

SUBJECT: Creating a state jail felony for repeated acts of prostitution

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Hinojosa, Garcia, Green, Kitchen, Martinez Fischer, Shields
0 nays
1 present, not voting — Dunnam
2 absent — Keel, Talton

WITNESSES: For — John Dagen, Dallas Police Department; Wilma Avalos, Love Field West Crime Watch Association; Jennifer Enzer, Crime Watch #3043; Jerry Blake; C. Salinas; Gary K. Turner; *Registered but did not testify:* Weldon Claire and Orville Gunnoe, Bachman/Northwest Highway Community Association; Claude Jones, Texas Police Chiefs Association; Tom Mann, Lubbock Police Department; Lt. Ray Ybarbo, San Antonio Police Department; Caroline Franco; Jonnie Jarrard; Jeanette Lee; Marilyn Mattingly; Mary Lou Montes Zijderveld
Against — None

BACKGROUND: Code of Criminal Procedure, art. 43.02 makes it an offense knowingly to offer, agree to, or engage in prostitution or to solicit another in a public place to engage in prostitution. The offense is a Class B misdemeanor (punishable by up to 180 days in jail and/or a maximum fine of \$2,000) unless the person previously has been convicted of this offense, in which case it is a Class A misdemeanor (punishable by up to one year in jail and/or a maximum fine of \$4,000).

DIGEST: CSHB 460 would make prostitution a state jail felony (punishable by 180 days to two years in a state jail and an optional fine of up to \$10,000) if a judge or jury determined beyond a reasonable doubt that the offense was committed in or within 300 feet of a residential area and that the person previously had been convicted of prostitution at least three times.

The bill would take effect September 1, 2001, and would apply only to offenses committed on or after that date.

SUPPORTERS
SAY:

CSHB 460 would provide an appropriately harsh penalty to deter prostitutes from committing their crimes in neighborhoods and would send them a message that Texas will not tolerate their actions. Dallas officials report that prostitutes are moving to Texas from other states because of Texas' reputation for having lax prostitution laws. Most prostitutes in the Dallas area get out of jail the same night they are arrested after paying a fine. As Dallas police have cracked down on some of the business areas most frequented by prostitutes, these criminals have moved their business into residential areas, frightening homeowners and driving down property values.

By requiring real jail time for repeat offenders, CSHB 460 could help young men and women break the vicious cycle of prostitution. After a few weeks or months of sobriety and being away from the lifestyle of prostitution and organized crime, these people would have a better chance of turning their lives around. The state jail system is designed for low-level offenders and would be the appropriate place for these offenders, because state jails emphasize education and rehabilitation.

OPPONENTS
SAY:

CSHB 460 unnecessarily would enhance the penalty for prostitution. A prostitution conviction already is punishable by six months to a year in jail, yet the Dallas Police Department reports that 85 percent of those found guilty of prostitution spend no time in jail. Local communities should let their prosecutors know that they do not want repeat offenders released with only a fine. These offenders would be better off in county jails in their own communities.

OTHER
OPPONENTS
SAY:

CSHB 460 would make a good start, but it would not punish the people who solicit or force young men and women into prostitution. The current punishment for pimping is only a Class A misdemeanor. It should be raised to a state jail felony as well.

NOTES:

HB 460 as filed would have created a state jail felony for prostitution if the defendant previously had been convicted of the offense at least three times.

HB 988 by Dutton would create a third-degree felony (punishable by two to 10 years in prison and an optional fine of up to \$10,000) for engaging in or soliciting prostitution in a “traffic area” as defined by the Transportation Code. It would create a second-degree felony (punishable by two to 20 years in prison and an optional fine of up to \$10,000) for promotion of prostitution. The bill was considered in a public hearing by the House Criminal Jurisprudence Committee on March 20 and left pending.