

BILL ANALYSIS

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S.B. 89
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently there is a lack of a statewide, interstate, or federal taskforce to prevent and combat human trafficking. There is also a lack of public awareness, as well as formal training or education within law enforcement, medical professionals, attorneys, and judges. Law enforcement and non-government entities, which are on the frontline of combating human trafficking, lack adequate funding and resources.

Many underage prostitutes do not receive proper care, attention and/or legal defense. There is also no separation between human trafficking for sexual purposes and labor purposes, or between the trafficking of children and adults, which is inconsistent with federal statute.

As proposed, S.B. 89 creates the Texas Human Trafficking Prevention Taskforce and requires peace officers to receive education and training regarding human trafficking. S.B. 89 also creates the Trafficking of Persons Investigation and Prosecution Account in the General Revenue Fund to provide funding for law enforcement and non-governmental efforts to combat human trafficking. The bill provides for a study to evaluate alternatives to the juvenile justice program for children who engage in acts of prostitution, and increases protection for minors who are victims of compelling prostitution as well as human trafficking by redefining a minor from a person 16 years of age and under to a person 17 years of age and under. S.B. 89 changes current statute concerning human trafficking to mirror federal legislation, which currently distinguishes between sex and labor trafficking as well as the trafficking of a child and that of an adult.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Law Enforcement Officer Standards and Education in SECTION 4 (Section 1701.258, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 402, Government Code, by adding Section 402.035, as follows:

Sec. 402.035. HUMAN TRAFFICKING PREVENTION TASK FORCE. (a) Defines "task force."

(b) Requires the office of the attorney general to establish the human trafficking prevention task force to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes.

(c) Provides that the task force is composed of:

(1) the attorney general or the attorney general's designee;

(2) the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee;

(3) the commissioner of the Department of Family and Protective Services or the commissioner's designee;

(4) the public safety director of the Department of Public Safety or the director's designee; and

(5) as appointed by the attorney general: a public defender, as defined by Article 26.044 (Public Defender), Code of Criminal Procedure; an attorney representing the state; representatives of local law enforcement agencies affected by human trafficking; and representatives of nongovernmental entities making comprehensive efforts to combat human trafficking by performing certain actions.

(d) Requires the task force to:

(1) collaborate with United States attorneys for the districts of Texas and special agents, customs and border protection officers, and border patrol agents of the United States Department of Homeland Security as needed to fulfill the duties of the task force;

(2) collect and organize data on the nature and extent of human trafficking in Texas;

(3) develop and conduct training for law enforcement personnel and victim service providers to identify victims of human trafficking;

(4) on the request of certain judges or attorneys, assist and train the judge or the judge's staff or the attorney or the attorney's staff in the recognition and prevention of human trafficking;

(5) examine training protocols related to human trafficking issues, as developed and implemented by federal, state, and local law enforcement agencies;

(6) implement a media awareness campaign in communities affected by human trafficking; and

(7) develop recommendations on how to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, and prosecute human trafficking offenders.

(e) Provides that the attorney general or the attorney general's designee is the presiding officer of the task force.

(f) Requires the office of the attorney general to supervise the administration of the task force and provide the necessary staff and facilities to assist the task force in performing its duties.

(g) Requires the task force to submit a report regarding the task force's activities, findings, and recommendations, including any proposed legislation, to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 1 of each even-numbered year.

(h) Provides that this section expires September 1, 2013.

SECTION 2. Amends Section 772.006, Government Code, by adding Subsections (d)-(f), as follows:

(d) Creates the trafficking of persons investigation and prosecution account (account) in the general revenue fund. Provides that the account is composed of legislative appropriations and other money required by law to be deposited in the account. Requires that income from money in the account be credited to the account. Provides that Sections 403.095 (Use of Dedicated Revenue) and 404.071 (Disposition of Interest on Investments) do not apply to the account.

(e) Authorizes the legislature to appropriate money from the account created under Subsection (d) only to the governor's criminal justice division (division)(established under Section 772.006, Government Code) for the purposes of this subsection. Authorizes the division to use the appropriated money solely to distribute grants to counties and nongovernmental organizations that apply for the grants and meet other certain requirements.

(f) Prohibits the total amount of grants that may be distributed to counties and nongovernmental organizations from the account during each state fiscal year from exceeding \$10 million.

SECTION 3. Amends Subchapter C, Chapter 141, Human Resources Code, by adding Section 141.056, as follows:

Sec. 141.056. STUDY OF ALTERNATIVES TO JUVENILE JUSTICE SYSTEM FOR CHILDREN WHO ENGAGE IN ACTS OF PROSTITUTION. (a) Requires the executive director (director) of the Texas Juvenile Probation Commission (TJPC) to establish a committee to evaluate certain alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution.

(b) Requires the director of TJPC to determine the size of the committee. Requires the committee to be composed of:

(1) members of TJPC, the Texas Youth Commission (TYC), and other relevant state agencies as determined by the director;

(2) members of the legislature;

(3) members of nongovernmental organizations that provide programs and services to combat and prevent trafficking of persons as described by Sections 20A.02 (Trafficking of Persons), 20A.03, or 20A.04, Penal Code; and

(4) other juvenile justice experts.

(c) Requires the committee, not later than January 1, 2011, to prepare and deliver to each member of the legislature a report that includes the results of the study and recommendations for alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution.

(d) Provides that this section expires June 1, 2011.

SECTION 4. Amends Subchapter F, Chapter 1701, Occupations Code, by adding Section 1701.258, as follows:

Sec. 1701.258. EDUCATION AND TRAINING PROGRAMS ON TRAFFICKING OF PERSONS. (a) Requires the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE), by rule, to require an officer first licensed by TCLEOSE on or after January 1, 2011, to complete within a reasonable time after obtaining the license a one-time basic education and training program on the trafficking of persons. Requires the program to consist of at least four hours of training and include a review of Sections 20A.02, 20A.03, 20A.04, and 43.05 (Compelling Prostitution), Penal Code .

(b) Requires TCLEOSE to make available to each officer a voluntary advanced education, instruction, and training program on the trafficking of persons, sex trafficking, and compelling prostitution under Sections 20A.02, 20A.03, 20A.04, and 43.05, Penal Code.

(c) Requires TCLEOSE to begin offering the basic and advanced programs established under this section not later than January 1, 2011. Provides that this subsection expires September 1, 2011.

SECTION 5. Amends Section 1701.402, Occupations Code, by adding Subsection (h), to require an officer to complete the basic education and training program on the trafficking of persons described by Section 1701.258(a) as a requirement for an intermediate or advanced proficiency certificate issued by TCLEOSE on or after January 1, 2011.

SECTION 6. Amends Section 20A.01(1), Penal Code, to redefine "forced labor or services."

SECTION 7. Amends Chapter 20A, Penal Code, by amending Section 20A.02 and adding Sections 20A.03, 20A.04, and 20A.05, as follows:

Sec. 20A.02. **TRAFFICKING OF PERSONS.** (a) Provides that a person commits an offense if the person knowingly traffics another person with the intent or knowledge that the trafficked person will engage in forced labor or services, other than forced labor or services constituting an offense under Section 43.02. Makes conforming changes.

(b) Provides that an offense under this section is a felony of the first degree if the commission of the offense results in the death of a person who is trafficked. Deletes existing text providing that an offense under this section is a felony of the first degree if the applicable conduct constitutes an offense under Section 43.02 and the person who is trafficked is younger than 18 years of age at the time of the offense. Deletes existing Subsection (c), which provided that conduct constituting an offense under this section and another section of this code may be prosecuted under either section or both sections. Makes conforming and nonsubstantive changes.

Sec. 20A.03. **SEX TRAFFICKING OF AN ADULT.** (a) Provides that a person commits an offense if the person knowingly traffics another person who is 18 years of age or older, with the intent or knowledge that the trafficked person will engage in forced labor or services constituting an offense under Section 43.02, or benefits from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services.

(b) Provides that an offense under this section is a felony of the second degree.

Sec. 20A.04. **SEX TRAFFICKING OF A CHILD.** (a) Defines "child."

(b) Provides that a person commits an offense if the person, regardless of whether the person knows the age of the child at the time the person commits the offense, knowingly traffics the child with the intent or knowledge that the child will engage in conduct constituting an offense under Section 43.02 or 43.25 (Sexual Performance by a Child), or benefits from participating in a venture that involves an activity described by this subsection.

(c) Provides that an offense under this section is a felony of the first degree.

Sec. 20A.05. **PROSECUTION OF CONDUCT CONSTITUTING SEPARATE OFFENSE.** Authorizes prosecution of the actor under this chapter, the other section of this code, or both, if conduct constituting an offense under this chapter also constitutes an offense under another section of this code.

SECTION 8. Amends Section 43.02, Penal Code, by adding Subsections (d) and (e), as follows:

(d) Provides that it is an exception to the application of this section that the actor was younger than 18 years of age at the time of the offense.

(e) Provides that it is a defense to prosecution under this section that the actor engaged in the conduct that constitutes the offense because the actor was the victim of conduct that constitutes an offense under Section 20A.03.

SECTION 9. Amends Section 43.05, Penal Code, as follows:

Sec. 43.05 COMPELLING PROSTITUTION. (a) Provides that a person commits an offense if the person knowingly causes by any means a person younger than 18 years, rather than 17 years, to commit prostitution, regardless of whether the actor knows the age of the person at the time the actor commits the offense.

(b) Provides that an offense under Subsection (a)(1), rather than this section, is a felony of the second degree and that an offense under Subsection (a)(2) is a felony of the first degree.

SECTION 10. (a) Requires the office of the attorney general to establish the human trafficking prevention task force as required by Section 402.035, Government Code, as added by this Act, not later than December 1, 2009.

(b) Requires the director of TJPC, not later than October 1, 2009, to establish a committee to evaluate alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution, as required by Section 141.056, Human Resources Code, as added by this Act.

(c) Requires TCLEOSE to adopt the rules necessary to implement Section 1701.258, Occupations Code, as added by this Act, not later than December 1, 2010.

(d) Makes application of the changes to Chapters 20(A) and 43, Penal Code, in this Act prospective.

SECTION 11. Effective date: September 1, 2009.