

PENAL CODE

TITLE 9. OFFENSES AGAINST PUBLIC ORDER AND DECENCY

CHAPTER 43. PUBLIC INDECENCY

SUBCHAPTER A. PROSTITUTION

Sec. 43.01. DEFINITIONS. In this subchapter:

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that perform one or more of the following functions:

(A) filter, screen, allow, or disallow content;

(B) select, analyze, or digest content; or

(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(1-a) "Deviate sexual intercourse" means any contact between the genitals of one person and the mouth or anus of another person.

(1-b) "Fee" means the payment or offer of payment in the form of money, goods, services, or other benefit.

(1-c) "Information content provider" means any person or entity that is wholly or partly responsible for the creation or development of information provided through the Internet or any other interactive computer service.

(1-d) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access to a computer server by multiple users, including a service or system that provides access to the Internet or a system operated or service offered by a library or educational institution.

(1-e) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks.

(1-f) "Premises" has the meaning assigned by Section [481.134](#), Health and Safety Code.

(2) "Prostitution" means the offense defined in Section [43.02](#).

(2-a) "School" means a public or private primary or

secondary school.

(3) "Sexual contact" means any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

(4) "Sexual conduct" includes deviate sexual intercourse, sexual contact, and sexual intercourse.

(5) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

(6) "Solicitation of prostitution" means the offense defined in Section [43.021](#).

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 373, ch. 168, Sec. 2, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. [29](#)), Sec. 35, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. [20](#)), Sec. 3.01, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. [1540](#)), Sec. 54, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. [1540](#)), Sec. 60, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1049 (S.B. [1831](#)), Sec. 8, eff. September 1, 2021.

Sec. 43.02. PROSTITUTION.

(a) A person commits an offense if the person knowingly offers or agrees to receive a fee from another to engage in sexual conduct.

(b-1) Repealed by Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. [29](#)), Sec. 44(2), eff. September 1, 2017.

(c) An offense under Subsection (a) is a Class B misdemeanor, except that the offense is:

(1) a Class A misdemeanor if the actor has previously been convicted one or two times of an offense under Subsection (a);
or

(2) a state jail felony if the actor has previously been convicted three or more times of an offense under Subsection (a).

(d) It is a defense to prosecution for an offense under Subsection (a) that the actor engaged in the conduct that constitutes the offense because the actor was the victim of conduct that constitutes an offense under Section [20A.02](#) or [43.05](#).

(e) A conviction may be used for purposes of enhancement under this section or enhancement under Subchapter D, Chapter [12](#), but not under both this section and Subchapter D, Chapter [12](#). For purposes of enhancement of penalties under this section or Subchapter D, Chapter [12](#), a defendant is previously convicted of an offense under this section if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., p. 757, ch. 286, Sec. 1, eff. May 27, 1977; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 987, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1002 (H.B. [4009](#)), Sec. 8, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. [2014](#)), Sec. 4.02, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. [8](#)), Sec. 15, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 332 (H.B. [10](#)), Sec. 14, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1273 (S.B. [825](#)), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. [29](#)), Sec. 36, eff. September 1, 2017.

Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. [29](#)), Sec. 37, eff. September 1, 2017.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 44(2), eff. September 1, 2017.

Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 8, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 2.05, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 29, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 61, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1049 (S.B. 1831), Sec. 9, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 93 (S.B. 1527), Sec. 2.04, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 17.003, eff. September 1, 2023.

Sec. 43.021. SOLICITATION OF PROSTITUTION. (a) A person commits an offense if the person knowingly offers or agrees to pay a fee to another person for the purpose of engaging in sexual conduct with that person or another.

(b) An offense under Subsection (a) is a state jail felony, except that the offense is:

(1) a felony of the third degree if the actor has previously been convicted of an offense under Subsection (a) or under Section 43.02(b), as that law existed before September 1, 2021; or

(2) a felony of the second degree if the person with respect to whom the actor offers or agrees to engage in sexual conduct is:

(A) younger than 18 years of age, regardless of whether the actor knows the age of the person at the time of the offense;

(B) represented to the actor as being younger than 18 years of age; or

(C) believed by the actor to be younger than 18 years of age.

(b-1) The punishment prescribed for an offense under Subsection (a) is increased to the punishment prescribed for the next highest category of offense if it is shown on the trial of the offense that the actor committed the offense in a location that was:

(1) on the premises of or within 1,000 feet of the premises of a school; or

(2) on premises or within 1,000 feet of premises where:

(A) an official school function was taking place; or

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

(c) A conviction may be used for purposes of enhancement under this section or enhancement under Subchapter D, Chapter 12, but not under both this section and that subchapter. For purposes of enhancement of penalties under this section or Subchapter D, Chapter 12, a defendant is considered to have been previously convicted of an offense under this section or under Section 43.02(b), as that law existed before September 1, 2021, if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision. Added by Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 28, eff. September 1, 2021.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 29, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 30, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 93 (S.B. 1527), Sec. 2.03, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 93 (S.B. 1527), Sec. 2.04, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 17.003, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 250 (H.B. 1778), Sec. 2.01, eff. September 1, 2025.

Sec. 43.03. PROMOTION OF PROSTITUTION. (a) A person commits an offense if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she knowingly:

(1) receives money or other property pursuant to an agreement to participate in the proceeds of prostitution; or

(2) solicits another to engage in sexual conduct with another person for compensation.

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

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

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

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., p. 758, ch. 287, Sec. 1, eff. May 27, 1977; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 16, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 38, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 9, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 273 (S.B. 1802), Sec. 3, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 461 (S.B. 1653), Sec. 1, eff. September 1, 2023.

Sec. 43.031. ONLINE PROMOTION OF PROSTITUTION. (a) A person commits an offense if the person owns, manages, or operates an interactive computer service or information content provider, or operates as an information content provider, with the intent to promote the prostitution of another person or facilitate another person to engage in prostitution or solicitation of prostitution.

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

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

(2) engages in conduct described by Subsection (a) involving a person younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the person at the time of the offense.

Added by Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 3.02, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 55, eff. September 1, 2021.

Sec. 43.032. CONTINUOUS PROMOTION OF PROSTITUTION. (a) A person commits an offense if, during a period that is 30 or more days in duration, the person engages two or more times in conduct that constitutes an offense under Section 43.03.

(b) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific conduct engaged in by the defendant constituted an offense under Section 43.03 or on which exact date the defendant engaged in that conduct. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, engaged two or more times in conduct that constituted an offense under Section 43.03.

(c) If the victim of an offense under Subsection (a) is the same victim as a victim of an offense under Section 43.03, a defendant may not be convicted of the offense under Section 43.03 in the same criminal action as the offense under Subsection (a), unless the offense under Section 43.03:

(1) is charged in the alternative;

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

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

(d) A defendant may not be charged with more than one count under Subsection (a) if all of the conduct that constitutes an offense under Section 43.03 is alleged to have been committed against the same victim.

(e) An offense under this section is a felony of the first degree.

Added by Acts 2025, 89th Leg., R.S., Ch. 250 (H.B. 1778), Sec. 2.02, eff. September 1, 2025.

Sec. 43.04. AGGRAVATED PROMOTION OF PROSTITUTION. (a) A person commits an offense if he knowingly owns, invests in, finances, controls, supervises, or manages a prostitution enterprise that uses two or more prostitutes.

(b) An offense under this section is a felony of the first degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 17, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 39, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 10, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 273 (S.B. 1802), Sec. 4, eff. September 1, 2019.

Sec. 43.041. AGGRAVATED ONLINE PROMOTION OF PROSTITUTION.

(a) A person commits an offense if the person owns, manages, or operates an interactive computer service or information content provider, or operates as an information content provider, with the

intent to promote the prostitution of five or more persons or facilitate five or more persons to engage in prostitution or solicitation of prostitution.

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

(1) has been previously convicted of an offense under this section; or

(2) engages in conduct described by Subsection (a) involving two or more persons younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the persons at the time of the offense.

Added by Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 3.02, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 56, eff. September 1, 2021.

Sec. 43.05. COMPELLING PROSTITUTION. (a) A person commits an offense if the person knowingly:

(1) causes another by force, threat, coercion, or fraud to commit prostitution;

(2) causes by any means a child younger than 18 years to commit prostitution, regardless of whether the actor knows the age of the child at the time of the offense; or

(3) causes by any means a disabled individual, as defined by Section 22.021(b), to commit prostitution, regardless of whether the actor knows the individual is disabled at the time of the offense.

(b) An offense under this section is a felony of the first degree.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

(d) For purposes of this section, "coercion" as defined by Section 1.07 includes:

(1) destroying, concealing, confiscating, or withholding from a person, or threatening to destroy, conceal, confiscate, or withhold from a person, the person's actual or purported:

(A) government records; or

(B) identifying information or documents;

(2) causing a person, without the person's consent, to become intoxicated, as defined by Section 49.01, to a degree that impairs the person's ability to appraise the nature of the person's conduct that constitutes prostitution or to resist engaging in that conduct; or

(3) withholding alcohol or a controlled substance to a degree that impairs the ability of a person with a chemical dependency, as defined by Section 462.001, Health and Safety Code, to appraise the nature of the person's conduct that constitutes prostitution or to resist engaging in that conduct.

(e) It is not a defense to prosecution under Subsection (a)(2) or (3) that the child or disabled individual:

(1) lacks the culpable mental state to engage in the act of prostitution; or

(2) did not complete the act of prostitution.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1002 (H.B. 4009), Sec. 9, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 1.03, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1273 (S.B. 825), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 40, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 11, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 273 (S.B. 1802), Sec. 5, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 93 (S.B. 1527), Sec. 2.05, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 602 (H.B. 2761), Sec. 3, eff. September 1, 2025.

Sec. 43.06. ACCOMPLICE WITNESS; TESTIMONY AND IMMUNITY.

(a) A party to an offense under this subchapter may be required to furnish evidence or testify about the offense.

(b) A party to an offense under this subchapter may not be prosecuted for any offense about which he is required to furnish evidence or testify, and the evidence and testimony may not be used against the party in any adjudicatory proceeding except a prosecution for aggravated perjury.

(c) For purposes of this section, "adjudicatory proceeding" means a proceeding before a court or any other agency of government in which the legal rights, powers, duties, or privileges of specified parties are determined.

(d) A conviction under this subchapter may be had upon the uncorroborated testimony of a party to the offense.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

SUBCHAPTER B. OBSCENITY

Sec. 43.21. DEFINITIONS. (a) In this subchapter:

(1) "Obscene" means material or a performance that:

(A) the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

(B) depicts or describes:

(i) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or

(ii) patently offensive representations or descriptions of masturbation, excretory functions, sadism,

masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

(C) taken as a whole, lacks serious literary, artistic, political, and scientific value.

(2) "Material" means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three dimensional obscene device.

(3) "Performance" means a play, motion picture, dance, or other exhibition performed before an audience.

(4) "Patently offensive" means so offensive on its face as to affront current community standards of decency.

(5) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

(6) "Wholesale promote" means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

(7) "Obscene device" means a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.

(b) If any of the depictions or descriptions of sexual conduct described in this section are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this section as to other patently offensive sexual conduct included herein.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 372, ch. 163, Sec. 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1974, ch. 778, Sec. 1, eff. Sept. 1, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 43.22. OBSCENE DISPLAY OR DISTRIBUTION. (a) A person commits an offense if he intentionally or knowingly displays or distributes an obscene photograph, drawing, or similar visual representation or other obscene material and is reckless about whether a person is present who will be offended or alarmed by the display or distribution.

(b) An offense under this section is a Class C misdemeanor. Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 43.23. OBSCENITY. (a) A person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device.

(b) Except as provided by Subsection (h), an offense under Subsection (a) is a state jail felony.

(c) A person commits an offense if, knowing its content and character, he:

(1) promotes or possesses with intent to promote any obscene material or obscene device; or

(2) produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

(d) Except as provided by Subsection (h), an offense under Subsection (c) is a Class A misdemeanor.

(e) A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it in the course of his business is presumed to do so with knowledge of its content and character.

(f) A person who possesses six or more obscene devices or identical or similar obscene articles is presumed to possess them with intent to promote the same.

(g) It is an affirmative defense to prosecution under this section that the person who possesses or promotes material or a device proscribed by this section does so for a bona fide medical, psychiatric, judicial, legislative, or law enforcement purpose.

(h) The punishment for an offense under Subsection (a) or (c) is increased to the punishment for a felony of the second degree if it is shown on the trial of the offense that obscene material that is the subject of the offense visually depicts activities described by Section 43.21(a)(1)(B) engaged in by:

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

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

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

(i) In this section, "identifiable child" means a person, recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature:

(1) who was younger than 18 years of age at the time the visual depiction was created, adapted, or modified; or

(2) whose image as a person younger than 18 years of age was used in creating, adapting, or modifying the visual depiction.

(j) An attorney representing the state who seeks an increase in punishment under Subsection (h)(3) is not required to prove the actual identity of an identifiable child.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 1975, ch. 778, Sec. 2, eff. Sept. 1, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2003, 78th Leg., ch. 1005, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 19, eff. September 1, 2013.

Sec. 43.231. PROMOTION OR POSSESSION OF CHILD-LIKE SEX DOLL. (a) In this section, "child-like sex doll" means an obscene, anatomically correct doll, mannequin, or robot that has the features of a child and that is intended to be used for sexual stimulation or gratification.

(b) A person commits an offense if the person knowingly:

- (1) promotes a child-like sex doll;
- (2) possesses, with the intent to promote, a child-like sex doll; or
- (3) possesses a child-like sex doll.

(c) An offense under Subsection (b)(1) is a felony of the second degree.

(d) An offense under Subsection (b)(2) is a felony of the third degree.

(e) An offense under Subsection (b)(3) is a state jail felony.

(f) A person who possesses two or more child-like sex dolls is presumed to possess the dolls with the intent to promote the dolls.

(g) It is an affirmative defense to prosecution under this section that the actor possesses or promotes a child-like sex doll for a bona fide law enforcement purpose.

Added by Acts 2025, 89th Leg., R.S., Ch. 384 (H.B. [1443](#)), Sec. 1, eff. September 1, 2025.

Sec. 43.235. POSSESSION, PROMOTION, OR PRODUCTION OF CERTAIN VISUAL MATERIAL APPEARING TO DEPICT CHILD. (a) In this section:

- (1) "Promote" has the meaning assigned by Section [43.25](#).

- (2) "Visual material" has the meaning assigned by Section [43.26](#).

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

- (1) knowingly possesses, accesses with intent to view, or promotes obscene visual material containing a depiction that appears to be of a child younger than 18 years of age engaging in activities described by Section [43.21\(a\)\(1\)\(B\)](#), regardless of whether the depiction is an image of an actual child, a cartoon or animation, or an image created using an artificial intelligence application or other computer software; or

- (2) uses an image of an actual child younger than 18 years of age at the time the image was made with the intent to train

an artificial intelligence model to produce visual material constituting child pornography under Section 43.26.

(c) An offense under this section is a state jail felony, except that the offense is:

(1) a felony of the third degree if it is shown on the trial of the offense that the person has been previously convicted one time of an offense under this section or Section 43.23, 43.26, 43.261, or 43.262; or

(2) a felony of the second degree if it is shown on the trial of the offense that the person has been previously convicted two or more times of an offense under this section, Section 43.23, 43.26, 43.261, or 43.262, or any combination of those offenses.

(d) If conduct constituting an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Added by Acts 2025, 89th Leg., R.S., Ch. 756 (S.B. 20), Sec. 1, eff. September 1, 2025.

Sec. 43.24. SALE, DISTRIBUTION, OR DISPLAY OF HARMFUL MATERIAL TO MINOR. (a) For purposes of this section:

(1) "Minor" means an individual younger than 18 years.

(2) "Harmful material" means material whose dominant theme taken as a whole:

(A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;

(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(C) is utterly without redeeming social value for minors.

(b) A person commits an offense if, knowing that the material is harmful:

(1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material;

(2) he displays harmful material and is reckless about whether a minor is present who will be offended or alarmed by the

display; or

(3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b)(1) or (b)(2).

(c) Repealed by Acts 2025, 89th Leg., R.S., Ch. 39 (S.B. [412](#)), Sec. 3, eff. September 1, 2025.

(c-1) It is a defense to prosecution under this section that the actor was the spouse of the minor at the time of the offense.

(c-2) It is an affirmative defense to prosecution under Subsection (b)(1) or (2) that at the time of the offense the actor was a judicial or law enforcement officer discharging the officer's official duties.

(d) An offense under this section is a Class A misdemeanor unless it is committed under Subsection (b)(3) in which event it is a felony of the third degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 497 (H.B. [1344](#)), Sec. 1, eff. September 1, 2011.

Acts 2025, 89th Leg., R.S., Ch. 39 (S.B. [412](#)), Sec. 1, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 39 (S.B. [412](#)), Sec. 3, eff. September 1, 2025.

Sec. 43.25. SEXUAL PERFORMANCE BY A CHILD. (a) In this section:

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct by a child younger than 18 years of age.

(2) "Sexual conduct" means sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.

(3) "Performance" means any play, motion picture,

photograph, dance, or other visual representation that can be exhibited before an audience of one or more persons.

(4) "Produce" with respect to a sexual performance includes any conduct that directly contributes to the creation or manufacture of the sexual performance.

(5) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

(6) "Simulated" means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.

(7) "Deviate sexual intercourse" and "sexual contact" have the meanings assigned by Section [43.01](#).

(b) A person commits an offense if, knowing the character and content thereof, he employs, authorizes, or induces a child younger than 18 years of age to engage in sexual conduct or a sexual performance. A parent or legal guardian or custodian of a child younger than 18 years of age commits an offense if he consents to the participation by the child in a sexual performance.

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

(d) A person commits an offense if, knowing the character and content of the material, he produces, directs, or promotes a performance that includes sexual conduct by a child younger than 18 years of age.

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

(f) It is an affirmative defense to a prosecution under this section that:

(1) the defendant was the spouse of the child at the time of the offense;

(2) at the time of the offense the actor was a judicial or law enforcement officer discharging the officer's official duties; or

(3) the defendant is not more than two years older than the child.

(g) When it becomes necessary for the purposes of this section or Section 43.26 to determine whether a child who participated in sexual conduct was younger than 18 years of age, the court or jury may make this determination by any of the following methods:

(1) personal inspection of the child;

(2) inspection of the photograph or motion picture that shows the child engaging in the sexual performance;

(3) oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;

(4) expert medical testimony based on the appearance of the child engaging in the sexual performance; or

(5) any other method authorized by law or by the rules of evidence at common law.

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

Added by Acts 1977, 65th Leg., p. 1035, ch. 381, Sec. 1, eff. June 10, 1977. Amended by Acts 1979, 66th Leg., p. 1976, ch. 779, Sec. 1, eff. Sept. 1, 1979; Acts 1985, 69th Leg., ch. 530, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1999, 76th Leg., ch. 1415, Sec. 22(b), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1005, Sec. 4, 5 eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 1.20, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 41, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 12,

eff. September 1, 2017.

Acts 2025, 89th Leg., R.S., Ch. 39 (S.B. 412), Sec. 2, eff. September 1, 2025.

Sec. 43.251. EMPLOYMENT HARMFUL TO CHILDREN. (a) In this section:

(1) "Child" means a person younger than 21 years of age.

(2) "Massage" has the meaning assigned to the term "massage therapy" by Section 455.001, Occupations Code.

(3) "Massage establishment" has the meaning assigned by Section 455.001, Occupations Code.

(4) "Nude" means a child who is:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the child is female, or any portion of the genitals or buttocks.

(5) "Sexually oriented commercial activity" means a massage establishment, nude studio, modeling studio, love parlor, or other similar commercial enterprise the primary business of which is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer.

(6) "Topless" means a female child clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of her breasts below the top of the areola.

(b) A person commits an offense if the person employs, authorizes, or induces a child to work:

(1) in a sexually oriented commercial activity; or

(2) in any place of business permitting, requesting, or requiring a child to work nude or topless.

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 42

(c) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if

the child is younger than 14 years of age at the time the offense is committed, regardless of whether the actor knows the age of the child at the time of the offense.

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch.
1038 (H.B. 1808), Sec. 13

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

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 685
(H.B. 29), Sec. 42

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

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 1038
(H.B. 1808), Sec. 13

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

Added by Acts 1987, 70th Leg., ch. 783, Sec. 1, eff. Aug. 31, 1987.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 1420, Sec. 14.832, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 4.03, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 938 (H.B. 290), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 18, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 42, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 13, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 79 (S.B. 315), Sec. 8, eff. May 24, 2021.

Acts 2021, 87th Leg., R.S., Ch. 942 (S.B. 766), Sec. 8, eff. September 1, 2021.

Sec. 43.26. POSSESSION OR PROMOTION OF CHILD PORNOGRAPHY.

(a) In this section:

(1) "Depiction of a child" means, with respect to an image of a child contained in visual material:

(A) a depiction of a child who was younger than 18 years of age at the time the image of the child was made; or

(B) a depiction of a child:

(i) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(ii) whose image as a child younger than 18 years of age was used in creating, adapting, or modifying the visual material, including computer-generated visual material that was created, adapted, or modified using an artificial intelligence application or other computer software.

(2) "Depiction of a computer-generated child" means, with respect to an image of a child contained in visual material, a depiction:

(A) appearing to be a child younger than 18 years of age;

(B) created using an artificial intelligence application or other computer software; and

(C) that to a reasonable person is virtually indistinguishable from an actual child younger than 18 years of age.

(3) "Promote" and "sexual conduct" have the meanings assigned by Section 43.25.

(4) "School library" means a library of a public or private primary or secondary school.

(5) "Visual material" means:

(A) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(B) any disk, diskette, or other physical medium, or a file in any digital format, that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

(a-1) A person commits an offense if:

(1) the person intentionally or knowingly possesses, or intentionally or knowingly accesses with intent to view, visual material that contains a visual depiction of a child engaging in sexual conduct, including a depiction of a child engaging in sexual conduct as a victim of an offense under Section [20A.02\(a\)\(5\)](#), (6), (7), or (8); and

(2) the person knows or should have known that the depiction described by Subdivision (1) is of a child younger than 18 years of age at the time the image of the child was made.

(a-2) A person commits an offense if the person:

(1) intentionally or knowingly possesses, or intentionally or knowingly accesses with intent to view, visual material that contains a visual depiction of a computer-generated child engaging in sexual conduct; and

(2) either:

(A) knows or should have known that the depiction described by Subdivision (1) appears to be of a child younger than 18 years of age; or

(B) believes that the depiction is of an actual child younger than 18 years of age at the time the image of the child was made.

(b) Repealed by Acts 2025, 89th Leg., R.S., Ch. 847 (S.B. [1621](#)), Sec. 7(1), eff. September 1, 2025.

(c) Repealed by Acts 2025, 89th Leg., R.S., Ch. 847 (S.B.

1621), Sec. 7(1), eff. September 1, 2025.

(c-1) An offense under Subsection (a-1) is a felony of the third degree, except that the offense is:

(1) a felony of the second degree if it is shown on the trial of the offense that the actor:

(A) has been previously convicted one time of an offense:

(i) under this chapter; or

(ii) described by Article 62.001(5), Code of Criminal Procedure; or

(B) possesses visual material that contains 10 or more visual depictions of a child engaging in sexual conduct as described by Subsection (a-1)(1) but fewer than 50 such depictions;

(2) a felony of the first degree if it is shown on the trial of the offense that the actor:

(A) has been previously convicted two or more times of an offense, or any combination of offenses:

(i) under this chapter; or

(ii) described by Article 62.001(5), Code of Criminal Procedure; or

(B) possesses visual material that:

(i) contains 50 or more visual depictions of a child engaging in sexual conduct as described by Subsection (a-1)(1); or

(ii) visually depicts conduct constituting an offense under Section 22.011(a)(2); or

(3) a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 25 years if it is shown on the trial of the offense that:

(A) at the time of the offense, the actor was:

(i) an employee at a child-care facility or a residential child-care facility, as those terms are defined by Section 42.002, Human Resources Code;

(ii) an employee at a residential treatment facility established under Section 221.056, Human Resources Code;

(iii) an employee at a shelter or facility

that serves youth and that receives state funds; or

(iv) receiving state funds for the care of a child depicted by the visual material; or

(B) the actor displayed the visual material or caused the visual material to be displayed in a school library.

(c-2) If it is shown on the trial of an offense under Subsection (a-1) that the visual material contained a depiction of a child younger than 10 years of age at the time the image of the child was made engaging in sexual conduct as described by Section (a-1)(1):

(1) an offense punishable under Subsection (c-1) as a felony of the second or third degree is increased to the next higher category of offense; or

(2) the minimum term of imprisonment for an offense described for purposes of punishment by Subsection (c-1)(2) is increased to 15 years.

(c-3) An offense under Subsection (a-2) is a state jail felony, except that the offense is:

(1) a felony of the third degree if it is shown on the trial of the offense that the actor:

(A) has been previously convicted one time of an offense:

(i) under this chapter; or

(ii) described by Article 62.001(5), Code of Criminal Procedure; or

(B) possesses visual material that contains 10 or more visual depictions of a computer-generated child engaging in sexual conduct as described by Subsection (a-2)(1) but fewer than 50 such depictions;

(2) a felony of the second degree if it is shown on the trial of the offense that the actor:

(A) has been previously convicted two or more times of an offense, or any combination of offenses:

(i) under this chapter; or

(ii) described by Article 62.001(5), Code of Criminal Procedure; or

(B) possesses visual material that contains 50 or

more visual depictions of a computer-generated child engaging in sexual conduct as described by Subsection (a-2)(1); or

(3) a felony of the second degree with a minimum term of imprisonment of 10 years if it is shown on the trial of the offense that:

(A) at the time of the offense, the actor was an employee described by Subsection (c-1)(3)(A)(i), (ii), or (iii); or

(B) the actor displayed the visual material or caused the visual material to be displayed in a school library.

(c-4) If it is shown on the trial of an offense under Subsection (a-2) that the visual material contained a depiction of a computer-generated child who appears to be younger than 10 years of age and is engaging in sexual conduct as described by Subsection (a-2)(1), the punishment for the offense is increased to the punishment for the next higher category of offense, provided that the minimum term of imprisonment for an offense described for purposes of punishment by Subsection (c-3)(3) is 10 years.

Without reference to the amendment of this subsection, this subsection was repealed by Acts 2025, 89th Leg., R.S., Ch. 847 (S.B. [1621](#)), Sec. 7(1), eff. September 1, 2025.

(d) An offense under Subsection (a) is:

(1) a felony of the third degree if the person possesses visual material that contains fewer than 10 visual depictions of a child as described by Subsection (a)(1);

(2) a felony of the second degree if the person possesses visual material that contains 10 or more visual depictions of a child as described by Subsection (a)(1) but fewer than 50 such depictions;

(3) a felony of the first degree if the person:

(A) possesses visual material that contains 50 or more visual depictions of a child as described by Subsection (a)(1); or

(B) possesses visual material of conduct constituting an offense under Section [22.011](#)(a)(2); or

(4) a felony of the first degree punishable by

imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 25 years if it is shown on the trial of the offense that, at the time of the offense, the person was:

(A) an employee at a child-care facility or a residential child-care facility, as those terms are defined by Section 42.002, Human Resources Code;

(B) an employee at a residential treatment facility established under Section 221.056, Human Resources Code;

(C) an employee at a shelter or facility that serves youth and that receives state funds; or

(D) receiving state funds for the care of a child depicted by the visual material.

(d-1) Repealed by Acts 2025, 89th Leg., R.S., Ch. 250 (H.B. 1778), Sec. 3.03, and Ch. 847 (S.B. 1621), Sec. 7, eff. September 1, 2025.

(d-2) Repealed by Acts 2025, 89th Leg., R.S., Ch. 250 (H.B. 1778), Sec. 3.03(2), and Ch. 847 (S.B. 1621), Sec. 7(1), eff. September 1, 2025.

(e) A person commits an offense if:

(1) the person intentionally or knowingly promotes or possesses with intent to promote visual material described by Subsection (a-1)(1); and

(2) the person knows or should have known that the depiction described by Subsection (a-1)(1) is of a child younger than 18 years of age at the time the image of the child was made.

(e-1) A person commits an offense if the person:

(1) intentionally or knowingly promotes or possesses with intent to promote visual material described by Subsection (a-2)(1); and

(2) either:

(A) knows or should have known that the depiction described by Subsection (a-2)(1) appears to be of a child younger than 18 years of age; or

(B) believes that the depiction is of an actual child younger than 18 years of age at the time the image of the child was made.

(f) In the prosecution of an offense under Subsection (a-1) or (e):

(1) the state is not required to prove the identity of the child in the depiction described by Subsection (a-1)(1); and

(2) there is a rebuttable presumption that the depiction is of an actual child, as described by Subsection (a)(1)(A) or (B), and not of a computer-generated child, as described by Subsection (a)(2).

Text of subsection as amended by Acts 2025, 89th Leg., R.S., Ch. 250
(H.B. 1778), Sec. 3.02

(g) An offense under Subsection (e) is a felony of the first degree, except that the offense is a felony of the first degree with a minimum term of confinement of 15 years if:

(1) the person promotes or possesses with intent to promote:

(A) visual material that contains 50 or more visual depictions of a child as described by Subsection (a)(1); or

(B) visual material of conduct constituting an offense under Section 22.011(a)(2); and

(2) it is shown on the trial of the offense that the person has been previously convicted of an offense under this section.

Text of subsection as amended by Acts 2025, 89th Leg., R.S., Ch. 847
(S.B. 1621), Sec. 1

(g) An offense under Subsection (e) is a felony of the second degree, except that the offense is:

(1) a felony of the first degree if it is shown on the trial of the offense that the actor:

(A) has been previously convicted one or more times of an offense:

(i) under this chapter; or

(ii) described by Article 62.001(5), Code of Criminal Procedure;

(B) promotes or possesses with intent to promote visual material that contains 10 or more visual depictions of a child engaging in sexual conduct as described by Subsection (a-1)(1) but fewer than 50 such depictions; or

(C) promotes or possesses with intent to promote visual material that contains one or more visual depictions of a child who appears to be younger than 10 years of age and is engaging in sexual conduct as described by Subsection (a-1)(1); or

(2) a felony of the first degree with a minimum term of imprisonment of 15 years if it is shown on the trial of the offense that the actor promotes or possesses with intent to promote visual material that:

(A) contains 50 or more visual depictions of a child engaging in sexual conduct as described by Subsection (a-1)(1); or

(B) visually depicts conduct constituting an offense under Section [22.011\(a\)\(2\)](#) with respect to a depiction of a child.

(g-1) An offense under Subsection (e-1) is a felony of the third degree, except that the offense is:

(1) a felony of the second degree if it is shown on the trial of the offense that the person:

(A) has been previously convicted one or more times of an offense:

(i) under this chapter; or

(ii) described by Article [62.001\(5\)](#), Code of Criminal Procedure;

(B) promotes or possesses with intent to promote visual material that contains 10 or more visual depictions of a computer-generated child engaging in sexual conduct as described by Subsection (a-2)(1); or

(C) promotes or possesses with intent to promote visual material that contains one or more visual depictions of a computer-generated child who appears to be younger than 10 years of age and is engaging in sexual conduct as described by Subsection (a-2)(1); or

(2) a felony of the second degree with a minimum term

of imprisonment of 10 years if it is shown on the trial of the offense that the person promotes or possesses with intent to promote visual material that contains 50 or more visual depictions of a computer-generated child engaging in sexual conduct as described by Subsection (a-2)(1).

(h) It is a defense to prosecution under this section that the actor is a law enforcement officer or a school administrator who:

(1) possessed or accessed the visual material in good faith solely as a result of an allegation of a violation of Section [43.261](#);

(2) allowed other law enforcement or school administrative personnel to possess or access the material only as appropriate based on the allegation described by Subdivision (1); and

(3) took reasonable steps to destroy the material within an appropriate period following the allegation described by Subdivision (1).

(h-1) It is an affirmative defense to prosecution under this section that at the time of the offense the actor was a judicial or law enforcement officer discharging the officer's official duties.

(h-2) It is an affirmative defense to prosecution under Subsection (a-2) or (e-1) that the actor is not more than two years older than the depicted child.

(i) Repealed by Acts 2025, 89th Leg., R.S., Ch. 847 (S.B. [1621](#)), Sec. 7(1), eff. September 1, 2025.

Added by Acts 1985, 69th Leg., ch. 530, Sec. 2, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 361, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 968, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 76, Sec. 14.51, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 933, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1415, Sec. 22(c), eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1322 (S.B. [407](#)), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. [8](#)), Sec. 20, eff.

September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 933 (H.B. [2291](#)), Sec. 2, eff.

September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 93 (S.B. [1527](#)), Sec. 6.02, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 93 (S.B. [1527](#)), Sec. 6.03, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 730 (H.B. [2700](#)), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1041 (S.B. [129](#)), Sec. 2, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 250 (H.B. [1778](#)), Sec. 3.01, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 250 (H.B. [1778](#)), Sec. 3.02, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 250 (H.B. [1778](#)), Sec. 3.03(1), eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 250 (H.B. [1778](#)), Sec. 3.03(2), eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 847 (S.B. [1621](#)), Sec. 1, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 847 (S.B. [1621](#)), Sec. 7(1), eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 847 (S.B. [1621](#)), Sec. 7(2), eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 847 (S.B. [1621](#)), Sec. 7(3), eff. September 1, 2025.

Sec. 43.261. ELECTRONIC TRANSMISSION OF CERTAIN VISUAL MATERIAL DEPICTING MINOR. (a) In this section:

(1) "Dating relationship" has the meaning assigned by Section [71.0021](#), Family Code.

(2) "Minor" means a person younger than 18 years of age.

(3) "Produce" with respect to visual material includes any conduct that directly contributes to the creation or manufacture of the material.

(4) "Promote" has the meaning assigned by Section 43.25.

(5) "Sexual conduct" has the meaning assigned by Section 43.25.

(6) "Visual material" has the meaning assigned by Section 43.26.

(b) A person who is a minor commits an offense if the person intentionally or knowingly:

(1) by electronic means promotes to another minor visual material depicting a minor, including the actor, engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material; or

(2) possesses in an electronic format visual material depicting another minor engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material.

(b-1) For purposes of conduct prohibited under Subsection (b), visual material to which that conduct applies includes:

(1) a depiction of a minor:

(A) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature; and

(B) whose image as a minor was used in creating, adapting, or modifying the visual material, including computer-generated visual material that was created, adapted, or modified using an artificial intelligence application or other computer software; or

(2) a depiction of a minor, created using an artificial intelligence application or other computer software, that to a reasonable person is virtually indistinguishable from an actual minor.

(c) An offense under Subsection (b)(1) is a Class C misdemeanor, except that the offense is:

(1) a Class B misdemeanor if it is shown on the trial of the offense that the actor:

(A) promoted the visual material with intent to

harass, annoy, alarm, abuse, torment, embarrass, or offend another;
or

(B) except as provided by Subdivision (2)(A), has previously been convicted one time of any offense under this section; or

(2) a Class A misdemeanor if it is shown on the trial of the offense that the actor has previously been:

(A) convicted one or more times of an offense punishable under Subdivision (1)(A); or

(B) convicted two or more times of any offense under this section.

(d) An offense under Subsection (b)(2) is a Class C misdemeanor, except that the offense is:

(1) a Class B misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted one time of any offense under this section; or

(2) a Class A misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted two or more times of any offense under this section.

(e) It is an affirmative defense to prosecution under this section that the visual material:

(1) depicted only the actor or another minor:

(A) who is not more than two years older or younger than the actor and with whom the actor had a dating relationship at the time of the offense; or

(B) who was the spouse of the actor at the time of the offense; and

(2) was promoted or received only to or from the actor and the other minor.

(f) It is a defense to prosecution under Subsection (b)(2) that the actor:

(1) did not produce or solicit the visual material;

(2) possessed the visual material only after receiving the material from another minor; and

(3) destroyed the visual material within a reasonable amount of time after receiving the material from another minor.

(g) If conduct that constitutes an offense under this

section also constitutes an offense under another law, the defendant may be prosecuted under this section, the other law, or both.

(h) Notwithstanding Section [51.13](#), Family Code, a finding that a person has engaged in conduct in violation of this section is considered a conviction for the purposes of Subsections (c) and (d).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1322 (S.B. [407](#)), Sec. 3, eff. September 1, 2011.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 730 (H.B. [2700](#)), Sec. 2, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 847 (S.B. [1621](#)), Sec. 5, eff. September 1, 2025.

Sec. 43.262. POSSESSION OR PROMOTION OF LEWD VISUAL MATERIAL DEPICTING CHILD. (a) In this section:

(1) "Promote" and "sexual conduct" have the meanings assigned by Section [43.25](#).

(2) "Visual material" has the meaning assigned by Section [43.26](#).

(b) A person commits an offense if the person knowingly possesses, accesses with intent to view, or promotes visual material that:

(1) depicts the lewd exhibition of the genitals or pubic area of an unclothed, partially clothed, or clothed child who is younger than 18 years of age at the time the visual material was created;

(2) appeals to the prurient interest in sex; and

(3) has no serious literary, artistic, political, or scientific value.

(b-1) For purposes of conduct prohibited under Subsection (b), visual material to which that conduct applies includes:

(1) a depiction of a child:

(A) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable

feature; and

(B) whose image as a child younger than 18 years of age was used in creating, adapting, or modifying the visual material, including computer-generated visual material that was created, adapted, or modified using an artificial intelligence application or other computer software; or

(2) a depiction of a child, created using an artificial intelligence application or other computer software, that to a reasonable person is virtually indistinguishable from an actual child younger than 18 years of age.

(c) An offense under this section is a state jail felony, except that the offense is:

(1) a felony of the third degree if it is shown on the trial of the offense that the person has been previously convicted one time of an offense under this section or Section [43.26](#); and

(2) a felony of the second degree if it is shown on the trial of the offense that the person has been previously convicted two or more times of an offense under this section or Section [43.26](#).

(d) It is not a defense to prosecution under this section that the depicted child consented to the creation of the visual material.

Added by Acts 2017, 85th Leg., R.S., Ch. 350 (H.B. [1810](#)), Sec. 1, eff. September 1, 2017.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 730 (H.B. [2700](#)), Sec. 3, eff. September 1, 2023.

Acts 2025, 89th Leg., R.S., Ch. 847 (S.B. [1621](#)), Sec. 6, eff. September 1, 2025.

Sec. 43.27. DUTY TO REPORT. (a) For purposes of this section, " visual material" has the meaning assigned by Section [43.26](#).

(b) A business that develops or processes visual material and determines that the material may be evidence of a criminal offense under this subchapter shall report the existence of the visual material to a local law enforcement agency.

Added by Acts 2003, 78th Leg., ch. 1005, Sec. 6, eff. Sept. 1, 2003.

Sec. 43.28. CERTAIN SEXUALLY ORIENTED PERFORMANCES PROHIBITED. (a) In this section:

(1) "Sexual conduct" means:

(A) the exhibition or representation, actual or simulated, of sexual acts, including vaginal sex, anal sex, and masturbation;

(B) the exhibition or representation, actual or simulated, of male or female genitals in a lewd state, including a state of sexual stimulation or arousal;

(C) the exhibition of a device designed and marketed as useful primarily for the sexual stimulation of male or female genitals;

(D) actual contact or simulated contact occurring between one person and the buttocks, breast, or any part of the genitals of another person; or

(E) the exhibition of sexual gesticulations using accessories or prosthetics that exaggerate male or female sexual characteristics.

(2) "Sexually oriented performance" means a visual performance that:

(A) features:

(i) a performer who is nude, as defined by Section [102.051](#), Business & Commerce Code; or

(ii) any other performer who engages in sexual conduct; and

(B) appeals to the prurient interest in sex.

(b) A person commits an offense if, regardless of whether compensation for the performance is expected or received, the person engages in a sexually oriented performance:

(1) on public property at a time, in a place, and in a manner that could reasonably be expected to be viewed by a child; or

(2) in the presence of an individual younger than 18 years of age.

(c) An offense under this section is a Class A misdemeanor. Added by Acts 2023, 88th Leg., R.S., Ch. 931 (S.B. [12](#)), Sec. 3, eff. September 1, 2023.