

- SUBJECT:** Revising laws on human trafficking, prostitution, and related crimes
- COMMITTEE:** State Affairs — favorable, without amendment
- VOTE:** 10 ayes — Cook, Craddick, Farrar, Geren, K. King, Kuempel, Meyer, Paddie, E. Rodriguez, Smithee
- 0 nays
- 3 absent — Giddings, Guillen, Oliveira
- WITNESSES:** For — David Lunan, Bexar County Criminal District Attorney; Brenda Koegler, League of Women Voters of Texas; Esther Goetsch, Truckers Against Trafficking; (*Registered, but did not testify:* Ann Hettinger, Center for the Preservation of American Ideals; Emily Freeborn, Children at Risk; Kathryn Freeman, Christian Life Commission; Rene Lara, Texas AFL-CIO; Joshua Houston, Texas Impact; Les Findeisen, Texas Trucking Association; Jennifer Allmon, The Texas Catholic Conference of Bishops; Trayce Bradford; Tura Cook)
- Against — None
- On — Kirsta Melton, Office of the Attorney General
- BACKGROUND:** The 81st Legislature created the Texas Human Trafficking Prevention Task Force in 2009 through enactment of HB 4009 by Weber. The task force, which is coordinated by the Office of the Attorney General, is a collaborative body composed of state agencies, local law enforcement, district attorneys, and non-governmental organizations that is designed to address human trafficking from multiple perspectives.
- Every two years the task force submits a report with recommendations to the Legislature. The latest report was released in December 2016. The task force is scheduled to expire on September 1, 2017.
- DIGEST:** HB 29 would revise laws on human trafficking, prostitution, and related

crimes. The bill also would modify the composition of the Texas Human Trafficking Prevention Task Force and remove its expiration date of September 1, 2017.

Human trafficking

Civil investigative demand. HB 29 would allow the Office of the Attorney General to pursue a civil investigative demand before beginning a proceeding for civil racketeering related to human trafficking. The bill would provide procedures for service and proof of service, compliance and noncompliance, documentary material, interrogatories, oral examination, disclosure and use of material, jurisdiction, and recovery of investigation costs. Deliberate noncompliance with a civil investigative demand under the bill would be a misdemeanor offense punishable by a fine of not more than \$5,000 and/or up to one year in a county jail. A person served a civil investigative demand could petition for the demand to be set aside or modified.

Training. The bill would direct the Texas Higher Education Coordinating Board to adopt rules requiring public junior colleges offering a commercial driver's license training program to include in the program education on recognition and prevention of human trafficking. The Texas Workforce Commission would have to adopt rules requiring this information to be included in commercial driver's license training programs offered by career schools or colleges. The coordinating board and the commission would work with the attorney general to establish the training content, and both agencies would be required to adopt rules by December 1, 2017.

Sex offender registration. HB 29 would add continuous human sex trafficking that was based wholly or partly on conduct that constituted prostitution or a sexual offense involving a child to the crimes that require registration as a sex offender. Other than for an adjudication of delinquent conduct, lifetime registration would be required.

Prioritized hearings. Offenses involving child sex trafficking would be added to the list of pending matters that the state's trial courts would have to prioritize for hearings and trials.

Prostitution

Penalties for promotion of prostitution. HB 29 would raise the penalty for promotion of prostitution from a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) to a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000). Subsequent convictions would be increased from a state-jail felony to a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000). The bill also would raise the penalty for aggravated promotion of prostitution from a third- to second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000).

Revisions to prostitution offense. HB 29 would make various changes to the statutory definition of prostitution. It also would consolidate and amend two coexisting subsections with conflicting language that provide the penalties for prostitution.

Other provisions

Sex crimes involving children. HB 29 would establish that under certain Penal Code violations related to sex crimes involving children that ignorance about the child's age would be irrelevant to whether an offense was committed.

Compensation for specialized child care. The bill would add specialized care for a child who was a victim to the pecuniary losses for which the attorney general could award compensation under the Crime Victims' Compensation Act.

Reporting child abuse. HB 29 would raise from 13 to 14 the age under which health care professionals could report to appropriate agents certain information on minors who tested positive for STDs that otherwise could not be released under communicable disease reporting laws. The bill would specify that this provision would not affect a person's duty to report child abuse or neglect.

Task force. The bill would add the following entities to the Texas Human Trafficking Prevention Task Force: the Texas Department of Licensing and Regulation, the Office of Court Administration, the Office of the

Secretary of State, and the Texas Commission on Law Enforcement. It also would remove from statute the task force's expiration date of September 1, 2017.

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date and, to the extent of any conflict, would prevail over other bills enacted by the 85th Legislature.

**SUPPORTERS
SAY:**

HB 29 would strengthen the state's continuing efforts to combat human sex trafficking and protect its victims by adopting the Texas Human Trafficking Prevention Task Force's most recent recommendations.

Human trafficking

Civil investigative demand. A civil investigative demand allows the Office of the Attorney General (OAG) to gather civil pre-suit information. The OAG currently has civil investigative demand authority in other actions that have both civil and criminal aspects, such as Medicaid fraud, and HB 29 would give the office this authority over civil racketeering related to human trafficking.

HB 29 would improve the efficacy of civil suits against traffickers. Currently, the OAG first must file suit before obtaining the discovery needed to build a case. Accusations of human trafficking can be damaging to the reputation of a business, and with such serious charges, an opportunity to gather evidence before bringing a suit should exist. HB 29 would allow the state to investigate first and then bring more targeted actions if appropriate. By allowing information to be gathered before a suit was filed, the bill also would prevent suspected traffickers from delaying in providing information with post-suit discovery.

Training. By requiring training on identifying and reporting human trafficking in commercial driver's license programs, HB 29 would help equip thousands of drivers on Texas roads to identify and report human trafficking. At any given time, there are more truck drivers on the roads than law enforcement officers. Truck drivers are the eyes and ears on our nation's highways. They are the group most likely to encounter trafficking

victims, and calls they have made to the national hotline have already led to hundreds of suspected trafficking cases involving thousands of victims, including many minors.

Sex offender registration. HB 29 would fix an inconsistency in the law by requiring those convicted of continuous sex trafficking to register for life as sex offenders. Currently, a person convicted of a single act of sex trafficking is subject to lifetime registration as a sex offender, but those convicted of continuous sex trafficking are not. This loophole allows more grievous offenders to avoid registration.

Prioritized hearings. HB 29 would direct the state's trial courts to prioritize pending cases involving child sex trafficking. Given the vulnerability of children, moving these cases quickly through the court docket is important and would help young victims rebuild their lives.

Prostitution

Penalties for promotion of prostitution. In Texas, the punishment for promotion of prostitution is currently a class A misdemeanor and aggravated promotion of prostitution is a third-degree felony. HB 29 would increase the severity of punishment for these crimes to better correspond to their seriousness. While eliminating prostitution may not be possible, the bill would help deter people from engaging in its more exploitative forms.

Revisions to prostitution offense. HB 29 would clarify ambiguous language in the prostitution statute on the differential penalty structure for buyers and sellers of sex. In 2015, lawmakers enacted two bills amending the prostitution statutes that had conflicting punishment provisions. HB 29 would resolve the conflicting language, providing clarity for prosecutors while fulfilling the original intent of the 84th Legislature. The bill also would clarify the definition of prostitution related to the payment and receipt of a fee in exchange for sexual conduct.

Other provisions

Sex crimes involving children. Texas courts historically have interpreted child sex abuse offenses to mean that if defendants have engaged in sexual conduct with a child, they are guilty of the conduct regardless of whether they knew the child's age. HB 29 would codify this interpretation, reducing confusion for juries.

Compensation for specialized child care. The bill would provide that specialized care for a child was a pecuniary loss reimbursable under the Crime Victims' Compensation Act. Children who have been trafficked often face difficulty finding safe, appropriate placement with specialized care. HB 29 would help vulnerable children by recognizing the needs they may have due to the trauma they have experienced.

Reporting child abuse. HB 29 would help protect child victims of sexual abuse by raising from 13 to 14 the age under which health care professionals could release certain information about potential child abuse to law enforcement or other appropriate agents under Family Code requirements. If a child has an STD, it is likely that that it came from sexual contact with an adult. While information about a minor under 13 with an STD generally may not be released by health care professionals, the bill would clarify that they still had a duty to report suspected child abuse to appropriate agents when a minor tested positive for an STD.

Task force. The membership of the Human Trafficking Prevention Task Force should reflect its expanding work. HB 29 would add members to the task force who already are working on human trafficking issues. This would improve collaboration and effectiveness.

The bill also would allow the task force to engage in longer-term planning by removing its expiration date. The task force's ability to plan is complicated by the requirement that it continuously must be renewed in statute. To help the state provide a more strategic approach to trafficking, the task force should become a permanent entity.

OPPONENTS
SAY:

Civil investigative demand. HB 29 would make deliberate noncompliance with a civil investigative demand a misdemeanor punishable by a fine of not more than \$5,000. HB 29 should make deliberate noncompliance a

class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

Reporting child abuse. HB 29 would not go far enough to protect children who may be identified by state health workers as victims of abuse. If a child under the age of consent tests positive for STDs, this may be evidence of sexual abuse by an adult. The bill should raise to 18 years old the age under which health care workers could report to appropriate agents information about a minor with an STD that otherwise could not be released, not an arbitrary age such as 14.

OTHER
OPPONENTS
SAY:

HB 29 would not make much of a difference in the long run in addressing human trafficking. The challenge in Texas is not enforcement; it is the state not providing sufficient resources to help victims. Until the state starts funding housing and rehabilitative services to get victims the help they need and off the streets, it will never seriously address the problem.

NOTES:

A companion bill, SB 1569 by Huffman, was referred to the Senate Committee on Criminal Justice on March 21.