

BILL ANALYSIS

C.S.H.B. 968
By: Hernandez
Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that although Texas currently provides a civil cause of action for victims of human trafficking, this instrument for litigation is greatly underused because it only provides for the right to sue a corporate entity that has directly engaged in the trafficking of an individual, rather than the owner or shareholder of such a corporate entity. Concerned parties point out the use of shell businesses by many human traffickers and observe that when a shell business is targeted by law enforcement, the business frequently closes its doors at one location and re-establishes itself elsewhere under another corporate identity. The parties further observe that when a rescued victim seeks restitution from the business through current civil litigation options, it is unlikely that the shell entity that ran the illicit business will have any actual assets because typically all profits and proceeds of the illegal operation are transferred to the owner or stakeholders of the corporate entity, creating a loophole. C.S.H.B. 968 seeks to close this loophole.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 968 amends the Civil Practice and Remedies Code to establish that if a corporation, limited liability company, or professional entity governed under the Business Organizations Code is liable for trafficking of persons, a shareholder or member of that legal entity is jointly and severally liable with the entity to a person trafficked for damages arising from the trafficking of that person if the person demonstrates that the shareholder or member caused the entity to be used for the purpose of trafficking that person and did traffic that person for the direct personal benefit of the shareholder or member.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 968 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 98, Civil Practice and Remedies Code, is amended by adding Section 98.0025 to read as follows:

Sec. 98.0025. SHAREHOLDER AND MEMBER LIABILITY. (a) This section applies to a legal entity governed by Title 2, 3, or 7, Business Organizations Code.

(b) Notwithstanding any provision of the Business Organizations Code, if a legal entity described by Subsection (a) is liable under Section 98.002, a shareholder or member of that entity is jointly and severally liable with the entity to the person trafficked for damages arising from the trafficking of that person if the person demonstrates that the shareholder or member:

(1) caused the entity to be used for the purpose of trafficking of persons; or

(2) knew the entity was engaged in the trafficking of persons and directly benefited from that trafficking.

SECTION 2. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 98, Civil Practice and Remedies Code, is amended by adding Section 98.0025 to read as follows:

Sec. 98.0025. SHAREHOLDER AND MEMBER LIABILITY. (a) This section applies to a legal entity governed by Title 2, 3, or 7, Business Organizations Code.

(b) Notwithstanding any provision of the Business Organizations Code, if a legal entity described by Subsection (a) is liable under Section 98.002, a shareholder or member of that entity is jointly and severally liable with the entity to the person trafficked for damages arising from the trafficking of that person if the person demonstrates that the shareholder or member caused the entity to be used for the purpose of trafficking that person and did traffic that person for the direct personal benefit of the shareholder or member.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.