

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 89
By: Van de Putte et al.
Criminal Justice
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Committee Report (Substituted)

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.

C.S.S.B. 89 amends current law relating to the prosecution, punishment, and prevention of offenses involving trafficking of persons or certain forced or sex-based labor or services, law enforcement training relating to the trafficking of persons, and the creation of the trafficking of persons investigation and prosecution account in the general revenue fund.

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 governor or the governor's designee;
- (2) the attorney general or the attorney general's designee;
- (3) the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee;
- (4) the commissioner of the Department of Family and Protective Services or the commissioner's designee;
- (5) the public safety director of the Department of Public Safety or the director's designee; and

(6) one representative from each of the following state agencies, appointed by the chief administrative officer of the respective agency: the Texas Workforce Commission, the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, and the Texas Alcoholic Beverage Commission; and

(7) 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; a representative of a hotel and motel association, a district and county attorneys association, and a state police association; representatives of sheriff's departments; 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, as needed to fulfill the duties of the task force, with United States attorneys for the districts of Texas and special agents, or customs and border protection officers, and border patrol agents of the Federal Bureau of Investigation, the United States Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the United States Immigration and Customs Enforcement Agency, or the United States Department of Homeland Security;

(2) collect, organize, and periodically publish statistical data on the nature and extent of human trafficking in this state;

(3) solicit cooperation and assistance from state and local governmental agencies, political subdivisions of the state, nongovernmental organizations, and other persons, as appropriate, for the purpose of collecting and organizing statistical data under Subdivision (2);

(4) ensure that each state or local governmental agency and political subdivision of the state that assists in the prevention of human trafficking collects statistical data related to human trafficking, including, as appropriate the number of investigations concerning, arrests and prosecutions for, and convictions of certain offenses; demographic information on persons who are convicted of offenses described by Paragraph (A) (relating to the number of investigations concerning certain offenses) and persons who are the victims of those offenses; geographic routes by which human trafficking victims are trafficked and geographic patterns in human trafficking, including the country or state of origin and the country or state of destination; means of transportation and methods used by persons who engage in trafficking to transport their victims; and social and economic factors that create a demand for the labor or services that victims of human trafficking are forced to provide;

(5) work with the Commission on Law Enforcement Officer Standards and Education to develop and conduct training for law enforcement personnel, victim service providers, and medical service providers to identify victims of human trafficking;

(6) 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;

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

(8) collaborate with state and local governmental agencies, political subdivisions of the state, and nongovernmental organizations to implement a media awareness campaign in communities affected by human trafficking; and

(9) 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 legislature 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 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 and compelling prostitution under Sections 20A.02 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 Sections 20A.02(a) and (b), Penal Code, as follows:

(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 or benefits from, rather than intentionally and knowingly benefits from, participating in a certain venture.

(b) Provides that an offense under this section is a felony of the first degree if the applicable conduct constitutes an offense under Section 43.05 or 43.25 (Sexual Performance by a Child), rather than Section 43.02, and the person who is trafficked is a child younger than 18 years of age at the time of the offense, regardless of whether the actor knows the age of the child at the time the actor commits the offense, or the commission of the offense results in the death of a person who is trafficked.

SECTION 7. Amends Section 43.02, Penal Code, by adding Subsection (d), as follows:

(d) 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.02.

SECTION 8. Amends Section 43.05(a), Penal Code, as follows:

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

SECTION 9. (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 Sections 20A.02, 43.02, and 43.05, Penal Code, in this Act prospective.

SECTION 10. Provides that this Act does not make an appropriation. Provides that this Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

SECTION 11. Effective date: September 1, 2009.