.*

(4) *"Sexual contact" means:*

(A) *"deviate sexual intercourse" as defined by Section 21.01, Penal Code;*

(B) *"sexual contact" as defined by Section 21.01, Penal Code;*

(C) *"sexual intercourse" as defined by Section 21.01, Penal Code; or*

(D) requests by the mental health services provider for conduct described by Paragraph (A), (B), or (C). "Sexual contact" does not include conduct described by Paragraph (A) or (B) that is a part of a professionally recognized medical treatment of a patient.

(5) "Sexual exploitation" means a pattern, practice, or scheme of conduct, which may include sexual contact, that can reasonably be construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. The term does not include obtaining information about a patient's sexual history within standard accepted practice while treating a sexual or marital dysfunction.

(6) "Therapeutic deception" means a representation by a mental health services provider that sexual contact with, or sexual exploitation by, the mental health services provider is consistent with, or a part of, a patient's or former patient's treatment.

(7) "Mental health services," as defined by this section, provided by a member of the clergy does not include religious, moral, and spiritual counseling, teaching, and instruction.

Sec. 81.002. SEXUAL EXPLOITATION CAUSE OF ACTION. A mental health services provider is liable to a patient or former patient of the mental health services provider for damages for sexual exploitation if the patient or former patient suffers, directly or indirectly, a physical, mental, or emotional injury caused by, resulting from, or arising out of:

(1) sexual contact between the patient or former patient and the mental health services provider;

(2) sexual exploitation of the patient or former patient by the mental health services provider; or

(3) therapeutic deception of the patient or former patient by the mental health services provider.

Sec. 81.003. LIABILITY OF EMPLOYER. (a) An employer of a mental health services provider is liable to a patient or former patient of the mental health services provider for damages if the patient or former patient is injured as described by Section 81.002 and the employer:

(1) fails to make inquiries of an employer or former employer, whose name and address have been disclosed to the employer and who employed the mental health services provider as a mental health services provider within the five years before the date of disclosure, concerning the possible occurrence of sexual exploitation by the mental health services provider of patients or former patients of the mental health services provider; or

(2) knows or has reason to know that the mental health services provider engaged in the sexual exploitation of the patient or former patient and the employer failed to:

(A) report the suspected sexual exploitation as required by Section 81.006; or

(B) take necessary action to prevent or stop the sexual exploitation by the mental health services provider.

(b) An employer or former employer of a mental health services provider is liable to a patient or former patient of the mental health services provider for damages if the patient or former patient is injured as described by Section 81.002 and the employer or former employer:

(1) knows of the occurrence of the sexual exploitation by the mental health services provider of the patient or former patient;

(2) receives a specific request by an employer or prospective employer of the mental health services provider, engaged in the business of providing mental health services, concerning the possible existence or nature of sexual exploitation by the mental health services provider; and

(3) fails to disclose the occurrence of the sexual exploitation.

(c) An employer or former employer is liable under this section only to the extent that the failure to take the action described by Subsection (a) or (b) was a proximate and actual cause of damages sustained.

(d) *If a mental health professional who sexually exploits a patient or former patient is a member of the clergy and the sexual exploitation occurs when the professional is acting as a member of the clergy, liability if any under this section is limited to the church, congregation, or parish in which the member of the clergy carried out the clergy member's pastoral duties:*

(1) *at the time the sexual exploitation occurs, if the liability is based on a violation of Subsection (a); or*

(2) *at the time of the previous occurrence of sexual exploitation, if the liability is based on a violation of Subsection (b).*

(e) *Nothing in Subsection (d) shall prevent the extension of liability under this section beyond the local church, congregation, or parish where the current or previous sexual exploitation occurred, as appropriate under Subsection (d), if the patient proves that officers or employees of the religious denomination in question at the regional, state, or national level:*

(1) *knew or should have known of the occurrences of sexual exploitation by the mental health services provider;*

(2) *received reports of such occurrences and failed to take necessary action to prevent or stop such sexual exploitation by the mental health services provider and that such failure was a proximate and actual cause of the damages; or*

(3) *knew or should have known of the mental health professional's propensity to engage in sexual exploitation.*

Sec. 81.004. **DAMAGES.** (a) *A plaintiff who prevails in a suit under this section may recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown.*

(b) *In addition to an award under Subsection (a), a plaintiff who prevails in a suit under this section may recover exemplary damages and reasonable attorney fees.*

Sec. 81.005. **DEFENSES.** (a) *It is not a defense to an action brought under Section 81.002 or 81.003 that the sexual exploitation of the patient or former patient occurred:*

(1) *with the consent of the patient or former patient;*

(2) *outside the therapy or treatment sessions of the patient or former patient; or*

(3) *off the premises regularly used by the mental health services provider for the therapy or treatment sessions of the patient or former patient.*

(b) *It is a defense to an action brought under Section 81.002 or 81.003 by a former patient that the person was not emotionally dependent on the mental health services provider when the sexual exploitation began and the mental health services provider terminated mental health services with the patient more than two years before the date the sexual exploitation began.*

(c) *A person is considered not emotionally dependent for purposes of this chapter if the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the mental health services provider are not such that the mental health services provider knows or has reason to believe that the patient or former patient is unable to withhold consent to the sexual exploitation.*

Sec. 81.006. **DUTY TO REPORT.** (a) *If a mental health services provider or the employer of a mental health services provider has reasonable cause to suspect that a patient has been the victim of sexual exploitation by a mental health services provider during the course of treatment, or if a patient alleges sexual exploitation by a mental health services provider during the course of treatment, the mental health services provider or the employer shall report the alleged conduct not later than the 30th day after the date the person became aware of the conduct or the allegations to:*

(1) *the prosecuting attorney in the county in which the alleged sexual exploitation occurred; and*

(2) *any state licensing board that has responsibility for the mental health services provider's licensing.*

(b) Before making a report under this section, the reporter shall inform the alleged victim of the reporter's duty to report and shall determine if the alleged victim wants to remain anonymous.

(c) A report under this section need contain only the information needed to:

- (1) identify the reporter;
- (2) identify the alleged victim, unless the alleged victim has requested anonymity; and
- (3) express suspicion that sexual exploitation has occurred.

(d) Information in a report is privileged information and is for the exclusive use of the prosecuting attorney or state licensing board that receives the information. A person who receives privileged information may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the person first obtained the information. The identity of an alleged victim of sexual exploitation by a mental health services provider may not be disclosed by the reporter, or by a person who has received or has access to a report or record, unless the alleged victim has consented to the disclosure in writing.

(e) A person who intentionally violates Subsection (a) or (d) is subject to disciplinary action by that person's appropriate licensing board and also commits an offense. An offense under this subsection is a Class C misdemeanor.

Sec. 81.007. LIMITED IMMUNITY FROM LIABILITY. (a) A person who, in good faith, makes a report required by Section 81.006 is immune from civil or criminal liability resulting from the filing of that report.

(b) Reporting under this chapter is presumed to be done in good faith.

(c) The immunity provided by this section does not apply to liability resulting from sexual exploitation by a mental health services provider of a patient or former patient.

Sec. 81.008. ADMISSION OF EVIDENCE. (a) In an action for sexual exploitation, evidence of the plaintiff's sexual history and reputation is not admissible unless:

- (1) the plaintiff claims damage to sexual functioning; or
- (2)(A) the defendant requests a hearing before trial and makes an offer of proof of the relevancy of the history or reputation; and
- (B) the court finds that the history or reputation is relevant and that the probative value of the evidence outweighs its prejudicial effect.

(b) The court may allow the admission only of specific information or examples of the plaintiff's conduct that are determined by the court to be relevant. The court's order shall detail the information or conduct that is admissible and no other such evidence may be introduced.

Sec. 81.009. LIMITATIONS. (a) Except as otherwise provided by this section, an action under this chapter must be filed before the third anniversary of the date the patient or former patient understood or should have understood the conduct for which liability is established under Section 81.002 or 81.003.

(b) If a patient or former patient entitled to file an action under this chapter is unable to bring the action because of the effects of the sexual exploitation, continued emotional dependence on the mental health services provider, or threats, instructions, or statements by the mental health services provider, the deadline for filing an action under this chapter is tolled during that period, except that the deadline may not be tolled for more than 15 years.

(c) This section does not apply to a patient or former patient who is a "child" or a "minor" as defined by Section 11.01, Family Code, until that patient or former patient has reached the age of 18. If the action is brought by a parent, guardian, or other person having custody of the child or minor, it must be brought within the period set forth in this section.

SECTION 2.02. Chapter 21, Penal Code, is amended by adding Section 21.14 to read as follows:

Sec. 21.14. SEXUAL EXPLOITATION BY MENTAL HEALTH SERVICES PROVIDER. (a) In this section:

(1) "Mental health services" means assessment, diagnosis, treatment, or counseling in a professional relationship to assist an individual or group in:

(A) alleviating mental or emotional illness, symptoms, conditions, or disorders, including alcohol or drug addiction;

(B) understanding conscious or subconscious motivations;

(C) resolving emotional, attitudinal, or relationship conflicts; or

(D) modifying feelings, attitudes, or behaviors that interfere with effective emotional, social, or intellectual functioning.

(2) "Mental health services provider" means an individual, licensed or unlicensed, who performs or purports to perform mental health services, including a:

(A) "certified social worker" as defined by Section 50.001, Human Resources Code;

(B) "chemical dependency counselor" as defined by Section 1, Chapter 635, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4512o, Vernon's Texas Civil Statutes);

(C) "licensed professional counselor" as defined by Section 2, Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes);

(D) "licensed marriage and family therapist" as defined by Section 2, Licensed Marriage and Family Therapist Act (Article 4512c-1, Vernon's Texas Civil Statutes);

(E) member of the clergy;

(F) "physician" who is "practicing medicine" as defined by Section 1.03, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes); and

(G) "psychologist" offering "psychological services" as defined by Section 2, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes).

(3) "Patient" means an individual who seeks or obtains mental health services.

(4) "Sexually exploitive behavior" means a pattern, practice, or scheme of conduct, which may include sexual contact, that can reasonably be construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. The term does not include obtaining information about a patient's sexual history within standard accepted practice while treating a sexual or marital dysfunction.

(b) A person commits an offense if the person is a mental health services provider and intentionally:

(1) engages in sexual contact with a patient or former patient; or

(2) engages in sexually exploitive behavior with a patient or former patient.

(c) It is not a defense to prosecution under this section that the sexual contact or sexually exploitive behavior with the patient or former patient occurred:

(1) with the consent of the patient or former patient;

(2) outside the therapy or treatment sessions of the patient or former patient; or

(3) off the premises regularly used by the mental health services provider for the therapy or treatment sessions of the patient or former patient.

(d) It is a defense to prosecution under this section that the former patient was not emotionally dependent on the mental health services provider when the sexual contact occurred or the sexually exploitive behavior began and the mental health services provider terminated psychotherapy with the patient more than two years before the date the sexual contact occurred or the sexually exploitive behavior began.

(e) A person is considered emotionally dependent for purposes of this section if the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the mental health services provider are such that the mental health services provider knows or has reason to believe that the patient or former patient is unable to withhold consent to the sexual contact or the sexually exploitive behavior.

(f) It is a defense to prosecution under this section that the sexual contact is a part of a professionally recognized medical treatment of a patient.

(g) *Except as provided by Subsection (h) of this section, an offense under this section is a felony of the third degree.*

(h) *If it is shown on the trial of an offense under this section that the defendant has been previously convicted of an offense under this section, the offense is a felony of the second degree.*

SECTION 2.03. Section 50.021, Human Resources Code, is amended to read as follows:

Sec. 50.021. **REVOCAION AND SUSPENSION.** The department may refuse to issue or to renew a certificate or order of recognition, may place on probation a person whose certificate or order of recognition has been suspended, may reprimand a person with a certificate or order of recognition, or may revoke or suspend a certificate or order of recognition issued under this chapter for any of the following reasons:

- (1) violating a provision of this chapter or a rule of the department;
- (2) circumventing or attempting to circumvent this chapter or a rule of the department;
- (3) participating, directly or indirectly, in a plan, scheme, or arrangement attempting or having as its purpose the evasion of this chapter or a rule of the department;
- (4) engaging in unethical conduct;
- (5) engaging in conduct which discredits or tends to discredit the profession of social work;

(6) performing an act, allowing an omission, or making an assertion or representation that is fraudulent, deceitful, or misleading or that in any manner tends to create a misleading impression;

(7) knowingly associating with or permitting or allowing the use of any certified person's professional services or professional identification in a project or enterprise that the person knows or with the exercise of reasonable diligence should know is a practice that violates this chapter or a rule of the department pertaining to the practice of social work;

(8) knowingly associating with or permitting the use of a certified person's name, professional services, professional identification, or endorsement in connection with a venture or enterprise that the person knows or with the exercise of reasonable diligence should know is a trade, business, or professional practice of a fraudulent, deceitful, misleading, or dishonest nature;

(9) revealing, directly or indirectly, or causing to be revealed a confidential communication transmitted to the certified person by a client or recipient of his services except as may be required by law;

(10) having a certificate or a license to practice social work in another jurisdiction denied, suspended, or revoked for reasons or causes the department finds would constitute a violation of this chapter or a rule pertaining to the practice of social work adopted by the department;

(11) having been convicted of a felony in an American jurisdiction; [or]

(12) refusing to do or perform any act or service for which the person is certified under this chapter solely on the basis of the recipient's age, sex, race, religion, national origin, color, or political affiliation; or

(13) *committing an act in violation of Section 21.14, Penal Code, or for which liability exists under Chapter 81, Civil Practice and Remedies Code.*

SECTION 2.04. Section 16, Chapter 635, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4512o, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 16. **LICENSE REFUSAL; DISCIPLINARY ACTIONS.** The commission may refuse to issue or renew a license, place on probation a license holder whose license has been suspended, reprimand a license holder, or revoke or suspend a license issued under this Act for:

(1) violating or assisting another to violate this Act or a rule of the commission adopted under this Act;

(2) circumventing or attempting to circumvent this Act or a rule of the commission adopted under this Act;

(3) participating, directly or indirectly, in a plan the purpose of which is the evasion of this Act or a rule of the commission adopted under this Act;

(4) engaging in false, misleading, or deceptive conduct as defined by Section 17.46, Business & Commerce Code;

(5) engaging in conduct that discredits or tends to discredit the profession of chemical dependency counseling;

(6) revealing or causing to be revealed, directly or indirectly, a confidential communication made to the licensed chemical dependency counselor by a client or recipient of services, except as required by law;

(7) having a license to practice chemical dependency counseling in another jurisdiction refused, suspended, or revoked for a reason that the commission finds would constitute a violation of this Act or a commission rule established under this Act; [ø]

(8) refusing to perform an act or service for which the person is licensed to perform under this Act on the basis of the client's or recipient's age, sex, race, religion, national origin, color, or political affiliation; *or*

(9) *committing an act in violation of Section 21.14, Penal Code, or for which liability exists under Chapter 81, Civil Practice and Remedies Code.*

SECTION 2.05. Section 25, Licensed Marriage and Family Therapist Act (Article 4512c-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 25. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE. After a hearing, the board may deny, suspend, or revoke a license or otherwise discipline a license holder if the applicant for license or the license holder has:

(1) been convicted of a felony or a misdemeanor involving moral turpitude;

(2) obtained or attempted to obtain registration by fraud or deception;

(3) used drugs or alcohol to an extent that affects professional competence;

(4) been grossly negligent in performing professional duties;

(5) been adjudicated mentally incompetent by a court of competent jurisdiction;

(6) practiced in a manner detrimental to the public health or welfare;

(7) advertised in a manner that tends to deceive or defraud the public;

(8) had a license or certification revoked by a licensing agency or by a certifying professional organization; [ø]

(9) otherwise violated this Act or a rule or code of ethics adopted under this Act; *or*

(10) *committed an act in violation of Section 21.14, Penal Code, or for which liability exists under Chapter 81, Civil Practice and Remedies Code.*

SECTION 2.06. Subsection (a), Section 16, Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The board may revoke, [ø] suspend, *or refuse to renew* the license of a counselor on proof that the counselor:

(1) *has committed an act in violation of Section 21.14, Penal Code, or for which liability exists under Chapter 81, Civil Practice and Remedies Code;*

(2) has violated this Act or a rule or code of ethics adopted by the board; *or*

(3) [(2)] is legally committed to an institution because of mental incompetence from any cause.

SECTION 2.07. Subsection (a), Section 23, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The Texas State Board of Examiners of Psychologists shall have the right to cancel, revoke, suspend, or refuse to renew the license or certification of any psychologist or the certificate of any psychological associate or reprimand any psychologist upon proof that the psychologist:

(1) has been convicted of a felony or of a violation of the law involving moral turpitude by any court; the conviction of a felony shall be the conviction of any offense which if committed within this state would constitute a felony under the laws of this state; [øf]

(2) uses drugs or intoxicating liquors to an extent that affects his professional competency; [øf]

(3) has been guilty of fraud or deceit in connection with his services rendered as a psychologist; [øf]

(4) except as provided by Section 15B of this Act, has aided or abetted a person, not a licensed psychologist, in representing that person as a psychologist within this state; [øf]

(5) except as provided by Section 15B of this Act, has represented himself or herself to be a psychologist licensed in this state at a time he or she was not licensed to practice psychology in this state, or practiced psychology in this state without a license to practice psychology in this state; [øf]

(6) has been guilty of unprofessional conduct as defined by the rules established by the Board; [øf]

(7) for any cause for which the Board shall be authorized to take that action by another section of this Act; or

(8) has committed an act in violation of Section 21.14, Penal Code, or for which liability exists under Chapter 81, Civil Practice and Remedies Code.

SECTION 2.08. Chapter 81, Civil Practice and Remedies Code, as added by this article, applies only to a cause of action accruing on or after the effective date of this article. A cause of action accruing before that date is governed by the law in effect at the time the cause of action accrued, and that law is continued in effect for that purpose.

ARTICLE 3

SECTION 3.01. (a) Chapter 571, Health and Safety Code, is amended by adding Section 571.0065 to read as follows:

Sec. 571.0065. TREATMENT METHODS ADVISORY COMMITTEE. (a) The board shall appoint an advisory committee on treatment standards that is composed of at least the following persons:

- (1) one licensed psychiatrist;
- (2) one licensed psychologist;
- (3) one certified social worker;
- (4) one licensed professional counselor;
- (5) one licensed chemical dependency counselor;
- (6) one licensed occupational therapist;
- (7) two persons who have received mental health services, either voluntarily or involuntarily;
- (8) one member from each of two private associations of persons who advocate on the behalf of or in the interest of persons with mental illness; and
- (9) one person who has practiced rage therapy, trust development therapy, or rough signing as part of a professional practice for which the person is properly licensed or certified.

(b) The board may appoint additional members as it considers appropriate.

(c) The committee shall:

- (1) review treatment methods used in mental health facilities;
- (2) recommend to the board the treatment methods that should not be allowed, such as "rage therapy," "trust development therapy," "rough signing," and any other treatment method that the committee determines is physically or emotionally abusive and not clearly defined in established, professionally accepted clinical standards; and

(3) consider reports from state agencies on possible abusive treatment methods and on complaints relating to treatment methods.

(d) The committee shall meet at least once every six months.

(e) The board shall either adopt by rule or reject a committee recommendation not later than the 120th day after the date on which the recommendation is made. A standard established by rule under this section that applies to a private mental hospital may not be less restrictive than a standard that applies to a state mental hospital.

(f) A state agency that has knowledge of or receives a complaint relating to an abusive treatment method shall report that knowledge or forward a copy of the complaint to the committee.

(g) A mental health facility, physician, or other mental health professional is not liable for an injury or other damages sustained by a person as a result of the failure of the facility, physician, or professional to administer or perform a treatment prohibited by statute or rules adopted by the board under this section or that the board specifically refuses by rule to prohibit or authorize.

(b) Not later than February 1, 1994, the Texas Board of Mental Health and Mental Retardation shall appoint the advisory committee on treatment standards as prescribed by Section 571.0065, Health and Safety Code, as added by this section. The committee shall make its initial recommendations to the board not later than October 31, 1994.

SECTION 3.02. Chapter 241, Health and Safety Code, is amended by adding Section 241.0265 to read as follows:

Sec. 241.0265. **STANDARDS FOR CARE FOR MENTAL HEALTH AND CHEMICAL DEPENDENCY.** (a) The care and treatment of a patient receiving mental health services in a facility licensed by the department under this chapter or Chapter 577 are governed by the standards adopted by the Texas Department of Mental Health and Mental Retardation to the same extent as if the standards adopted by that department were rules adopted by the board under this chapter or Chapter 577.

(b) The care and treatment of a patient receiving chemical dependency treatment in a facility licensed by the department under this chapter are governed by the same standards that govern the care and treatment of a patient receiving treatment in a treatment facility licensed under Chapter 464 and that are adopted by the Texas Commission on Alcohol and Drug Abuse, to the same extent as if the standards adopted by the commission were rules adopted by the board under this chapter.

(c) The department shall enforce the standards provided by Subsections (a) and (b). A violation of a standard is subject to the same consequence as a violation of a rule adopted by the board under this chapter or Chapter 577. The department is not required to enforce a standard if the enforcement violates a federal law, rule, or regulation.

SECTION 3.03. (a) Section 462.022, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A facility may admit a minor for treatment and rehabilitation if:

(1) the facility is:

(A) a treatment facility licensed by the commission to provide the necessary services to minors; or

(B) a facility licensed or operated by the Texas Department of Mental Health and Mental Retardation;

(2) the admission is appropriate under the facility's admission policies; and

(3) the admission is requested by:

(A) a parent, managing conservator, or guardian if the minor is younger than 16 years of age [~~or other person authorized to consent to medical treatment of a minor under Section 35.01, Family Code~~]; or

(B) the minor, without parental consent, if the minor is 16 years of age or older [~~under Section 35.03, Family Code~~].

(c) A person or agency appointed as the guardian or a managing conservator of a minor younger than 16 years of age and acting as an employee or agent of the state or a political subdivision of the state may request admission of the minor only with the minor's consent.

(b) The changes in law made by this section apply only to consent for a minor's admission to a treatment facility or mental health facility given on or after the effective date of this section. Valid consent for a minor's admission given before the effective date of this section remains valid and continues in effect until withdrawn by the person who consented or by the minor, if the minor is 16 years of age or older.

ARTICLE 4

SECTION 4.01. Subdivision (9), Section 571.003, Health and Safety Code, is amended to read as follows:

(9) "Inpatient mental health facility" means a mental health facility that can provide 24-hour residential and psychiatric services and that is:

(A) a facility operated by the department;

(B) a private mental hospital licensed by the *Texas Department of Health* [department];

(C) a community center;

(D) a facility operated by a community center or other entity the department designates to provide mental health services;

(E) an identifiable part of a general hospital in which diagnosis, treatment, and care for persons with mental illness is provided and that is licensed by the [department or the] Texas Department of Health; or

(F) a hospital operated by a federal agency.

SECTION 4.02. Section 577.001, Health and Safety Code, is amended to read as follows:

Sec. 577.001. LICENSE REQUIRED. (a) A person or political subdivision may not operate a mental hospital without a license issued by the department under this chapter [or by the Texas Department of Health].

(b) A community center or other entity designated by the *Texas Department of Mental Health and Mental Retardation* [department] to provide mental health services may not operate a mental health facility that provides court-ordered mental health services without a license issued by the department under this chapter [or by the Texas Department of Health].

SECTION 4.03. Chapter 577, Health and Safety Code, is amended by adding Section 577.0011 to read as follows:

Sec. 577.0011. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Board of Health.

(2) "Department" means the Texas Department of Health.

SECTION 4.04. Sections 577.002, 577.003, and 577.009, Health and Safety Code, are amended to read as follows:

Sec. 577.002. EXEMPTIONS FROM LICENSING REQUIREMENT. A mental health facility operated by the *Texas Department of Mental Health and Mental Retardation* [department] or a federal agency need not be licensed under this chapter.

Sec. 577.003. ADDITIONAL LICENSE NOT REQUIRED. A mental hospital licensed under this chapter that the *Texas Department of Mental Health and Mental Retardation* [department] designates to provide mental health services is not required to obtain an additional license to provide court-ordered mental health services.

Sec. 577.009. LIMITATION ON CERTAIN CONTRACTS. A community center or other entity the *Texas Department of Mental Health and Mental Retardation* [department] designates to provide mental health services may not contract with a mental health facility to provide court-ordered mental health services unless the facility is licensed by the department [or the Texas Department of Health].

SECTION 4.05. Subsection (a), Section 577.010, Health and Safety Code, is amended to read as follows:

(a) The *Texas Board of Mental Health and Mental Retardation* [~~board~~] shall adopt rules and standards the board considers necessary and appropriate to ensure the proper care and treatment of patients in a private mental hospital or mental health facility required to obtain a license under this chapter.

SECTION 4.06. (a) Not later than September 1, 1993, all functions, powers, duties, funds, and obligations of the Texas Department of Mental Health and Mental Retardation relating to the licensure of mental health facilities, other than the power and duty to prescribe standards for those facilities, all employees who perform those duties, and all relevant records are transferred to the Texas Department of Health. A rule, form, or policy relating to this function is a rule, form, or policy of the Texas Department of Health on transfer of the functions under this section and remains in effect until altered by the department.

(b) A power or duty assigned to the Texas Department of Mental Health and Mental Retardation by an Act of the 73rd Legislature, Regular Session, 1993, relating to licensing a facility under Chapter 577, Health and Safety Code, as amended by this article, including a power or duty to bring an action to enforce state law or to collect a penalty for a violation of state law, is a power or duty of the Texas Department of Health.

(c) Subsection (b) of this section does not apply to a power or duty assigned to the Texas Department of Mental Health and Mental Retardation that relates to prescribing standards for a facility.

ARTICLE 5

SECTION 5.01. Subchapter I, Chapter 161, Health and Safety Code, as added by Chapter 15, Acts of the 72nd Legislature, 1st Called Session, 1991, is amended to read as follows:

SUBCHAPTER I. ILLEGAL REMUNERATION

Sec. 161.091. PROHIBITION ON ILLEGAL REMUNERATION. (a) A person [~~licensed, certified, or registered by a health care regulatory agency of this state~~] commits an offense if the person intentionally or knowingly offers to pay or agrees to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, or corporation for securing or soliciting patients or patronage ~~for or from a person licensed, certified, or registered by a state health care regulatory agency.~~

(b) *It is a rebuttable presumption that a person has violated this section if:*

(1) *the person refers or accepts a referral of a person to an inpatient mental health facility or chemical dependency treatment facility;*

(2) *before the patient is discharged or furloughed from the inpatient facility, the person pays the referring person or accepts payment from the inpatient facility for outpatient services to be provided by the referring person after the patient is discharged or furloughed from the inpatient facility; and*

(3) *the referring person does not provide the outpatient services for which payment was made and does not return to the inpatient facility the payment for the services not provided.*

(c) This section shall not be construed to prohibit advertising except that which is false, misleading, or deceptive or that which advertises professional superiority or the performance of a professional service in a superior manner and that is not readily subject to verification.

(d) [~~e~~] Except as provided by this section, an offense under this section is a Class A misdemeanor. If it is shown on [~~in~~] the trial of a *person under* [~~violation of~~] this section that the person has previously been convicted of *an offense under* [~~a violation of~~] this section or *that the person was employed by a federal, state, or local government at the time the offense occurred, the offense is* [~~on conviction the person shall be punished for~~] a felony of the third degree. In addition to any other penalties or remedies provided, a violation of this section

shall be grounds for disciplinary action by a [the] regulatory agency that has issued a license, certification, or registration to the person.

~~(e) [(d) The appropriate health care regulatory agency may institute an action to enjoin a violation or potential violation of this section. The action for an injunction shall be in addition to any other action, proceeding, or remedy authorized by law. The regulatory agency shall be represented by the attorney general.~~

~~[(e) This section shall not be construed to prohibit remuneration for advertising, marketing, or other services that are provided for the purpose of securing or soliciting patients provided the remuneration is set in advance, is consistent with the fair market value of the services, and is not based on the volume or value of any patient referrals or business otherwise generated between the parties.~~

~~[(f) This section shall [not] be construed to permit [prohibit] any payment, business arrangements, or payments practice permitted [not prohibited] by 42 U.S.C. Section 1320a-7b(b) or any regulations promulgated pursuant thereto.~~

~~(f) [(g)] This section shall not apply to licensed insurers, governmental entities, including intergovernmental risk pools established under Chapter 172, Local Government Code, and institutions as defined in the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), group hospital service corporations, or health maintenance organizations which reimburse, provide, offer to provide, or administer hospital, medical, dental, or other health-related benefits under a health benefits plan for which it is the payor.~~

Sec. 161.0915. EXEMPTION. (a) This subchapter does not apply to a health care information service that:

(1) provides its services to a consumer only by telephone communication on request initiated by the consumer and without charge to the consumer;

(2) provides information about health care providers to enable consumer selection of health care provider services without any direct influence by a health care provider on actual consumer selection of those services;

(3) in response to each consumer inquiry, on a nondiscriminatory basis, provides information identifying health care providers who substantially meet the consumer's detailed criteria based on consumer responses to standard questions designed to elicit a consumer's criteria for a health care provider, including criteria concerning location of the practice, practice specialties, costs and payment policies, acceptance of insurance coverage, general background and practice experience, and various personal characteristics;

(4) does not attempt through its standard questions for solicitation of consumer criteria or through any other means or methods to steer or lead a consumer to select or consider selection of a particular health care provider for health care provider services;

(5) identifies to a consumer:

(A) all health care providers who substantially meet the consumer's stated criteria and who are located within the zip code area in which the consumer elects to obtain services from a health care provider; or

(B) all health care providers substantially meeting the consumer's stated criteria who are located in zip code areas in the closest proximity to the elected zip code area if no health care provider substantially meeting the consumer's criteria is located within that zip code area;

(6) discloses to each consumer the relationship between the health care information service and health care providers participating in its services;

(7) does not provide or represent itself as providing diagnostic or counseling services or assessment of illness or injury and does not make any promises of cure or guarantees of treatment;

(8) does not provide or arrange for transportation of a consumer to or from the location of a health care provider;

(9) does not limit the scope of or direct its advertising or other marketing of its services to a particular health care provider specialty, to a particular segment of the population, or to persons suffering from a particular illness, condition, or infirmity;

(10) charges to and collects fees from a health care provider participating in its services that are set in advance, are consistent with the fair market value for those information services, and are not based on the potential value of a patient or patients to a health care provider or on the value of or a percentage of the value of a professional service provided by the health care provider;

(11) does not limit participation by a health care provider in its services to a particular health care specialty or to a particular service provided by a health care provider;

(12) does not limit participation by a health care provider in its services for a reason other than:

(A) failure to have a current, valid license without limitation to practice in this state;

(B) failure to maintain professional liability insurance while participating in the service;

(C) significant dissatisfaction of consumers of the health care information service that is documented and can be proved;

(D) a decision by a peer review committee that the health care provider has failed to meet prescribed standards or has not acted in a professional or ethical manner; or

(E) termination of the contract between the health care provider and the health care information service by either party under the terms of the contract;

(13) maintains a customer service department to handle complaints and answer questions for consumers;

(14) maintains a customer follow-up system to monitor consumer satisfaction; and

(15) does not use, maintain, distribute, or provide for any purpose any information that will identify a particular consumer, such as a name, address, or telephone number, obtained from a consumer seeking its services other than for the purposes of:

(A) providing the information to the health care provider with whom an appointment is made;

(B) performing administrative functions necessary to operate the health care information service;

(C) providing directly to a consumer, at the request of that consumer on that consumer's initial contact with the health care information service, information relating to health-related support groups or providers of health-care-related services or equipment within the area or areas of interest requested by the consumer; or

(D) conducting analytical research on data obtained through provision of services and preparing statistical reports that generally analyze that data but do not in any manner identify one or more specific consumers.

(b) In this section:

(1) "Health care information service" means a person who provides information to a consumer regarding health care providers that can enable the consumer to select one or more health care providers to furnish health care services.

(2) "Health care provider" means a person licensed, certified, or registered by a state health care regulatory agency other than a:

(A) mental health facility as defined by Section 571.003; or

(B) treatment facility as defined by Section 464.001.

Sec. 161.092. NOTIFICATION OF REMUNERATION. (a) A person commits an offense if:

(1) the person, in a manner otherwise permitted under Section 161.091, accepts remuneration to secure or solicit patients or patronage for a person licensed, certified, or registered by a state health care regulatory agency; and

(2) does not, at the time of initial contact and at the time of referral, disclose to the patient:

(A) the person's affiliation, if any, with the person for whom the patient is secured or solicited; and

(B) that the person will receive remuneration, directly or indirectly, for securing or soliciting the patient.

(b) Except as otherwise provided by this section, an offense under this section is a Class A misdemeanor. If it is shown on the trial of a person under this section that the person has previously been convicted of an offense under this section or that the person was employed by a federal, state, or local government at the time the offense occurred, the offense is a felony of the third degree.

(c) In addition to other penalties or remedies provided by this subchapter, a violation of this section is grounds for disciplinary action by a regulatory agency that has issued a license, certification, or registration to the person.

Sec. 161.093. **INJUNCTION.** (a) The attorney general or the appropriate district or county attorney, in the name of the state, may institute and conduct an action in a district court of Travis County or of a county in which any part of the violation occurs for an injunction or other process against a person who is violating this subchapter.

(b) The district court may grant any prohibitory or mandatory relief warranted by the facts, including a temporary restraining order, temporary injunction, or permanent injunction.

Sec. 161.094. **CIVIL PENALTIES.** (a) A person who violates this subchapter is subject to a civil penalty of not more than \$10,000 for each day of violation and each act of violation. In determining the amount of the civil penalty, the court shall consider:

(1) the person's previous violations;

(2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(3) whether the health and safety of the public was threatened by the violation;

(4) the demonstrated good faith of the person; and

(5) the amount necessary to deter future violations.

(b) The attorney general or the appropriate district or county attorney, in the name of the state, may institute and conduct an action authorized by this section in a district court of Travis County or of a county in which any part of the violation occurs.

(c) The party bringing the suit may:

(1) combine a suit to assess and recover civil penalties with a suit for injunctive relief brought under Section 161.093; or

(2) file a suit to assess and recover civil penalties independently of a suit for injunctive relief.

(d) The party bringing the suit may recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, including investigation costs, court costs, reasonable attorney fees, witness fees, and deposition expenses.

(e) A penalty collected under this section by the attorney general shall be deposited to the credit of the general revenue fund. A penalty collected under this section by a district or county attorney shall be deposited to the credit of the general fund of the county in which the suit was heard.

(f) The civil penalty and injunction authorized by this subchapter are in addition to any other civil, administrative, or criminal action provided by law.

ARTICLE 6

SECTION 6.01. This Act takes effect September 1, 1993.

SECTION 6.02. (a) The changes in law made by this Act apply only to an offense committed or a violation that occurs on or after the effective date of this Act. For the

purposes of this Act, an offense is committed or a violation occurs before the effective date of this Act if any element of the offense or violation occurs before that date.

(b) An offense committed or violation that occurs before the effective date of this Act is covered by the law in effect when the offense was committed or the violation occurred, and the former law is continued in effect for this purpose.

SECTION 6.03. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 25, 1993, by a viva-voce vote; May 26, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 1993, House granted request of the Senate; May 29, 1993, Senate adopted Conference Committee Report by a viva-voce vote; passed the House, with amendments, on May 22, 1993, by a non-record vote; May 27, 1993, House granted request of the Senate for appointment of Conference Committee; May 29, 1993, House adopted Conference Committee Report by a non-record vote.

Approved June 11, 1993.

Effective Sept. 1, 1993.