

- SUBJECT:** Civil liability for the trafficking of persons
- COMMITTEE:** Judiciary and Civil Jurisprudence — committee substitute recommended
- VOTE:** 10 ayes — Hunter, Hughes, Branch, Hartnett, Jackson, Leibowitz, Lewis, Madden, Martinez, Woolley
- 0 nays
- 1 absent — Alonzo
- WITNESSES:** For — Chris Burchell, Texas Anti-Human Trafficking in Person Coalitions; Dennis Mark, Redeemed Ministries; Daniel Werner, Southern Poverty Law Center; (*Registered, but did not testify:* Jennifer Allmon, Texas Catholic Conference, Roman Catholic Bishops; Rebecca Bernhardt and Laura Martin, ACLU of Texas; Katrina Daniels, Bexar County District Attorney's Office; Kim Kotrla, Waco Area Human Trafficking; Maria Martinez, Immigration and Reform Coalition of Texas; Christopher Parrish; Shanthi Ramanathan, Concerned Women for America; Jason Sabo, United Ways of Texas; Aaron Setliff, The Texas Council on Family Violence; Jennifer Solak, Children at Risk; Charley Wilkison, Combined Law Enforcement Associations of Texas)
- Against — None
- On — (*Registered, but did not testify:* Billy Fulton, Department of Public Safety)
- BACKGROUND:** Penal Code, ch. 20A defines the offense of trafficking of persons as:
- knowingly trafficking another person with the intent or knowledge that the trafficked person will engage in forced labor or services; or
  - intentionally or knowingly benefitting from participation in a venture involving trafficking of persons, including receiving labor or services the individual knows are forced.

The penalty for trafficking of persons is a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000), unless the trafficking involves a minor who was forced into prostitution as defined

by Penal Code, sec. 43.02, or the offense resulted in the death of the person who was trafficked, in which case the penalty is a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000).

Civil Practice and Remedies Code, sec. 41.008 limits the amount of exemplary damages an individual may recover, unless the plaintiff seeks recovery of exemplary damages based on offenses such as murder, kidnapping, or sexual assault listed in the statute.

**DIGEST:**

HB 533 would create a civil cause of action to allow victims of human trafficking to sue traffickers for damages. Victims could recover actual damages, including mental anguish, court costs and attorney's fees, and exemplary damages.

The bill would hold any person who intentionally or knowingly benefited from participating in the trafficking of another person jointly liable with any other defendant for the entire amount of damages arising from the trafficking. An acquittal or lack of prosecution under Penal Code, sec. 20A or conviction of a different offense for the conduct giving rise to liability would not be a defense to liability. The bill would allow for liberal construction and application to protect individuals from human trafficking and provide adequate remedies to victims of human trafficking.

Victims would be able to sue for damages in addition to other causes of action provided by common law or statute and would not be limited on amount of recovery under Civil Practice and Remedies Code, sec. 41.008 as the bill would add trafficking of persons to the list of crimes exempted under subsection (c).

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009, and would apply only to causes of action occurring on or after the effective date.

**SUPPORTERS  
SAY:**

HB 533 would create a clear and comprehensive cause of action for victims of human trafficking. The bill would allow victims to pursue their captors civilly and recover damages outside of common law tort remedies. For example, a victim of human trafficking would be able to sue the traffickers jointly and severally rather than proportionally and, under the bill, also could recover court costs and attorney's fees. In addition, the bill

would provide a limited, justified exemption from the statutory cap on punitive damages for civil suits involving victims of human trafficking, just as for other heinous offenses such as murder and kidnapping.

Every year over 800,000 people are trafficked worldwide and between 14,500 and 17,500 men, women, and children are trafficked into the United States from Asia, Central and South America, and Eastern Europe. This does not include the number of individuals trafficked domestically within the United States, such as American teenage runaways. The U.S. State Department reports that 80 percent of those trafficked internationally are female and 50 percent are children. Human trafficking victims are often “hiding in plain sight,” working in hotels, restaurants and private homes, while others are less visible — for example, when forced into the sex trade.

Texas is a major corridor of human trafficking, constituting approximately 20 percent of all human trafficking victims in the United States, with Houston and El Paso listed among the U.S. Department of Justice’s most intense U.S. trafficking areas. The Texas Attorney General’s Office, at the request of the 80th Legislature, studied the issue and released its findings in “The Texas Response to Human Trafficking.” The report offers 21 recommendations intended to reduce human trafficking and improve services to victims.

HB 530 would address one of the attorney general’s recommendations by amending the Civil Practice and Remedies Code to allow victims to recover damages from their captors. Human trafficking is, in effect, modern day slavery. Victims often are forced to work in domestic servitude, sweatshops, agriculture, and the commercial sex trade, including prostitution, exotic dancing, pornography, and live sex-shows. In 2005, the International Labor Organization estimated the income from the sex trafficking industry alone to be over \$200 billion per year.

HB 530 would allow the transfer of the captors’ wealth to the victims. It was the suffering of the victims that generated their wealth. Therefore, the victims should be allowed to recover damages to enable them to get the help and services they need to rebuild their lives.

In addition, the bill would serve as a deterrent because individuals who are indirectly involved in human trafficking would be liable as well. Human trafficking is a complex, very organized, enterprise that includes people

who collect money, drive cars, provide phone numbers at truck stops, manage motel rooms, lease property to traffickers and look the other way. These people make the crime possible, and HB 533 would hold them accountable.

OPPONENTS  
SAY:

No apparent opposition.

NOTES:

The committee substitute added provisions allowing individuals who indirectly benefit from participation in a venture of human trafficking to be held jointly liable with all other defendants, and providing that liability is cumulative of any other remedy. In addition, the committee substitute added provisions exempting civil causes seeking remedies from human traffickers from limits on exemplary damages, allowing court costs, and liberally construing the measure in order to promote the underlying purpose of protecting and providing adequate remedies to victims of human trafficking.