

## **BILL ANALYSIS**

Senate Research Center

S.B. 1802  
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State Affairs  
5/31/2019  
Enrolled

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

S.B. 1802 provides additional tools for the prosecution of trafficking-related crimes by (1) enhancing penalties for would-be traffickers, and (2) creating a consistent definition of "coercion" for purposes of trafficking-related crimes in the Texas Penal Code. (Original Author's/Sponsor's Statement of Intent)

S.B. 1802 amends current law relating to the prosecution of and punishment for certain trafficking and prostitution offenses and certain other consequences of those offenses, and increases criminal penalties.

### **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 Article 62.001(5), Code of Criminal Procedure, to redefine "reportable conviction or adjudication" to include a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on a violation of Section 43.04 (Aggravated Promotion of Prostitution), Penal Code, or certain other violations.

SECTION 2. Amends Section 20A.02(a-1), Penal Code, as follows:

(a-1) Provides that, for purposes of Subsection (a)(3) (relating to providing that a person commits an offense if the person knowingly traffics another person and, through certain means, causes the trafficked person to engage in certain prohibited conduct), "coercion" as defined by Section 1.07 (Definitions) includes:

- (1) creates this subdivision from existing text and makes nonsubstantive changes;
- (2) causing a trafficked person, without the person's consent, to become intoxicated, as defined by Section 49.01 (Definitions), to a degree that impairs the person's ability to appraise the nature of the prohibited conduct or to resist engaging in that conduct; or
- (3) withholding alcohol or a controlled substance to a degree that impairs the ability of a trafficked person with a chemical dependency, as defined by Section 462.001 (Definitions), Health and Safety Code, to appraise the nature of the prohibited conduct or to resist engaging in that conduct.

SECTION 3. Amends Section 43.03(b), Penal Code, as follows:

(b) Provides that an offense under this section (Promotion of Prostitution) is a felony of the third degree, rather than a state jail felony, except that the second offense is:

(1) a felony of the second degree, rather than a felony of the third degree, if the actor has been previously convicted of an offense under this section; or

(2) a felony of the first degree, rather than a felony of the second degree, if the actor engages in certain conduct involving a person younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the person at the time of the offense.

SECTION 4. Amends Section 43.04(b), Penal Code, as follows:

(b) Provides that an offense under this section is a felony of the first degree. Deletes existing text providing that an offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if the prostitution enterprise uses as a prostitute one or more persons younger than 18 years of age, regardless of whether the actor knows the age of the person at the time of the offense.

SECTION 5. Amends Section 43.05, Penal Code, by amending Subsections (a) and (b) and adding Subsection (d), as follows:

(a) Provides that a person commits an offense if the person knowingly:

(1) causes another by force, threat, coercion, or fraud, rather than by force, threat or fraud, to commit prostitution; or

(2) makes no changes to this subdivision.

(b) Provides that an offense under this section (Compelling Prostitution) is a felony of the first degree, rather than providing that an offense under Subsection (a)(1) (relating to providing that a person commits an offense if the person knowingly causes another by force, threat, or fraud to commit prostitution) is a felony of the second degree and that an offense under Subsection (a)(2) (relating to providing that a person commits an offense if the person knowingly causes by any means a child younger than 18 years to commit prostitution, regardless of whether the actor knows the age of the child at the time of the offense) is a felony of the first degree.

(d) Provides that, for purposes of this section, "coercion" as defined by Section 1.07 includes:

(1) destroying, concealing, confiscating, or withholding from a person, or threatening to destroy, conceal, confiscate, or withhold from a person, the person's actual or purported government records or identifying information or documents;

(2) causing a person, without the person's consent, to become intoxicated, as defined by Section 49.01, to a degree that impairs the person's ability to appraise the nature of the person's conduct that constitutes prostitution or to resist engaging in that conduct; or

(3) withholding alcohol or a controlled substance to a degree that impairs the ability of a person with a chemical dependency, as defined by Section 462.001, Health and Safety Code, to appraise the nature of the person's conduct that constitutes prostitution or to resist engaging in that conduct.

SECTION 6. (a) Makes application of Article 62.001(5), Code of Criminal Procedure, as amended by this Act, prospective.

(b) Makes application of Sections 20A.02, 43.03, 43.04, and 43.05, Penal Code, as amended by this Act, prospective.

(c) 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.