

BILL ANALYSIS

Senate Research Center

H.B. 1121
By: Anchia et al. (Van de Putte)
Criminal Justice
5/18/2007
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under federal law, a victim of human trafficking can apply for legal residency once the person has been certified as a victim of a severe form of trafficking--e.g., minors or sex slave trade victims--however, some victims are unable to do so because those types of cases are difficult to prove. Typically, victims are apprehensive about aiding in the prosecution of their perpetrators for fear of retribution on themselves or their family.

H.B. 1121 enables judges to issue an official verification, or judicial finding, that a victim is truly a victims of a severe form of trafficking, as defined by federal law. This encourages the victim to assist in the prosecution of the perpetrator.

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 42, Code of Criminal Procedure, by adding Article 42.0191, as follows:

Art. 42.0191. FINDING REGARDING VICTIMS OF TRAFFICKING OR OTHER ABUSE. (a) Requires the judge, on the motion of the attorney representing the state, in the trial of an offense, to make an affirmative finding of fact and enter the affirmative finding in the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial:

- (1) is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or
- (2) has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii).

(b) Sets forth the content requirements of the papers in the case containing an affirmative finding under this article.

SECTION 2. Amends Section 5, Article 42.12, Code of Criminal Procedure, by adding Subsections (i) and (j), as follows:

(i) Requires a judge, if the judge places on community supervision under this section a defendant charged with an offense, on the motion of the attorney representing the state to make an affirmative finding of fact and file a statement of that affirmative finding in the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial:

- (1) is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or

(2) has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii).

(j) Sets forth the content requirements of the papers in the case containing an affirmative finding under Subsection (i).

SECTION 3. Amends Section 54.04, Family Code, by adding Subsections (v) and (w), as follows:

(v) Requires a judge, if he or she orders a disposition under this section for delinquent conduct based on a violation of an offense, on the motion of the attorney representing the state to make an affirmative finding of fact and file a statement of that affirmative finding in the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial:

(1) is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or

(2) has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii).

(w) Sets forth the content requirements of the papers in the case containing an affirmative finding under Subsection (v).

SECTION 4. Amends Section 20A.01, Penal Code, to redefine "forced labor or services" and "traffic."

SECTION 5. Amends Sections 20A.02(a) and (b), Penal Code, as follows:

(a) Provides that a person commits an offense if the person knowingly traffics another person with the intent or knowledge that the trafficked person will engage in forced labor or services. Provides that a person commits an offense if the person intentionally or knowingly benefits from participating in a venture that involves an activity described by this subsection, including by receiving labor or services the person knows are forced labor or services, rather than conduct that constitutes an offense under Chapter 43 (Public Indecency).

(b) Provides that, except as otherwise provided by this subsection, an offense under this section is a second degree felony. Provides that an offense under this section is a first degree felony under certain conditions, including if the applicable conduct constitutes an offense under Section 43.02 (Prostitution), rather under Subsection (a)(2), and the person who is trafficked is younger than 18 years of age, rather than younger than 14 years of age.

SECTION 6. Amends Section 125.002, Civil Practice and Remedies Code, by adding Subsection (f-1), as follows:

(f-1) Requires the bond, if the defendant required to execute the bond is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is under Section 125.0015(a)(6) or (7), to also be conditioned that the defendant will, in each of the defendant's lodging units on the premises that are the subject of the suit, post in a conspicuous place near the room rate information required to be posted under Section 2155.001 (Room Rate Information), Occupations Code, an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

SECTION 7. Amends Section 125.045, Civil Practice and Remedies Code, by adding Subsection (a-1), as follows:

(a-1) Requires the bond, if the defendant required to execute the bond is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is under Section 125.0015(a)(6) or (7), to also be conditioned that the defendant will, in each of the defendant's lodging units on the premises that are the subject of the suit, post in a conspicuous place near the room rate information required to be posted under Section 2155.001, Occupations Code, an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

SECTION 8. (a) Requires the attorney general, not later than September 1, 2008 and in consultation with the Health and Human Services Commission (HHSC), to prepare and issue a report containing certain information.

(b) Requires HHSC, not later than September 1, 2008 and in consultation with the attorney general, to prepare and issue a report containing certain information.

SECTION 9. Makes application of Sections 20A.01 and 20A.02, Penal Code, as amended by this Act, prospective.

SECTION 10. Makes application of Section 125.002(f-1) and 125.045(a-1), Civil Practice and Remedies Code, as added by this Act, prospective.

SECTION 11. Makes application of the change in law made by this Act prospective to a judgment or conviction, a grant of deferred adjudication, or a disposition of delinquent conduct on or after the effective date of this Act.

SECTION 12. Effective date: upon passage or September 1, 2007.