

BILL ANALYSIS

C.S.H.B. 462
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been argued that removing the condition relating to an actor's requisite state of mind for trafficking of persons offenses, specifically with regard to those who benefit from or engage in sexual conduct with victims of prostitution, would give prosecutors greater flexibility to convince jurors to convict alleged offenders. In addition to this, there have been calls to ensure that individuals with disabilities are not exploited by traffickers or pimps who compel these individuals to engage in prostitution. C.S.H.B. 462 removes the condition relating to an actor's requisite state of mind for trafficking of persons offenses and establishes criminal offenses for compelling prostitution by or trafficking individuals with disabilities.

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. 462 amends the Penal Code to establish that a person commits a compelling prostitution offense if they knowingly cause by any means a person with a disability to commit prostitution. The bill establishes that a person commits a trafficking of persons offense if they knowingly traffic a person with a disability and by any means cause the person to engage in certain prostitution-related conduct. The bill specifies that an actor who commits a trafficking of persons offense by engaging in the following conduct does so regardless of whether the actor knows that the person or child has been trafficked:

- receiving a benefit from participating in a venture that involves a trafficked person who is caused through force, fraud, or coercion to engage in that prostitution-related conduct or engaging in sexual conduct with a person trafficked in that manner; or
- receiving a benefit from participating in a venture that involves a trafficked child who is caused by any means to engage in or become the victim of certain prohibited sexual or prostitution-related conduct or engaging in sexual conduct with a child trafficked in that manner.

The bill defines a "person with a disability" as a person who, as a result of mental disease or defect, is incapable of appraising the nature of prohibited conduct or to resist engaging in that conduct.

C.S.H.B. 462 amends the Civil Practice and Remedies Code to set the limitations period for a personal injury claim arising from the offense of compelling prostitution by a person with a disability at 30 years after the day the cause of action accrues.

C.S.H.B. 462 amends the Code of Criminal Procedure to establish that there is no statute of limitations for presenting an indictment for compelling prostitution by a person with a disability. The bill also establishes that the duty to register under the sex offender registration program for a person who has a reportable conviction or adjudication for such an offense ends when the person dies.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 462 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

With respect to the bill's application of the offense of trafficking of persons to a person who engages in sexual conduct with a trafficked person or child regardless of the actor's knowledge that the person or child has been trafficked, the substitute does not include the limitation found in the original that only applies the offense to an actor who knowingly offers or agrees to pay a fee for the purpose of engaging in such sexual conduct. In addition, the substitute does not include the original's provisions making that offense involving a trafficked person who is not a child punishable as a state jail felony. The substitute also establishes that the offense of trafficking of persons applies to a person who receives a benefit from a venture that involves prostitution-related conduct or certain prohibited sexual conduct regardless of the actor's knowledge that the person or child involved has been trafficked, whereas the original did not do so.

The substitute includes a provision not in the original that establishes that a person commits the offense of trafficking of persons if the person knowingly traffics a person with a disability and by any means causes the person to engage in prostitution-related conduct. The substitute includes a provision establishing that a person commits the offense of compelling prostitution if the person causes by any means a person with a disability to commit prostitution, which did not appear in the original. The substitute includes a definition of "person with a disability," which did not appear in the original.

The substitute includes provisions that establish the following, which did not appear in the original:

- the limitations period for civil claims for personal injury arising from compelling prostitution by a person with a disability;
- the statute of limitations for presenting an indictment for compelling prostitution by a person with a disability; and
- the duty of a person who has a reportable conviction or adjudication for compelling prostitution by a person with a disability to register under the sex offender registration program.