

- SUBJECT:** Increased punishments for promotion of prostitution of children
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 7 ayes — Herrero, Carter, Canales, Leach, Moody, Schaefer, Toth  
0 nays  
2 absent — Burnam, Hughes
- WITNESSES:** For — Dennis Mark, Redeemed Ministries; (*Registered, but did not testify*: Jennifer Allmon, The Texas Catholic Conference, the Roman Catholic Bishops of Texas; Laura Blanke, Texas Pediatric Society; Daniel Earnest, Washington Moscoso, Jimmy Rodriguez, San Antonio Police Officers Association)  
  
Against — None  
  
On — Shannon Edmonds, Texas District and County Attorneys Association; (*Registered, but did not testify*: Corky Schalchin, Department of Public Safety)
- BACKGROUND:** Penal Code, sec. 43.02 makes prostitution a crime. Under sec. 43.02(a), it is a crime to knowingly offer to engage or to engage in sex for a fee and to solicit another in a public place to engage in sex for hire. It is a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the person solicited was 14 to 17 years old and a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the person solicited was younger than 14.  
  
Penal Code, sec. 43.03 makes the promotion of prostitution a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). It is an offense to knowingly receive money or property under an agreement to share in the proceeds of another's prostitution or to solicit someone to engage in sexual conduct with another person for payment.  
  
Penal Code, sec. 43.04 makes the aggravated promotion of prostitution a third-degree felony. It is an offense to knowingly own, invest in, finance, control, supervise, or manage a prostitution enterprise using two or more

prostitutes.

DIGEST:

HB 32 would increase penalties for certain offenses involving the promotion of prostitution and the aggravated promotion of prostitution, and it would require those convicted of certain prostitution, promotion of prostitution, and aggravated promotion of prostitution offenses to register with the state's sex offender registry.

HB 32 would make second and subsequent offenses for the promotion of prostitution offenses state-jail felonies (180 days to two years in a state jail and an optional fine of up to \$10,000) instead of class A misdemeanors.

The promotion of prostitution would be a third-degree felony if the prostitute providing services from which the promoter received money or property was younger than 17 years old or if the promoter solicited another to have sex with a person younger than 17 years old.

HB 32 would increase aggravated promotion of prostitution from a third-degree felony to a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if any prostitute used in the enterprise was younger than 17 at the time of the offense.

HB 32 would require persons convicted of certain prostitution, promotion of prostitution, and aggravated promotion of prostitution offenses to register with the state's sex offender registry.

The bill would impose the requirement to register with the state's sex offender registry for persons convicted of:

- third-degree or second-degree felony prostitution for soliciting sex from another who was younger than 18 years old;
- third-degree felony promotion of prostitution if the person providing prostitution services from which the promoter received money or other property was younger than 17 years old or if the promoter solicited another to have sex with a person younger than 17 years old;
- second-degree felony aggravated promotion of prostitution if any prostitute used in the enterprise was younger than 17 at the time of the offense; and
- similar offenses violating the laws of other states, federal laws, foreign laws, or under the Uniform Code of Military Justice.

The bill would take effect September 1, 2013, and apply only to offenses committed on or after that date.

**SUPPORTERS  
SAY:**

HB 32 is necessary to address the serious problem of human trafficking that involves the prostitution of children, who are the most vulnerable to these horrible crimes. Texas has enacted numerous laws to combat human trafficking, including laws to punish traffickers, protect victims, and create the state's Human Trafficking Prevention Task Force. HB 32 would continue these efforts by enacting narrowly tailored changes to current law to get at pimps and "johns" who exploit children for sex.

While the promotion of prostitution is a crime, the current penalties — especially when children are victimized by being prostituted — are not severe enough to deter and punish these offenders. All promotion of prostitution offenses currently are class A misdemeanors, and aggravated offenses are third-degree felonies. These lower-level punishments are essentially slaps on the wrist and are not in line with the serious, long-lasting harm that can be done when children are used as prostitutes to commit these offenses.

HB 32 would address this problem by targeting with increased criminal penalties those who promote the prostitution of children. Prostitution promotion involving children would be increased from a mere misdemeanor to a third-degree felony. Aggravated promotion of prostitution involving children could be appropriately punished with up to 10 years in prison. All promotion offenses by repeat offenders would become state jail felonies to ensure time in a state-lock up. These longer incarceration times would help protect children by deterring these offenses and keeping predators who commit them off the streets longer.

HB 32 is carefully crafted to apply only to pimps and "johns" who commit sex crimes against children. It would not apply to children who were prostituted.

While some other offenses that carry strong penalties, such as compelling prostitution and human trafficking, could cover some situations contemplated by HB 32, they would not cover all of them. For example, compelling prostitution requires force, threat, or fraud, elements that may not be present or could be difficult to prove in a particular case involving promoting the prostitution of a child. It would be more effective to ensure

that promoting and soliciting children to take part in prostitution was itself punished as a serious offense.

The serious impact of these crimes on individual children warrants increased penalties and justifies the use of any state resources to deal with them. HB 32 would not result in a significant impact on state resources, according to the bill's criminal justice impact statement.

It would be appropriate to require sex offender registration for certain prostitution, promotion of prostitution, and aggravated promotion of prostitution offenses that involve children. The registry is designed to help protect the public by making offender information available online. Persons committing these crimes preyed on a child for sex or promoted them into prostitution and could be a danger to other children, and the public should have access to information about them.

HB 32 would place these offenders in the state's sex offender registry with other, similar offenders such as persons convicted of compelling prostitution and sexual performance by a child. Any problems with the sex offender registry should be dealt with independently of this bill and should not stand in the way of including these offenses in the registry.

**OPPONENTS  
SAY:**

HB 32 is unnecessary because current law properly punishes promotion of prostitution offenses. The Penal Code makes these offenses class A misdemeanors, which can carry up to one year in jail and a \$4,000 fine, and third-degree felonies, which can result in two to 10 years in prison and a \$10,000 fine. Enhancing these offenses, especially from a misdemeanor to a felony, would be an unnecessary leap in punishments that are adequate under current law.

Other offenses with more serious punishments could be used, if appropriate, in these cases if they involved children. For example, compelling prostitution and human trafficking of a child, regardless of whether someone knows the age of the child, are first-degree felonies. The current structure allows punishments to vary for different crimes and allows state resources to be allocated accordingly.

Adding new offenses to the sex offender registry could compound the problems of an overly broad database that includes too many offenders who are not threats to the community and should not be grouped with sexual predators.

NOTES:

HB 8 by S. Thompson, et al., on today's calendar, also would increase penalties for the promotion of prostitution and the aggravated promotion of prostitution involving children and would require persons convicted of certain prostitution offenses to register with the state's sex offender registry.