

SUBJECT: Prosecution, punishment, and study of the offense of human trafficking

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Peña, Riddle, Escobar, Hodge, Mallory Caraway, Talton,
Pierson

0 nays

2 absent — Moreno, Vaught

SENATE VOTE: On final passage, May 3 — 30-0

WITNESSES: (*On House companion bill, HB 3370 by Thompson, et al.:*)
For — Jennifer Carr, Texas Catholic Conference - The Roman Catholic Bishops of Texas; Anne Chandler, Houston Rescue and Restore, Children at Risk Public Policy and Law Center; Hilary Chester, Catholic Charities of the Archdiocese of San Antonio; Lisa Robinson, Children at Risk Public Policy and Law Center; Stephanie Weber, Houston Rescue and Restore Coalition; (*Registered, did not testify:* Gayle Christie, Concerned Women for America; Darin Darby, Harris County District Attorney's Office; Krista DelGallo, Texas Council on Family Violence; Maria Frederick, Texas Catholic Conference; Rick Levy, Texas AFL-CIO; Stephen Reeves, Christian Life Commission; Beverly Roberts, Concerned Women for America)

Against — None

BACKGROUND: Under Penal Code, sec. 20A.02, a person commits the offense of human trafficking if the actor knowingly traffics another person with the intent that the trafficked person engage in:

- forced labor or services; or
- conduct that constitutes criminal public indecency under Penal Code, ch. 43.

Human trafficking is a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000), except that an offense is a first-

degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if:

- it involves deception, coercion, or force and the victim is younger than 14 at the time of the offense; or
- it results in the death of the person who is trafficked.

If the conduct constituting the offense of human trafficking constitutes another offense under the Penal Code, the actor may be prosecuted under either or both sections.

Under Civil Practice and Remedies Code, sec. 125.0015, a person commits the crime of maintaining a common nuisance if the person maintains a place to which persons habitually go for certain criminal and anti-social purposes and who knowingly tolerates the activity and fails to make reasonable attempts to stop it.

Sec. 125.002 provides procedures for a lawsuit to abate a common nuisance. If it is established that the defendant maintains a common nuisance, then the property is shut down for a year, unless the defendant posts a bond as surety that the criminal activity no longer will continue or be tolerated. These bonds also may be posted in response to a temporary injunction brought against the defendant.

DIGEST:

SB 1283 would expand the kinds of activities that constitute human trafficking, require certain conditions for hotels and other public lodgings that have tolerated human trafficking as part of a common nuisance, and direct the attorney general and the Health and Human Services Commission (HHSC) to conduct studies on human trafficking.

Human trafficking. SB 1283 would amend Penal Code, sec. 20A.02 by expanding the circumstances that constitute the offense of human trafficking. A person would commit the offense of human trafficking if the person:

- knowingly trafficked another person with the intent or knowledge that the trafficked person would engage in forced labor or services; or
- intentionally or knowingly benefited from participating in a venture that involved forced labor or services.

SB 1283 would define “forced labor or services” to mean labor or services, including prostitution, that were performed or provided by another person and obtained through an actor’s:

- causing or threatening to cause bodily injury to the person or a third party or otherwise causing the person performing labor or services to believe that the person or third party would suffer bodily injury;
- restraining or threatening to restrain the person or a third party or causing the person performing or providing labor or services to believe that the person or third party would be restrained;
- knowingly destroying, concealing, removing, confiscating, or withholding from the person or a third party, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or a third party, the person’s actual or purported government records, identifying information, or personal property;
- threatening to report the person or a third party to immigration officials or other law enforcement officials or otherwise blackmailing or extorting the person or third party; or
- using any scheme, plan, or pattern intended to cause the person to believe that the person or a third party would be subjected to serious harm or restraint if the person did not perform or provide the labor or service.

In addition, the definition of forced labor or services would include exerting financial control over the person or a third party by placing the person or third party under the actor’s control as security for a debt to the extent that:

- the value of the services provided by the person or third party were not applied toward satisfying the debt;
- the duration and nature of the services provided by the person or third party were not limited or defined; or
- the principal amount of the debt did not reasonably reflect the value of the items or services for which the debt was incurred.

SB 1283 would define “traffic” to mean transporting, enticing, recruiting, harboring, providing, or otherwise obtaining another person by any means.

The bill would punish as a first-degree felony human trafficking conduct that constituted the offense of prostitution if the person trafficked was younger than 18 years old.

Common nuisance abatement bonds. SB 1283 would amend Civil Practice and Remedies Code, secs. 125.002 and 125.045 to set requirements for a hotel, motel, or similar establishment that rents overnight lodging and was required to post bond as a defendant in a nuisance abatement action related to prostitution. Such a bond would be conditioned to require the defendant to post conspicuously in each of its rooms on the premises in question an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

Human trafficking studies. SB 1283 would direct HHSC, in consultation with the attorney general, to prepare and issue two reports by September 1, 2008. One report would:

- outline how existing laws and rules concerning victims and witnesses addressed or failed to address the needs of victims of human trafficking; and
- recommend areas for improvement and modification in existing laws and rules.

The second report would:

- outline how existing social service programs addressed or failed to address the needs of victims of human trafficking;
- with respect to those needs, outline the interplay of existing social service programs with federally funded victim service programs; and
- recommend areas for improvement and modification in existing social service programs.

The bill would take effect September 1, 2007, and would apply only to an offense committed or a civil suit filed on or after that date.

NOTES:

The identical companion bill, HB 3370 by Thompson, et al., was reported favorably, as substituted, by the Criminal Jurisprudence Committee and was placed on the General State Calendar for May 9, but the House took no further action.