

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 2015
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Criminal Justice
5/14/2011
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recent legislation established the Human Trafficking Prevention Task Force and required the task force to prepare a report containing certain information on the nature and extent of human trafficking in Texas, including information relating to youth arrested for engaging in prostitution. In many cases, youth arrested for engaging in prostitution are designated as victims of domestic minor sex trafficking. State services available to such victims are limited. As a misdemeanor offense, engaging in prostitution is considered delinquent conduct, rather than conduct indicating a need for supervision. Because a case often does not fall within the jurisdiction of child protective services unless a parent or caregiver is involved in the offense, the services available to a victim may be only those provided through the juvenile justice system.

Some states have begun diverting juveniles accused of engaging in prostitution from the juvenile justice system by treating the youth as trafficked persons and designating related behavior as conduct indicating a need for supervision. This gives the youth access to much-needed services that can provide clothing, shelter, mental and medical care, and education. If a child is found to engaged in prostitution, is subsequently put on probation, and cannot be provided the quality of care and level of support needed to meet the conditions of probation at the child's home, the child can be placed in a more suitable foster home or residential facility.

C.S.H.B. 2015 amends current law relating to certain conduct indicating a need for supervision and the sealing of records related to that conduct.

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 Section 51.03(b), Family Code, as follows:

(b) Provides that conduct indicating a need for supervision is:

(1)-(6) Makes no changes to these subdivisions;

(7) notwithstanding Subsection (a)(1) (relating to conduct, other than a traffic offense, that violates a penal law of this state or of the United States punishable by imprisonment or by confinement in jail), conduct described by Section 43.02(a)(1) (relating to prostitution) or (2) (relating to solicitation of prostitution), Penal Code.

SECTION 2. Amends Section 58.003, Family Code, by adding Subsections (c-3) and (c-4) and amending Subsection (d), as follows:

(c-3) Requires a juvenile court, notwithstanding Subsections (a) (relating to requiring the sealing of records under certain circumstances) and (c) (relating to authorizing a court to order the sealing of records under certain circumstances) and subject to Subsection (b) (relating to prohibiting a court from ordering the sealing of the records of a person who

has received a determinate sentence for engaging in certain conduct), on the court's own motion and without a hearing, to order the sealing of records concerning a child found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(7) or taken into custody to determine whether the child engaged in conduct indicating a need for supervision described by Section 51.03(b)(7). Provides that this subsection applies only to records related to conduct indicating a need for supervision described by Section 51.03(b)(7).

(c-4) Authorizes a prosecuting attorney or juvenile probation department to maintain until a child's 17th birthday a separate record of the child's name and date of birth and the date on which the child's records are sealed, if the child's records are sealed under Subsection (c-3). Requires the prosecuting attorney or juvenile probation department, as applicable, to send the record to the court as soon as practicable after the child's 17th birthday to be added to the child's other sealed records.

(d) Authorizes the court to grant to a child the relief authorized in Subsection (a), (c-1) (relating to authorizing the sealing of records concerning a child if the child successfully completed a drug court program under Chapter 469 (Drug Court Programs), Health and Safety Code), or (c-3) at any time after final discharge of the child, rather than of the person, or after the last official action in the case if there was no adjudication, subject, if applicable, to Subsection (e) (relating to requiring the court to hold a hearing before sealing a person's records). Makes a nonsubstantive change.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2011.