

## **BILL ANALYSIS**

Senate Research Center  
84R5211 LEH-F

H.B. 10  
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Criminal Justice  
4/27/2015  
Engrossed

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

The 81st Legislature created the Human Trafficking Prevention Task Force to create a statewide partnership between law enforcement agencies, social service providers, nongovernmental organizations, legal representatives, and state agencies that are fighting on the front line against human trafficking. The task force works to develop policies and procedures to fulfill that purpose and proposes legislative recommendations to better protect adult and child victims of human trafficking. H.B. 10 seeks to prevent and ultimately eliminate human trafficking by enacting the recommendations made by the task force in the 2014 Human Trafficking Prevention Task Force Report.

H.B. 10 amends current law relating to certain criminal and civil consequences of trafficking of persons, compelling prostitution, and certain other related criminal offenses, to the prevention, prosecution, and punishment of those offenses, and to compensation paid to victims of those offenses.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the court of criminal appeals is modified in SECTION 9 (Section 22.110, Government Code) of this bill.

Rulemaking authority is expressly granted to the Supreme Court of Texas in SECTION 18 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Article 12.01, Code of Criminal Procedure, as follows:

Art. 12.01. FELONIES. Authorizes felony indictments, except as provided in Article 12.03, to be presented within these limits, and not afterward:

(1) no limitation:

(A)-(H) Makes no change to these subparagraphs;

(I) compelling prostitution under Section 43.05(a)(2) (providing that a person commits an offense if the person knowingly causes by any means a child younger than 18 years to commit prostitution), Penal Code;

(2)-(5) Makes no change to these subdivisions;

(6) Deletes existing text including the offense compelling prostitution under Section 43.05(a)(2), Penal Code, among the offenses for which the statute of limitations is ten years from the 18th birthday of the victim;

(7) Makes no change to this subdivision.

SECTION 2. Amends Article 56.32(a)(14), Code of Criminal Procedure, to redefine "trafficking of persons."

SECTION 3. Amends Article 56.41, Code of Criminal Procedure, by adding Subsection (b-1), as follows:

(b-1) Provides that Subsection (b)(3) does not apply to a claimant or victim who seeks compensation for criminally injurious conduct that is:

(1) in violation of Section 20A.02(a)(7) (providing that a person commits an offense if the person knowingly traffics a child and by any means causes the trafficked child to engage in, or become the victim of, certain prohibited conduct), Penal Code; or

(2) trafficking of persons, other than an offense described by Subdivision (1), if the criminally injurious conduct the claimant or victim participated in was the result of force, fraud, or coercion.

SECTION 4. Amends Article 56.45, Code of Criminal Procedure, as follows:

Art. 56.45. DENIAL OR REDUCTION OF AWARD. (a) Creates this subsection from existing text and makes no further change to this subsection.

(b) Provides that Subsection (a)(4) (authorizing the attorney general to deny or reduce an award otherwise payable if the claimant or victim was engaging in an activity that at the time of the criminally injurious conduct was prohibited by law or a rule made under law) does not apply to a claimant or victim who seeks compensation for criminally injurious conduct that is:

(1) in violation of Section 20A.02(a)(7), Penal Code; or

(2) trafficking of persons, other than an offense described by Subdivision (1), if the activity the claimant or victim engaged in was the result of force, fraud, or coercion.

SECTION 5. Amends Article 62.001(5), Code of Criminal Procedure, to redefine "reportable conviction or adjudication."

SECTION 6. Amends Section 38.004(a), Education Code, as follows:

(a) Requires the Texas Education Agency (TEA) to develop a policy governing the reports of child abuse or neglect, including reports related to the trafficking of a child under Section 20A.02(a)(5) (providing that a person commits an offense if the person knowingly traffics a child with the intent that the trafficked child engage in forced labor or services), (6) (providing that a person commits an offense if the person knowingly receives a benefit from participating in a venture that involves an activity described by Subdivision (5), including by receiving labor or services the person knows are forced labor or services), (7), or (8) (providing that a person commits an offense if the person knowingly receives a benefit from participating in a venture that involves an activity described by Subdivision (7) or engages in sexual conduct with a child trafficked in the manner described in Subdivision (7)), Penal Code, as required by Chapter 261 (Investigation of Report of Child Abuse or Neglect), Family Code, for school districts, open-enrollment charter schools, and their employees. Requires that the policy require each school district and open-enrollment charter school employee to report child abuse or neglect, including the trafficking of a child under Section 20A.02(a)(5) or (7), Penal Code, in the manner required by Chapter 261, Family Code. Makes no further change to this subsection.

SECTION 7. Amends Section 22.011, Government Code, as follows:

Sec. 22.011. New heading: JUDICIAL INSTRUCTION RELATED TO FAMILY VIOLENCE, SEXUAL ASSAULT, TRAFFICKING OF PERSONS, AND CHILD

ABUSE. (a) Requires the Supreme Court of Texas (supreme court) to provide judicial training related to the problems of family violence, sexual assault, trafficking of persons, and child abuse and to issues concerning sex offender characteristics.

(d) Requires that the instruction include information that:

(1) and (2) Makes no change to these subdivisions;

(3) case law, statutory law, and procedural rules relating to family violence, sexual assault, trafficking of persons, and child abuse;

(4) methods for providing protection for victims of family violence, sexual assault, trafficking of persons, or child abuse;

(5) and (6) Makes no change to these subdivisions;

(7) dynamics and effects of being a victim of family violence, sexual assault, trafficking of persons, or child abuse; and

(8) Makes no change to this subdivision.

SECTION 8. Amends the heading to Section 22.110, Government Code, to read as follows:

Sec. 22.110. JUDICIAL INSTRUCTION RELATED TO FAMILY VIOLENCE, SEXUAL ASSAULT, TRAFFICKING OF PERSONS, AND CHILD ABUSE AND NEGLECT.

SECTION 9. Amends Sections 22.110(a), (b), and (d), Government Code, as follows:

(a) Requires the court of criminal appeals to assure that judicial training related to the problems of family violence, sexual assault, trafficking of persons, and child abuse and neglect is provided.

(b) Requires that at least four hours of the training be dedicated to issues related to trafficking of persons and child abuse and neglect and cover at least two of the topics described in Subsections (d)(8) (requiring that the instruction include information about dynamics of sexual abuse of children, including child abuse accommodation syndrome and grooming), (9) (requiring that the instruction include information about impact of substance abuse on an unborn child and on a person's ability to care for a child), (10) (requiring that the instruction include information about issues of attachment and bonding between children and caregivers), (11), and (12). Requires that at least two hours of the additional training be dedicated to issues related to trafficking of persons and child abuse and neglect. Requires that the rules exempt from the training requirement of this subsection each judge or judicial officer who files an affidavit stating that the judge or judicial officer does not hear any cases involving family violence, sexual assault, trafficking of persons, or child abuse and neglect. Makes no further change to this subsection.

(d) Requires that the instruction include information about:

(1) and (2) Makes no change to these subdivisions;

(3) case law, statutory law, and procedural rules relating to family violence, sexual assault, trafficking of persons, and child abuse and neglect;

(4) methods for providing protection for victims of family violence, sexual assault, trafficking of persons, and child abuse and neglect;

(5) and (6) Makes no change to these subdivisions;

(7) dynamics and effects of being a victim of family violence, sexual assault, trafficking of persons, or child abuse and neglect;

(8)-(10) Makes no change to these subdivisions;

(11) issues of child development that pertain to trafficking of persons and child abuse and neglect; and

(12) medical findings regarding physical abuse, sexual abuse, trafficking of persons, and child abuse and neglect.

SECTION 10. Amends Section 402.035, Government Code, by amending Subsections (c), (d), and (h) and adding Subsections (f-1) and (f-2), as follows:

(c) Provides that the human trafficking prevention task force (task force) is composed of the following:

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

(7) one representative from each of the following state agencies, appointed by the chief administrative officer of the respective agency:

(A) and (B) Makes no change to these paragraphs;

(C) the Texas Juvenile Justice Department, rather than the Texas Youth Commission;

(D) the Texas Education Agency, rather than the Texas Juvenile Probation Commission;

(E) Makes no change to this subparagraph;

(F) the Texas Parks and Wildlife Department; and

(G) the Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families; and

(8) Makes no change to this subdivision.

(d) Requires that the task force:

(1) collaborate, as needed to fulfill the duties of the task force, with:

(A) United States Attorneys' Offices for all of the federal districts of Texas, rather than United States attorneys for the districts of Texas; and

(B) Makes no change to this paragraph;

(2)-(4) Makes no change to these subdivisions;

(5) work with the Texas Commission on Law Enforcement, rather than 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)-(9) Makes no change to these subdivisions;

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

(11) Makes no change to this subdivision.

(f-1) Requires the following state agencies to designate an individual who is authorized to coordinate the agency's resources to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, and investigate and prosecute human trafficking offenders:

- (1) the Texas Alcoholic Beverage Commission;
- (2) the Department of Family and Protective Services;
- (3) the Department of Public Safety;
- (4) the Department of State Health Services;
- (5) the Health and Human Services Commission;
- (6) the Texas Juvenile Justice Department;
- (7) the office of the attorney general; and
- (8) the office of the governor.

(f-2) Requires each state agency to provide to the task force the name of the individual designated under Subsection (f-1).

(h) Provides that this section expires September 1, 2017, rather than September 1, 2015.

SECTION 11. Amends Chapter 772, Government Code, by adding Section 772.0062, as follows:

Sec. 772.0062. CHILD SEX TRAFFICKING PREVENTION UNIT. (a) Defines "child sex trafficking" and "unit" in this section.

(b) Requires the governor to establish the Child Sex Trafficking Prevention Unit (unit) within the criminal justice division established under Section 772.006 (Governor's Criminal Justice Division).

(c) Requires the governor to appoint a director for the unit to serve at the pleasure of the governor.

(d) Requires the unit to:

(1) assist the following agencies in leveraging and coordinating state resources directed toward child sex trafficking prevention:

- (A) the office of the attorney general;
- (B) the Health and Human Services Commission;
- (C) the Department of Family and Protective Services;
- (D) the Texas Juvenile Justice Department;
- (E) the Department of State Health Services;
- (F) the Texas Alcoholic Beverage Commission; and
- (G) the Department of Public Safety;

(2) facilitate collaborative efforts among the agencies under Subdivision (1) to:

(A) prevent child sex trafficking;

(B) recover victims of child sex trafficking; and

(C) place victims of child sex trafficking in suitable short-term and long-term housing;

(3) collect and analyze research and information in all areas related to child sex trafficking, and distribute the research, information, and analyses to the agencies and to relevant nonprofit organizations;

(4) refer victims of child sex trafficking to available rehabilitation programs and other resources;

(5) provide support for child sex trafficking prosecutions; and

(6) develop recommendations for improving state efforts to prevent child sex trafficking, to be submitted to the legislature as part of the criminal justice division's biennial report required under Section 772.006(a)(9) (requiring the governor to establish a criminal justice division in the governor's office to submit a biennial report to the legislature reporting the division's activities during the preceding biennium including certain information).

SECTION 12. Amends Section 20A.03(a), Penal Code, to provide that a person commits an offense if, during a period that is 30 or more days in duration, the person engages two or more times in conduct that constitutes an offense under Section 20A.02 (Trafficking of Persons) against one or more victim.

SECTION 13. Amends Chapter 20A, Penal Code, by adding Section 20A.04, as follows:

Sec. 20A.04. ACCOMPLICE WITNESS; TESTIMONY AND IMMUNITY. (a) Provides that a party to an offense under this chapter may be required to provide evidence or testify about the offense.

(b) Prohibits a party to an offense under this chapter from being prosecuted for any offense about which the party is required to provide evidence or testify, and the evidence and testimony from being used against the party in any adjudicatory proceeding except a prosecution for aggravated perjury. Defines "adjudicatory proceeding" for the purposes of this subsection.

(c) Authorizes a conviction under this chapter to be had on the uncorroborated testimony of a party to the offense.

SECTION 14. 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) and (2) Makes no change to these subdivisions;

(3) a felony of the second degree if the person solicited is:

(A) Creates this paragraph from existing text;

(B) represented to the actor as being younger than 18 years of age; or

(C) believed by the actor to be younger than 18 years of age.

SECTION 15. Provides that the change in law made by this Act to Article 12.01, Code of Criminal Procedure, does not apply to an offense if the prosecution of that offense becomes barred by limitation before the effective date of this Act. Provides that the prosecution of that offense remains barred as if this Act had not taken effect.

SECTION 16. Provides that the changes in law made by this Act to Chapter 56, Code of Criminal Procedure, apply only to a criminal offense committed or a violation that occurs on or after the effective date of this Act. Provides that a criminal offense committed or a violation that occurs before the effective date of this Act is governed by the law in effect on the date the offense was committed or the violation occurred, and the former law is continued in effect for that purpose. Provides that, for purposes of this section, a criminal offense was committed or a violation occurred before the effective date of this Act if any element of the offense or violation occurred before that date.

SECTION 17. Provides that the changes in law made by this Act to Article 62.001(5), Code of Criminal Procedure, and Sections 20A.03 and 43.02, Penal Code, apply only to an offense committed on or after the effective date of this Act. Provides that an offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 18. (a) Requires the Supreme Court of Texas, not later than December 1, 2015, to adopt the rules necessary to provide the training required under Section 22.011, Government Code, as amended by this Act.

(b) Requires the Texas Court of Criminal Appeals, not later than December 1, 2015, to adopt the rules necessary to provide the training required under Section 22.110, Government Code, as amended by this Act.

(c) Requires a judge, master, referee, and magistrate who is in office on the effective date of this Act, notwithstanding Section 22.110, Government Code, as amended by this Act, to complete the training required by Section 22.110, Government Code, as amended by this Act, as applicable, not later than December 1, 2017.

SECTION 19. Provides that the change in law made by this Act in adding Section 20A.04, Penal Code, applies to a criminal proceeding that commences on or after the effective date of this Act. Provides that a criminal proceeding that commences before the effective date of this Act is covered by the law in effect when the proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 20. Effective date: September 1, 2015.