

BILL ANALYSIS

Senate Research Center
84R5004 LED-D

S.B. 1848
By: Garcia
State Affairs
4/23/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas currently provides a civil cause of action for victims of human trafficking. However, this legal instrument is greatly underused because current statutory language only provides for the right to sue a corporate entity that has directly engaged in the trafficking of an individual, rather than the owner or shareholder of such a corporate entity. This restriction can be problematic, as traffickers place few, if any, assets in the corporate entities that they utilize for the transfer and exploitation of trafficking victims.

When these shell businesses are targeted by law enforcement, they often close their doors at one location and re-establish themselves under another corporate identity elsewhere. When a rescued victim seeks restitution for their enslavement through current civil litigation options, it is likely that the shell entity that ran the illicit business in question will have few, if any, actual assets with all profits and proceeds of the illegal operation being transferred to the owner or stakeholders of the corporate entity itself.

S.B. 1848 seeks to remedy this unintended loophole by simply modeling the civil cause of action for victims of trafficking in the Civil Practices and Remedies Code to that of victims of fraud under the Business and Commerce Code. This ensures that traffickers can no longer shield themselves behind shell entities, and victims will be able to file a civil suit against their captor for restitution per the original legislative intent of current cause of action language.

As proposed, S.B. 1848 amends current law relating to civil liability of shareholders and members of certain legal entities that engage in the trafficking of persons.

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 Chapter 98, Civil Practice and Remedies Code, by adding Section 98.0025, as follows:

Sec. 98.0025. SHAREHOLDER AND MEMBER LIABILITY. (a) Provides that this section applies to a legal entity governed by Title 2 (Corporations), 3 (Limited Liability Companies), or 7 (Professional Entities), Business Organizations Code.

(b) Provides that, notwithstanding any provision of the Business Organizations Code, if a legal entity described by Subsection (a) is liable under Section 98.002 (Liability), a shareholder or member of that entity is jointly and severally liable with the entity to the person trafficked for damages arising from the trafficking of that person if the person demonstrates that the shareholder or member:

(1) caused the entity to be used for the purpose of trafficking of persons;
or

(2) knew the entity was engaged in the trafficking of persons and directly benefited from that trafficking.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2015.