

## **BILL ANALYSIS**

Senate Research Center  
83R764 KCR-D

S.B. 92  
By: Van de Putte  
Jurisprudence  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 92 gives juvenile probation departments the authority to create a diversion program with treatment and services for minors involved in prostitution instead of strictly punishing them. The majority of minors involved in prostitution are considered domestic minor sex trafficking victims.

The bill provides a process by which a minor who is apprehended by law enforcement officers for prostitution would be eligible to participate in a court diversion program in which the minor receives treatment and other services.

The bill provides a process for courts with juvenile justice jurisdiction and courts with family abuse cases to share jurisdiction in cases where those courts' jurisdictions overlap.

As proposed, S.B. 92 amends current law relating to the designation of a juvenile court and a pre-adjudication diversion program for certain juveniles alleged to have engaged in conduct that violates certain penal laws regarding prostitution.

### **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 51.04, Family Code, by amending Subsections (b) and (e) and adding Subsection (i), as follows:

(b) Requires the county's juvenile board, in each county, to designate one or more district, criminal district, domestic relations, juvenile, or county courts or county courts at law as the juvenile court, subject to Subsections (c) (relating to requiring at least one other court to be designated as a juvenile court if a county court is designated as a juvenile court and providing that a county court does not have jurisdiction of a proceeding involving a petition approved by a grand jury under Section 53.045, Family Code), (d) (relating to requiring a designated alternate court with a judge who is an attorney licensed in this state if the judge of a court designated in Subsection (b) or (c) is not an attorney licensed in Texas), and (i). Makes nonsubstantive changes.

(e) Authorizes a designation made under Subsection (b), (c), or (i) to be changed from time to time by the authorized boards or judges for the convenience of the people and the welfare of children. Makes nonsubstantive changes.

(i) Requires the county's juvenile board, if the court designated as the juvenile court under Subsection (b) does not have jurisdiction over proceedings under Subtitle E (Protection of the Child), Title 5 (The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship), to designate at least one other court that does have jurisdiction over proceedings under Subtitle E, Title 5, as a juvenile court or alternative juvenile court.

SECTION 2. Amends Chapter 51, Family Code, by adding Section 51.0413, as follows:

Sec. 51.0413. JURISDICTION OVER AND TRANSFER OF COMBINATION OF PROCEEDINGS. (a) Authorizes a juvenile court designated under Section 51.04(b) or, if that court does not have jurisdiction over proceedings under Subtitle E, Title 5, the juvenile court designated under Section 51.04(i), to simultaneously exercise jurisdiction over proceedings under this title and proceedings under Subtitle E, Title 5, if there is probable cause to believe that the child who is the subject of those proceedings engaged in conduct that violates Section 43.02 (Prostitution), Penal Code, because the child was the victim of conduct that constitutes an offense under Section 20A.02 (Trafficking of Persons), Penal Code.

(b) Requires the court, if a proceeding is instituted under this title in a juvenile court designated under Section 51.04(b) that does not have jurisdiction over proceedings under Subtitle E, Title 5, to transfer the proceedings to a court designated as a juvenile court or alternative juvenile court under Section 51.04(i) if, in the course of the proceedings, evidence is presented that constitutes probable cause to believe that the child who is the subject of those proceedings is a child whose conduct is described by Subsection (a).

SECTION 3. Amends Section 52.01, Family Code, by adding Subsection (f), to prohibit a law enforcement officer, notwithstanding Subsection (c) (relating to conditions under which a law enforcement officer is authorized to issue a warning notice instead of taking a child into custody), from issuing a warning to a child instead of taking the child into custody as authorized by Subsection (a)(2) (relating to authorizing a child to be taken into custody pursuant to the laws of arrest) or (3) (relating to authorizing a child to be taken into custody by a law enforcement officer if there is probable cause to believe the child has engaged in certain conduct) if the officer has probable cause to believe that the child engaged in conduct that violates Section 43.02, Penal Code, because the child was the victim of conduct that constitutes an offense under Section 20A.02, Penal Code.

SECTION 4. Amends Section 52.032, Family Code, as follows:

Sec. 52.032. INFORMAL DISPOSITION GUIDELINES. (a) Creates this subsection from existing text and makes no further changes.

(b) Prohibits the guidelines adopted under Subsection (a) (relating to guidelines for the disposition of a child) from allowing for the case of a child to be disposed of under Section 52.03 (Disposition Without Referral to Court) or 52.031 (First Offender Program) if there is probable cause to believe that the child engaged in conduct that violates Section 43.02, Penal Code, because the child was the victim of conduct that constitutes an offense under Section 20A.02, Penal Code.

SECTION 5. Amends Chapter 54, Family Code, by adding Section 54.0326, as follows:

Sec. 54.0326. DEFERRAL OF ADJUDICATION AND DISMISSAL OF CERTAIN CASES ON COMPLETION OF TRAFFICKED PERSONS COURT PROGRAM. (a) Provides that this section applies only to a juvenile court exercising simultaneous jurisdiction over proceedings under this title and Subtitle E, Title 5, in the manner authorized by Section 51.0413.

(b) Authorizes a juvenile court to defer adjudication proceedings under Section 54.03 (Adjudication Hearing) until the 30th day before the date of the child's 17th birthday if the child waives, under Section 51.09 (Waiver of Rights), the privilege against self-incrimination and testifies under oath that the allegation that the child engaged in conduct that violated Section 43.02, Penal Code, is true, and presents to the court an oral or written request to participate in the program established under Subsection (c).

(c) Authorizes a juvenile board to establish a program under this section for the assistance, treatment, and rehabilitation of children who are alleged to have engaged in conduct that violates Section 43.02, Penal Code, because the children were victims of conduct that constitutes an offense under Section 20A.02, Penal Code. Requires a program established under this section to:

(1) integrate services available to a child pursuant to proceedings under this title and Subtitle E, Title 5;

(2) focus on early identification of children who have engaged in conduct that violates Section 43.02, Penal Code, because the children were victims of conduct that constitutes an offense under Section 20A.02, Penal Code, and prompt placement of those children in the program; and

(3) require a child participating in the program to periodically appear in court for monitoring and compliance purposes.

(d) Requires the court, following a child's completion of the program, to dismiss the case with prejudice at the time the child presents satisfactory evidence that the child successfully completed a program established under Subsection (c).

(e) Prohibits a case dismissed under this section from being part of the child's records for any purpose.

SECTION 6. Makes application of this Act prospective.

SECTION 7. Effective date: September 1, 2013.