

BILL ANALYSIS

Senate Research Center

H.B. 2014
By: Thompson et al. (Van de Putte)
Criminal Justice
4/30/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 2014 is the other half of the legislative recommendations in the 2011 Human Trafficking Prevention Task Force Report that identifies legislative changes that will push the state forward in its efforts to combat human trafficking. All of the sections in this bill were approved by the 47 task force members.

S.B. 24, containing the first half of the legislative recommendations in the report, already passed both chambers and was signed by the governor.

H.B. 2014 amends current law relating to certain criminal and civil consequences of trafficking of persons, compelling prostitution, and certain other related criminal offenses and to the prevention, prosecution, and punishment of those offenses.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

ARTICLE 1. CHANGES RELATING TO ALCOHOLIC BEVERAGE CODE

SECTION 1.01. Amends Section 11.44(b), Alcoholic Beverage Code, to require the Texas Alcoholic Beverage Commission (TABC) or administrator to refuse to issue for a period of three years a permit or license for any location to an applicant who submitted a prior application that expired or was voluntarily surrendered before the hearing on the application was held on a protest involving allegations of prostitution, a shooting, stabbing, or other violent act, or an offense involving drugs or trafficking of persons.

SECTION 1.02. Amends Section 11.46(c), Alcoholic Beverage Code, to require TABC or administrator to refuse to issue for a period of one year after cancellation a mixed beverage permit or private club registration permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of a shooting, stabbing, or other violent act, or as a result of an offense involving drugs, prostitution, or trafficking of persons.

SECTION 1.03. Amends Section 11.64(a), Alcoholic Beverage Code, to make a conforming change.

SECTION 1.04. Amends Section 61.42(c), Alcoholic Beverage Code, to make a conforming change.

ARTICLE 2. CHANGES RELATING TO CODE OF CRIMINAL PROCEDURE

SECTION 2.01. Amends Article 17.153(a), Code of Criminal Procedure, to provide that this article applies to a defendant charged with a felony offense under certain provisions of the Penal Code, if committed against a child younger than 14 years of age, including Section 20A.02 (Trafficking of Persons), if the defendant is alleged to have trafficked the child with the intent or knowledge that the child would engage in sexual conduct, as defined by Section 43.25 (Sexual

Performance by a Child), Penal Code; or benefited from participating in a venture that involved a trafficked child engaging in sexual conduct, as defined by Section 43.25, Penal Code; or Section 43.05(a)(2) (relating to providing that a person commits an offense if the person knowingly causes by any means a child younger than 18 years to commit prostitution). Makes a nonsubstantive change.

SECTION 2.02. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.0372, as follows:

Art. 42.0372. MANDATORY RESTITUTION FOR CHILD VICTIMS OF TRAFFICKING OF PERSONS OR COMPELLING PROSTITUTION. (a) Requires the court to order a defendant convicted of an offense under Section 20A.02 or 43.05(a)(2), Penal Code, to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for any victim of the offense who is younger than 18 years of age.

(b) Requires the court to, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (a) the manner in which the defendant must pay the restitution.

(c) Authorizes a restitution order issued under Subsection (a) to be enforced by the state, or by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

(d) Authorizes the court to hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (a) if the defendant fails to pay the victim named in the order in the manner specified by the court.

SECTION 2.03. Amends Section 13B(b), Article 42.12, Code of Criminal Procedure, as follows:

(b) Provides that this section applies to a defendant placed on community supervision for certain offenses, including for an offense under Section 43.05(a)(2), Penal Code; and under Section 20A.02, Penal Code, if the defendant trafficked the victim with the intent or knowledge that the victim would engage in sexual conduct, as defined by Section 43.25, Penal Code; or benefited from participating in a venture that involved a trafficked victim engaging in sexual conduct, as defined by Section 43.25, Penal Code. Makes nonsubstantive changes.

SECTION 2.04. Amends Section 19(e), Article 42.12, Code of Criminal Procedure, to require a judge, if the judge grants community supervision to a defendant convicted of an offense under certain sections of the Penal Code, including Section 43.05(a)(2); and under Section 20A.02, Penal Code, if the defendant committed the offense in the manner described by Section 13B(b)(5), regardless of the age of the victim of the offense, to require as a condition of community supervision that the defendant pay to the community corrections and supervision department officer supervising the defendant a community supervision fee of \$5 each month during the period of community supervision.

SECTION 2.05. Reenacts Article 59.01(2), Code of Criminal Procedure, as amended by Chapters 153 (S.B. 2225), 1130 (H.B. 2086), and 1357 (S.B. 554), Acts of the 81st Legislature, Regular Session, 2009, and amends it to redefine "contraband."

SECTION 2.06. Amends Article 60.051(g), Code of Criminal Procedure, to require that information in the computerized criminal history system, in addition to the information described by Subsections (a)-(f), include the age of the victim of the offense if the defendant was arrested for or charged with an offense under certain sections of the Penal Code, including Section 20A.02, Penal Code, if the defendant trafficked a person with the intent or knowledge that the person would engage in sexual conduct, as defined by Section 43.25, Penal Code, or benefited from participating in a venture that involved a trafficked person engaging in sexual conduct, as defined by Section 43.25, Penal Code; and Section 43.05(a)(2).

SECTION 2.07. Amends the heading to Article 102.0186, Code of Criminal Procedure, to read as follows:

Art. 102.0186. ADDITIONAL COSTS ATTENDANT TO CERTAIN SEXUAL OFFENSES COMMITTED AGAINST CHILDREN.

SECTION 2.08. Amends Article 102.0186(a), Code of Criminal Procedure, to require a person convicted of an offense under certain provisions of the Penal Code to pay \$100 on conviction, including Sections 43.05(a)(2), and 43.26; and Section 20A.02 if the defendant trafficked a person younger than 18 years of age with the intent or knowledge that the person would engage in sexual conduct, as defined by Section 43.25, Penal Code, or benefited from participating in a venture that involved a trafficked person younger than 18 years of age engaging in sexual conduct, as defined by Section 43.25, Penal Code. Makes nonsubstantive changes.

SECTION 2.09. Amends Subchapter A, Chapter 102, Code of Criminal Procedure, by adding Article 102.0187, as follows:

Art. 102.0187. ADDITIONAL COSTS ATTENDANT TO CERTAIN TRAFFICKING OF PERSONS AND COMPELLING PROSTITUTION CONVICTIONS. (a) Requires a person convicted of an offense under Section 20A.02 or 43.05, Penal Code, to pay \$100 on conviction of the offense.

(b) Provides that costs imposed under this article are imposed without regard to whether the defendant is placed on community supervision after being convicted of the offense or receives deferred adjudication for the offense.

(c) Provides that court costs under this article are collected in the same manner as other fines or costs. Requires an officer collecting the costs to keep separate records of the money collected as costs under this article and to deposit the money in the county treasury.

(d) Requires the custodian of a county treasury to:

(1) keep records of the amount of money on deposit collected under this article;

(2) send to the comptroller of public accounts (comptroller), before the last day of the first month following each calendar quarter, 50 percent of the money collected under this article during the preceding quarter; and

(3) deposit the remaining 50 percent of the money collected under this article during the preceding quarter in a trafficking of persons and compelling prostitution prevention fund to be used only to pay for programs related to the prevention of offenses involving the trafficking of persons or compelling prostitution that are operated in the county in which the court is located.

(e) Requires that the trafficking of persons and compelling prostitution prevention fund be administered by or under the direction of the commissioners court.

ARTICLE 3. CHANGES RELATING TO GOVERNMENT CODE

SECTION 3.01. Amends Subchapter C, Chapter 71, Government Code, by adding Section 71.0353, as follows:

Sec. 71.0353. TRAFFICKING OF PERSONS INFORMATION. Requires a district court or county court at law, as a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System, to report the number of cases filed for the following offenses:

- (1) trafficking of persons under Section 20A.02, Penal Code;
- (2) prostitution under Section 43.02 (Prostitution), Penal Code; and
- (3) compelling prostitution under Section 43.05, Penal Code.

SECTION 3.02. Amends Subchapter B, Chapter 102, Government Code, by adding Section 102.0219, as follows:

Sec. 102.0219. ADDITIONAL COURT COSTS: CODE OF CRIMINAL PROCEDURE. Requires a defendant who is convicted of an offense under Section 20A.02 or 43.05, Penal Code, to pay a cost on conviction, in addition to all other costs, to help fund the prevention of offenses involving the trafficking of persons or compelling prostitution (Art. 102.0187, Code of Criminal Procedure) . . . \$100.

SECTION 3.03. Amends Section 411.042(b), Government Code, to require the bureau of identification and records (bureau) to perform certain functions, including collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including information that enables the bureau to create a statistical breakdown of offenses in which family violence was involved; offenses under Sections 22.011 (Sexual Assault) and 22.021 (Aggravated Sexual Assault), Penal Code; and offenses under Sections 20A.02 and 43.05, Penal Code. Deletes existing text relating to a statistical breakdown of offenses under Sections 22.011 and 22.021.

SECTION 3.04. Amends Section 508.187(a), Government Code, to provide that this section applies only to a releasee serving a sentence for an offense under certain sections of the Penal Code, including Section 43.05(a)(2), Penal Code, and Section 20A.02, Penal Code, if the defendant trafficked the victim with the intent or knowledge that the victim would engage in sexual conduct, as defined by Section 43.25, Penal Code; or benefited from participating in a venture that involved a trafficked victim engaging in sexual conduct, as defined by Section 43.25, Penal Code. Makes a nonsubstantive change.

SECTION 3.05. Amends Sections 772.006(e) and (f), Government Code, as follows:

(e) Authorizes the legislature to appropriate money from the trafficking of persons investigation and prosecution account created under Subsection (d) (relating to the trafficking of persons investigation and prosecution account created in the general revenue fund) only to the criminal justice division for the purposes of this subsection. Authorizes the division to use the appropriated money solely to distribute grants to qualified applicants, as determined by the division, that have dedicated full-time or part-time personnel to identify, prevent, investigate, or prosecute offenses under Chapter 20A (Trafficking of Persons), Penal Code; or, rather than and, provide comprehensive services in this state to prevent the commission of offenses under Chapter 20A, Penal Code, or to address the needs of victims of those offenses, including public awareness activities, community outreach and training, victim identification services, legal services, and other services designed to assist victims. Deletes existing text relating to counties that apply for the grants; and nongovernmental organizations that apply for the grants. Makes a nonsubstantive change.

(f) Prohibits the total amount of grants that may be distributed under this section, rather than the total amount of grants that may be distributed to counties and nongovernmental organizations, from the trafficking of persons investigation and prosecution account during each state fiscal year from exceeding \$10 million.

ARTICLE 4. CHANGES RELATING TO PENAL CODE

SECTION 4.01. Amends Section 15.031(b), Penal Code, to provide that a person commits an offense if, with intent that an offense under certain sections of the Penal Code, including Sections 20A.02, 43.02, and 43.05, be committed, the person by any means requests, commands,

or attempts to induce a minor or another whom the person believes to be a minor to engage in specific conduct that, under the circumstances surrounding the actor's conduct as the actor believes them to be, would constitute an offense under one of those sections or would make the minor or other believed by the person to be a minor a party to the commission of an offense under one of those sections.

SECTION 4.02. Amends Section 25.08(c), Penal Code, to provide that an offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor commits the offense with intent to commit an offense under certain sections of the Penal Code, including Sections 20A.02, 43.02, and 43.05.

SECTION 4.03. Amends Section 43.02(c), Penal Code, as follows:

(c) Provides that an offense under this section is a Class B misdemeanor, except that the offense is:

- (1) a Class A misdemeanor if the actor has previously been convicted one or two times of an offense under this section;
- (2) a state jail felony if the actor has previously been convicted three or more times of an offense under this section;
- (3) a felony of the third degree if the person solicited is 14 years of age or older and younger than 18 years of age; or
- (4) a felony of the second degree if the person solicited is younger than 14 years of age.

Deletes existing text providing that an offense under this section is a Class B misdemeanor unless the actor has previously been convicted one or two times of an offense under this section; in which event it is a Class A misdemeanor. Deletes existing text providing that if the actor has previously been convicted three or more times of an offense under this section the offense is a state jail felony.

SECTION 4.04. Amends Section 43.251(c), Penal Code, to provide that an offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if the child is younger than 14 years of age at the time the offense is committed, rather than providing that an offense under this section is a Class A misdemeanor.

ARTICLE 5. TRANSITION; EFFECTIVE DATE

SECTION 5.01. Makes application of this Act, except as provided by Section 5.02 of this Act, prospective.

SECTION 5.02. Makes application of the changes in law made to this Act to Sections 11.44, 11.46, 11.64, and 61.42, Alcoholic Beverage Code, prospective.

SECTION 5.03. Provides that to the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 5.04. Effective date: September 1, 2011.