

SUBJECT: Allowing attorney general prosecutions of human trafficking crimes

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Collier, Zedler, K. Bell, Hunter, P. King, Murr

3 nays — J. González, Moody, Pacheco

SENATE VOTE: On final passage, April 17 — 28-3 (Hancock, Nichols, Watson), on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 3979:*

For — Jodie Webb, Colors Of Hope; Amber Wersonske, POETIC; Steven Phenix, The Refuge for DMST (Domestic Minor Sex Trafficking), AKA The Refuge Ranch; Christie Messinger Matthews; Bonnie Thomas; (*Registered, but did not testify:* Jim Baxa; Trayce Bradford; Elva Mendoza)

Against — Jennifer Tharp, Comal County Criminal District Attorney; Amy Derrick, Dallas County District Attorney; Jaime Esparza, District Attorney, 34th District; Brett Ligon, Montgomery County District Attorney; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Margaret Moore, Travis County District Attorney's Office; (*Registered, but did not testify:* Kent Birdsong, Oldham County Attorney's Office; Pete Gallego, Bexar County Criminal District Attorney's Office, Christian Henriksen, Bexar County District Attorney's Office; John Hubert, Kleberg and Kenedy Counties District Attorney's Office; Philip Kazen; Bexar County District Attorney's Office; Randall Sims, 47th District Attorney's Office; M. Paige Williams, Dallas County Criminal District Attorney John Creuzot; Patrick Wilson, Ellis County District Attorney's Office; Idona Griffith)

On — Kirsta Melton, Office of the Attorney General; David Slayton, Office of Court Administration; (*Registered, but did not testify:* Johna M. Stallings, Harris County District Attorney)

DIGEST:

CSSB 1257 would give the attorney general jurisdiction to prosecute certain human trafficking and related offenses and would require state agencies investigating human trafficking offenses to forward information about those investigations to local prosecutors and the attorney general.

The bill would give the attorney general authority to prosecute human trafficking offenses if the offense or any element of it occurred in more than one Texas county or occurred in a Texas county as well as in another state or country. The attorney general also could prosecute any other offense that occurred in Texas and arose out of the same criminal episode as a human trafficking offense.

The bill would give the attorney general the ability to prosecute human trafficking and related offenses that occurred in a single jurisdiction if the local prosecutor first refused prosecution. Within 30 days of the date a local county or district attorney became aware of a potential human trafficking offense, the prosecutor would have to notify the attorney general in writing of the offense. The notice would have to describe the conduct and describe or identify each person suspected of the conduct.

If a local county or district attorney determined that the office would not pursue a criminal investigation or prosecution in the case, the prosecutor would have to notify the attorney general within 30 days of the determination. The attorney general then could begin a criminal investigation and could prosecute any human trafficking offense and any other offense that arose out of the same criminal episode.

The provisions relating to jurisdiction would expire September 1, 2031.

State agencies that investigated human trafficking would have to forward copies of each offense report prepared in the investigation and all other case information to the appropriate local county or district attorney and the attorney general.

If a defendant committed a human trafficking offense that was part of a criminal episode, all the offenses arising out of that criminal episode could

be prosecuted in any county that had venue over one of the offenses.

The bill would take effect September 1, 2019, and would apply only to investigations and prosecutions of offenses committed on or after that date.

**SUPPORTERS
SAY:**

CSSB 1257 would strengthen Texas' efforts to combat human trafficking by ensuring all state and local resources were brought to bear in these cases. Human trafficking is prevalent in the state, and statistics show a large number of trafficking victims. The Office of the Attorney General has a Human Trafficking and Transnational Organized Crime section, as well as experience in a wide variety of legal matters and enforcement powers and jurisdiction over certain matters, and the bill would take advantage of this expertise and these resources to combat this horrific crime.

The jurisdictional authority granted to the attorney general would help ensure that all cases were fully investigated and prosecuted and help bring statewide, uniform enforcement of laws. The bill would give the attorney general concurrent jurisdiction in multi-jurisdictional cases because cases that cross county lines can be especially complicated and could require resources and expertise not found in every county. The attorney general could be the most efficient and effective way to handle such cases. CSSB 1257 would not foster a race to the courthouse or other conflicts because the goal of the bill and the attorney general would be to encourage cooperation and the handling of all cases appropriately. This approach could ease victims' trauma by having prosecution in one county rather than multiple locations.

CSSB 1257 would not erode local prosecutors' authority in single-jurisdiction cases. The attorney general could prosecute these cases only after a local prosecutor declined to go forward. In such cases, the attorney general would be able to step in, ensuring all cases were thoroughly considered for prosecution. Like local prosecutors, the attorney general is accountable to voters and has experience working with law enforcement authorities and groups offering community services. Cases taken by the

attorney general would proceed as independent cases going through a grand jury and would not involve local prosecutors potentially being called as witnesses for the defense. This does not occur now in similar situations, and there is no reason it would occur under CSSB 1257.

The authority given to the attorney general to prosecute related offenses is necessary to ensure that the attorney general has the flexibility to handle cases with the most appropriate charges, just as local prosecutors do.

CSSB 1257 would impose an expiration date of 2031 on the jurisdictional provisions in CSSB 1257 so the process could be evaluated by the Legislature.

OPPONENTS
SAY:

CSSB 1257 is unnecessary and could create conflicts in the prosecution of human trafficking and related cases. The current system effectively uses both local and state resources to combat human trafficking and to bring justice for survivors.

Local prosecutors are committed to combating human trafficking and are handling cases appropriately now. Human trafficking cases brought by police and other law enforcement authorities to prosecutors are going forward in several ways, including as prosecutions for human trafficking offenses, other serious crimes, or in the federal system. Statistics showing the number of human trafficking convictions fail to take into account these options, which might include charges such as sexual assault, kidnapping, or money laundering that were easier to prove than trafficking or carried penalties that were as severe or more severe.

Local elected prosecutors are the appropriate gatekeepers for decisions about criminal prosecutions. Local prosecutors are part of the judicial branch, accountable to voters, and charged under the Constitution with handling criminal prosecutions. The attorney general is part of the executive branch, and under the current system, the attorney general is involved in trafficking cases when appropriate. Local prosecutors have authority to ask for assistance from the attorney general, and that model fosters collaboration without violating separation of powers provisions.

Local prosecutors are in the best position to understand a case and to decide when such assistance is required. Local prosecutors also work closely with local law enforcement agencies and are present in the community that can provide services to survivors.

The jurisdiction granted to the attorney general if a local prosecutor declined a prosecution would be too broad. CSSB 1257 would allow the attorney general to prosecute not only trafficking offenses but also any offense arising out of the same criminal episode. This could involve a wide range of offenses such as drug, weapon, and fraud offenses and could lead to further expansion of the attorney general's prosecutorial authority.

Authority given to the attorney general in multijurisdictional cases would be too far-reaching and could result in conflicts with local prosecutors, including those with multicounty jurisdiction. The authority given to the attorney general would not require consent of local prosecutors, and a race to the courthouse could occur. Other conflicts could occur if the attorney general went forward with a prosecution, and the defense could want the local prosecutor potentially as a witness to determine why the prosecution did not occur at the local level.

OTHER
OPPONENTS
SAY:

Efforts to combat human trafficking could be bolstered by increasing resources for police, sheriffs, and others to investigate crimes. In some instances, this may be where efforts are lacking, not in prosecutions.