

- SUBJECT:** Criminal and civil consequences for prostitution offenses
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 8 ayes — Gallego, Hartnett, Aliseda, Burkett, Carter, Christian, Y. Davis, Zedler
- 0 nays
- 1 absent — Rodriguez
- WITNESSES:** For — (*Registered, but did not testify:* Katrina Daniels, Bexar County Criminal District Attorney Susan D. Reed; Pete Elizalde, San Antonio Police Officers Association; Dennis Mark, Redeemed Ministries; Diana Martinez, Tex Protects, The Texas Association for the Protection of Children; James Rodriguez, San Antonio Police Officer's Association; Marsha Solana, Catholic Bishops of Texas)
- Against — None
- On — Angela Goodwin, Attorney General's Office
- BACKGROUND:** Sec. 43.02 of the Penal Code governs prostitution, and defines an offender as a person who knowingly offers to engage, agrees to engage, or engages in sexual conduct for a fee. An offender also is one who publically solicits another person to engage together in sexual conduct for hire. The offense is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000)
- Sec. 43.03 governs the promotion of prostitution, a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). The law defines an offender as a person who knowingly receives money or other property for an agreement to participate in the proceeds of prostitution, or if they solicit another person to engage in sexual conduct with a third person for payment.
- Sec. 43.04 governs the aggravated promotion of prostitution, a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000). It defines an offender as one who knowingly owns, invests in,

finances, controls, supervises, or manages a prostitution business that employs two or more prostitutes.

Ch. 62 of the Code of Criminal Procedure governs the Sex Offender Registration Program. Art. 62.001(5) defines a reportable conviction or adjudication as one based on Penal Code violations such as continuous sexual abuse of a young child or children, indecency with a child, sexual assault, compelling prostitution, sexual performance by a child, and possession or promotion of child pornography.

DIGEST:

CSHB would make a prostitution violation a class A misdemeanor if the actor had been convicted of the offense one or two times before. A prostitution violation would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000) if the actor had been convicted of the offense three or more times before. CSHB 36 would make prostitution a third-degree felony for a person who paid or solicited another person under the age of 17 at the time of the offense.

A promotion of prostitution violation would be a state-jail felony if the actor had been convicted of the offense before. The violation would be a third-degree felony if the person who provided prostitution services was younger than 17 at the time of the offense. The violation also would be a third-degree felony for an actor who solicited someone to engage in sexual conduct with a person under 17 years of age.

The bill would create an exception to whether an aggravated promotion of prostitution violation qualified as a third-degree felony. Under CSHB 36, a violation of this type would be a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if any prostitute who was part of the actor's prostitution business was younger than 17 at the time of the offense.

CSHB 36 would include offenses that involved a person under 17 years of age with other reportable convictions or adjudications. The bill would also make those offenses reportable if their elements were substantially similar to the elements of violations under other state, federal, or foreign law, or under the Uniform Code of Military Justice. The only exception would be for a violation that resulted in a deferred adjudication.

The bill would affect only offenses committed on or after its September 1, 2011, effective date.

NOTES:           The companion bill, SB 1314 by Van de Putte, was referred to the Senate Criminal Justice Committee on March 16.