

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 3800
By: Thompson, Senfronia et al. (Huffman)
Criminal Justice
5/17/2019
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Office of the Attorney General's Human Trafficking and Transnational Organized Crime (HTTOC) section is designed to fight back against the horrific crime of human trafficking through investigations, prosecutions, training, and raising awareness. This unit provides the state with a new weapon in the fight against human trafficking, transnational gangs, and organized crime syndicates that threaten the fundamental liberties of the people of Texas.

The HTTOC section and the State of Texas, in general, would benefit from additional information and resources, including uniform reporting and centralized collection of information regarding human trafficking cases in Texas. H.B. 3800 seeks to provide the State with more information and resources to continue the fight against human trafficking. (Original Author's/Sponsor's Statement of Intent)

C.S.H.B. 3800 amends current law relating to the investigation and prosecution of criminal offenses involving the trafficking of persons.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas attorney general in SECTION 1 (Article 2.305, Code of Criminal Procedure) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2, Code of Criminal Procedure, by adding Article 2.305, as follows:

Art. 2.305. REPORT REQUIRED CONCERNING HUMAN TRAFFICKING CASES.

(a) Provides that this article applies only to:

(1) a municipal police department, sheriff's department, constable's office, county attorney's office, district attorney's office, and criminal district attorney's office, as applicable, in a county with a population of more than 50,000; and

(2) the Department of Public Safety of the State of Texas (DPS).

(b) Requires an entity described by Subsection (a) that investigates the alleged commission of an offense under Chapter 20A (Trafficking of Persons), Penal Code, or the alleged commission of an offense under Chapter 43 (Public Indecency), Penal Code, which may involve human trafficking, to submit to the Texas attorney general (attorney general) certain information.

(c) Requires an attorney representing the state who prosecutes the alleged commission of an offense under Chapter 20A, Penal Code, or the alleged commission of an offense under Chapter 43, Penal Code, which may involve human trafficking, to submit to the attorney general certain information.

(d) Requires the attorney general to enter into a contract with a public or private institution of higher education for the institution's assistance in the collection and analysis of information received under this article.

(e) Requires the attorney general, in consultation with the entities described by Subsection (a), to adopt rules to administer this article, including rules prescribing the form and manner of submission of a report required by Subsection (b) or (c) and additional information to include in a report required by Subsection (b) or (c).

SECTION 2. Amends Article 13.12, Code of Criminal Procedure, as follows:

Art. 13.12. **TRAFFICKING OF PERSONS, FALSE IMPRISONMENT, KIDNAPPING, AND SMUGGLING OF PERSONS.** (a) Creates this subsection from existing text and makes no further changes.

(b) Provides that if a defendant commits an offense under Chapter 20A, Penal Code, that is part of a criminal episode, as defined by Section 3.01 (Definition), Penal Code, all of the offenses arising out of the same criminal episode may be prosecuted in any county that as venue over an offense constituting part of that criminal episode.

SECTION 3. Amends Chapter 20A, Penal Code, by adding Section 20A.05, as follows:

Sec. 20A.05. **FORWARDING OF CASE INFORMATION ON COMPLETION OF INVESTIGATION BY CERTAIN STATE AGENCIES.** Requires the state agency, on completion of an investigation of an offense under this chapter that is conducted by a state agency other than the Office of the Attorney General (OAG), to forward copies of each offense report prepared in the investigation and all other case information to:

- (1) the appropriate local county or district attorney; and
- (2) the attorney general.

SECTION 4. Amends Title 5, Penal Code, by adding Chapter 20B, as follows:

**CHAPTER 20B. CONCURRENT JURISDICTION IN CASES INVOLVING
TRAFFICKING OF PERSONS**

Sec. 20B.01. **DEFINITION.** Defines "criminal episode" for purposes of this chapter.

Sec. 20B.02. **PROSECUTION BY ATTORNEY GENERAL IN MULTIJURISDICTIONAL CASES AUTHORIZED.** (a) Authorizes the attorney general to prosecute an offense under Chapter 20A if the offense or any element of the offense:

- (1) occurs in more than one county in this state; or
- (2) occurs in a county in this state as well as in another state or country.

(b) Authorizes the attorney general to prosecute an other offense that occurs in this state and arises out of the same criminal episode as an offenses described by Subsection (a).

(c) Authorizes the attorney general to appear before a grand jury in connection with an offense the attorney general is authorized to prosecute under this section.

(d) Provides that the authority to prosecute prescribed by this section does not affect the authority derived from other law to prosecute the same offenses.

Sec. 20B.03. SINGLE JURISDICTIONAL CASE: CONCURRENT JURISDICTION FOLLOWING LOCAL PROSECUTOR'S RIGHT OF FIRST REFUSAL. Provides that this section does not apply to an offense described by Section 20B.02(a).

(b) Requires a local county or district attorney, not later than the 30th day after the date the local county or district attorney becomes aware of conduct that may constitute an offense under Chapter 20A, to notify the attorney general in writing of the conduct. Requires the notice provided under this subsection to describe the conduct that may constitute an offense under Chapter 20A and to describe or otherwise identify each person suspected at that time of having engaged in the conduct.

(c) Requires the local county or district attorney, if the local county or district attorney described by Subsection (b) determines that the attorney will not pursue a criminal investigation of the applicable conduct or will not prosecute a criminal charge in relation to that conduct, to notify the attorney general of that determination not later than the 30th day after the date of the determination. Authorizes the attorney general, on receipt of a notice under this subsection, to begin a criminal investigation of the applicable conduct and to prosecute:

(1) any offense under Chapter 20A relating to the attorney general's investigation of that conduct; and

(2) any other offense arising out of the same criminal episode.

Sec. 20B.04. EXPIRATION. Provides that this chapter expires on September 1, 2031.

SECTION 5. Provides that, notwithstanding Article 2.305, Code of Criminal Procedure, as added by this Act:

(1) DPS is not required to comply with that article until August 1, 2020; and

(2) an entity described by Subsection (a) of that article, other than DPS, if located in a county with a population of more than 500,000, is not required to comply with that article until August 1, 2020, and, if located in a county with a population of 500,000 or less, is not required to comply with that article until August 1, 2021.

SECTION 6. Makes application of Article 13.12, Code of Criminal Procedure, as amended by this Act, and Section 20A.05 and Chapter 20B, Penal Code, as added by this Act, prospective. 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 7. Effective date: September 1, 2019.