

BILL ANALYSIS

Senate Research Center

H.B. 533
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State Affairs
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Human trafficking is the illegal trade in human beings and is considered a form of modern-day slavery. The U.S. Department of State estimates that between 18,000 and 20,000 victims are trafficked into the United States annually. Since 2001, more than 20 percent of the total identified victims nationwide have been located in Texas, according to the Texas Association Against Sexual Assault. Language barriers, torture, beatings, and threats of retaliation against family members are only a few of the methods human traffickers use to silence their victims. Moreover, victims of human trafficking are typically told by their captors that police are the enemy and that, if caught, they will be deported.

This legislation allows a victim of human trafficking to hold a trafficker liable in a civil court for damages arising from the trafficking of that person by the defendant or venture. The bill provides that it is not a defense to liability that a defendant has been acquitted or has not been prosecuted or convicted, or has been convicted of a different offense or of a different type or class of offense, for the conduct that is alleged to give rise to liability. The bill allows a plaintiff who prevails in a civil suit to recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown. The bill provides that a plaintiff who prevails in a civil suit against the defendant may recover exemplary damages and reasonable attorney's fees.

H.B. 533 relates to civil liability for the trafficking of persons.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Title 4, Civil Practice and Remedies Code, by adding Chapter 98, as follows:

CHAPTER 98. LIABILITY FOR TRAFFICKING OF PERSONS

Sec. 98.001. DEFINITION. Defines "trafficking of persons" in this chapter.

Sec. 98.002. LIABILITY. (a) Provides that a defendant who engages in the trafficking of persons or who intentionally or knowingly benefits from participating in a venture that traffics another person is liable to the person trafficked, as provided by this chapter, for damages arising from the trafficking of that person by the defendant or venture.

(b) Provides that it is not a defense to liability under this chapter that a defendant has been acquitted or has not been prosecuted or convicted under Chapter 20A (Trafficking of Persons), Penal Code, or has been convicted of a different offense or of a different type or class of offense, for the conduct that is alleged to give rise to liability under this chapter.

Sec. 98.003. DAMAGES. (a) Requires a claimant who prevails in a suit under this chapter to be awarded actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown, court costs, and reasonable attorney's fees.

(b) Authorizes a claimant who prevails in a suit under this chapter, in addition to an award under Subsection (a), to recover exemplary damages.

Sec. 98.004. CAUSE OF ACTION CUMULATIVE. Provides that the cause of action created by this chapter is cumulative of any other remedy provided by common law or statute.

Sec. 98.005. JOINT AND SEVERAL LIABILITY. Provides that a person who engages in the trafficking of persons or who intentionally or knowingly benefits from participating in a venture that traffics another person and is found liable under this chapter or other law for any damages arising from the trafficking is jointly liable with any other defendant for the entire amount of damages arising from the trafficking.

Sec. 98.006. LIBERAL CONSTRUCTION AND APPLICATION. Requires that this chapter be liberally construed and applied to promote its underlying purpose to protect persons from human trafficking and provide adequate remedies to victims of human trafficking.

SECTION 2. Amends Section 41.008(c), Civil Practice and Remedies Code, to provide that this section does not apply to a cause of action against a defendant from whom a plaintiff seeks recovery of exemplary damages based on conduct described as a felony in certain sections, including Chapter 20A, of the Penal Code, if, except for Sections 49.07 (Intoxication Assault) and 49.08 (Intoxication Manslaughter), the conduct was committed knowingly or intentionally.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: upon passage or September 1, 2009.