

BILL ANALYSIS

C.S.H.B. 162
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Texas is only second to California in child sex trafficking. In an effort to rescue child sexual assault victims who are being sexually exploited and abused by child human sex traffickers, C.S.H.B. 162 seeks to prevent child sexual assault victims from being arrested and charged under the prostitution statute. C.S.H.B. 162 seeks to protect child sexual assault victims from rapists, pedophiles, and sexual abusers by providing law enforcement with the tools necessary to rescue the child and direct the child to a local service provider under the auspices of the Department of Family and Protective Services to receive the statutorily prescribed assistance and services under the existing and funded Governor's Program for Victims of Child Sex Trafficking established under the Government Code which facilitates the assignment of a caseworker to a child to create a customized package of services to fit the child's immediate and long-term rehabilitation and treatment needs, including medical, psychiatric, psychological, safety, and housing needs.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 162 amends the Penal Code to prohibit the prosecution of a person for a prostitution offense in which the person knowingly offers or agrees to receive a fee from another to engage in sexual conduct that is committed when the person is younger than 17 years of age. The bill establishes that it is not a defense to prosecution for a trafficking of persons offense that the person trafficked by the actor was forced to engage in that prostitution conduct for which the person may not be prosecuted because it was committed when the person was younger than 17 years of age. The bill establishes that it is not a defense to prosecution for the following offenses that the person who engaged in that prostitution conduct may not be prosecuted for that conduct because it was committed when the person was younger than 17 years of age:

- promotion of prostitution and aggravated promotion of prostitution;
- online promotion of prostitution and aggravated online promotion of prostitution; or
- compelling prostitution.

C.S.H.B. 162 amends the Family Code to establish that prostitution conduct in which the person knowingly offers or agrees to receive a fee from another to engage in sexual conduct is not delinquent conduct or conduct indicating a need for supervision for purposes of the juvenile justice code. The bill prohibits the referral of a child to juvenile court for such conduct and

requires a law enforcement officer who suspects that a child may have engaged in that conduct or may be a victim of a trafficking of persons offense to do the following:

- take possession of the child in accordance with statutory procedures for taking possession of a child in an emergency without a court order; and
- transfer possession of the child to the Department of Family and Protective Services (DFPS) as soon as possible.

The bill requires DFPS, on taking possession of the child, to contact a local service provider or care coordinator who will, in consultation with the child sex trafficking prevention unit within the governor's office criminal justice division and the governor's program for victims of child sex trafficking, facilitate the assignment of a caseworker for the child to create a customized package of services to fit the child's immediate and long-term rehabilitation and treatment needs, including medical, psychiatric, psychological, safety, and housing needs.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 162 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute requires an officer who suspects that a child may have engaged in the applicable prostitution conduct or may be a trafficking victim to take possession of the child in accordance with statutory procedures for doing so without a court order, whereas the original prohibited an officer taking possession of a child who is suspected of engaging in that conduct from arresting the child or referring the child to juvenile court.

Whereas the original required the officer to use best efforts to deliver the child to the child's parent or to another applicable person before contacting a local service provider or care coordinator to facilitate assignment of a caseworker for the child and to transfer possession of the child to DFPS if no such provider or coordinator is available, the substitute requires the officer to transfer possession of the child to DFPS as soon as possible and requires DFPS to make that contact with a local service provider or care coordinator on taking possession of the child.

The substitute includes provisions absent from the original establishing that it is not a defense to prosecution for the actor of a trafficking of persons offense or certain prostitution offenses that the person who engaged in the prostitution conduct by offering or agreeing to receive a fee may not be prosecuted as provided by the bill's provisions because the person engaged in the conduct when the person was younger than 17 years of age.