

By: VanderPutte

S.B. No. 89

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the prosecution, punishment, and prevention of offenses
3 involving trafficking of persons or certain forced or sex-based
4 labor or services, law enforcement training relating to the
5 trafficking of persons, and the creation of the trafficking of
6 persons investigation and prosecution account in the general
7 revenue fund.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 SECTION 1. Subchapter B, Chapter 402, Government Code, is
10 amended by adding Section 402.035 to read as follows:

11 Sec. 402.035. HUMAN TRAFFICKING PREVENTION TASK FORCE. (a)
12 In this section, "task force" means the human trafficking
13 prevention task force.

14 (b) The office of the attorney general shall establish the
15 human trafficking prevention task force to develop policies and
16 procedures to assist in the prevention and prosecution of human
17 trafficking crimes.

18 (c) The task force is composed of the following:

19 (1) the attorney general or the attorney general's
20 designee;

21 (2) the executive commissioner of the Health and Human
22 Services Commission or the executive commissioner's designee;

23 (3) the commissioner of the Department of Family and
24 Protective Services or the commissioner's designee;

1 (4) the public safety director of the Department of
2 Public Safety or the director's designee; and

3 (5) as appointed by the attorney general:

4 (A) a public defender, as defined by Article
5 26.044, Code of Criminal Procedure;

6 (B) an attorney representing the state;

7 (C) representatives of local law enforcement
8 agencies affected by human trafficking; and

9 (D) representatives of nongovernmental entities
10 making comprehensive efforts to combat human trafficking by:

11 (i) identifying human trafficking victims;

12 (ii) providing legal or other services to
13 human trafficking victims;

14 (iii) participating in community outreach
15 or public awareness efforts regarding human trafficking;

16 (iv) providing or developing training
17 regarding the prevention of human trafficking; or

18 (v) engaging in other activities designed
19 to prevent human trafficking.

20 (d) The task force shall:

21 (1) collaborate with United States attorneys for the
22 districts of Texas and special agents, customs and border
23 protection officers, and border patrol agents of the United States
24 Department of Homeland Security as needed to fulfill the duties of
25 the task force;

26 (2) collect and organize data on the nature and extent
27 of human trafficking in Texas;

1 (3) develop and conduct training for law enforcement
2 personnel and victim service providers to identify victims of human
3 trafficking;

4 (4) on the request of a judge of a county court, county
5 court at law, or district court or a county attorney, district
6 attorney, or criminal district attorney, assist and train the judge
7 or the judge's staff or the attorney or the attorney's staff in the
8 recognition and prevention of human trafficking;

9 (5) examine training protocols related to human
10 trafficking issues, as developed and implemented by federal, state,
11 and local law enforcement agencies;

12 (6) implement a media awareness campaign in
13 communities affected by human trafficking; and

14 (7) develop recommendations on how to strengthen state
15 and local efforts to prevent human trafficking, protect and assist
16 human trafficking victims, and prosecute human trafficking
17 offenders.

18 (e) The presiding officer of the task force is the attorney
19 general or the attorney general's designee.

20 (f) The office of the attorney general shall supervise the
21 administration of the task force. The attorney general shall
22 provide the necessary staff and facilities to assist the task force
23 in performing its duties.

24 (g) Not later than December 1 of each even-numbered year,
25 the task force shall submit a report regarding the task force's
26 activities, findings, and recommendations, including any proposed
27 legislation, to the governor, the lieutenant governor, and the

1 speaker of the house of representatives.

2 (h) This section expires September 1, 2013.

3 SECTION 2. Section 772.006, Government Code, is amended by
4 adding Subsections (d), (e), and (f) to read as follows:

5 (d) The trafficking of persons investigation and
6 prosecution account is created in the general revenue fund. The
7 account is composed of legislative appropriations and other money
8 required by law to be deposited in the account. Income from money
9 in the account shall be credited to the account. Sections 403.095
10 and 404.071 do not apply to the account.

11 (e) The legislature may appropriate money from the
12 trafficking of persons investigation and prosecution account
13 created under Subsection (d) only to the criminal justice division
14 for the purposes of this subsection. The division may use the
15 appropriated money solely to distribute grants to:

16 (1) counties that apply for the grants and that have
17 dedicated full-time or part-time personnel to identify, prevent,
18 investigate, or prosecute offenses under Chapter 20A, Penal Code;
19 and

20 (2) nongovernmental organizations that apply for the
21 grants and that provide comprehensive services in this state to
22 prevent the commission of offenses under Chapter 20A, Penal Code,
23 or to address the needs of victims of those offenses, including
24 public awareness activities, community outreach and training,
25 victim identification services, legal services, and other services
26 designed to assist victims.

27 (f) The total amount of grants that may be distributed to

1 counties and nongovernmental organizations from the trafficking of
2 persons investigation and prosecution account during each state
3 fiscal year may not exceed \$10 million.

4 SECTION 3. Subchapter C, Chapter 141, Human Resources Code,
5 is amended by adding Section 141.056 to read as follows:

6 Sec. 141.056. STUDY OF ALTERNATIVES TO JUVENILE JUSTICE
7 SYSTEM FOR CHILDREN WHO ENGAGE IN ACTS OF PROSTITUTION. (a) The
8 director shall establish a committee to evaluate alternatives to
9 the juvenile justice system, such as government programs,
10 faith-based programs, and programs offered by nonprofit
11 organizations, for children who are accused of engaging in acts of
12 prostitution.

13 (b) The director shall determine the size of the committee.
14 The committee must be composed of:

15 (1) members of the Texas Juvenile Probation
16 Commission, the Texas Youth Commission, and other relevant state
17 agencies as determined by the director;

18 (2) members of the legislature;

19 (3) members of nongovernmental organizations that
20 provide programs and services to combat and prevent trafficking of
21 persons as described by Section 20A.02, 20A.03, or 20A.04, Penal
22 Code, in this state, including the following with respect to that
23 trafficking:

24 (A) programs to promote public awareness;

25 (B) programs to identify and provide services to
26 victims;

27 (C) legal services; and

1 (D) community outreach and training programs;

2 and

3 (4) other juvenile justice experts.

4 (c) Not later than January 1, 2011, the committee shall
5 prepare and deliver to each member of the legislature a report that
6 includes the results of the study and recommendations for
7 alternatives to the juvenile justice system for children who are
8 accused of engaging in acts of prostitution.

9 (d) This section expires June 1, 2011.

10 SECTION 4. Subchapter F, Chapter 1701, Occupations Code, is
11 amended by adding Section 1701.258 to read as follows:

12 Sec. 1701.258. EDUCATION AND TRAINING PROGRAMS ON
13 TRAFFICKING OF PERSONS. (a) The commission by rule shall require an
14 officer first licensed by the commission on or after January 1,
15 2011, to complete within a reasonable time after obtaining the
16 license a one-time basic education and training program on the
17 trafficking of persons. The program must:

18 (1) consist of at least four hours of training; and

19 (2) include a review of the substance of Sections
20 20A.02, 20A.03, 20A.04, and 43.05, Penal Code.

21 (b) The commission shall make available to each officer a
22 voluntary advanced education, instruction, and training program on
23 the trafficking of persons, sex trafficking, and compelling
24 prostitution prohibited under Sections 20A.02, 20A.03, 20A.04, and
25 43.05, Penal Code.

26 (c) Not later than January 1, 2011, the commission shall
27 begin offering the basic and advanced programs established under

1 this section. This subsection expires September 1, 2011.

2 SECTION 5. Section 1701.402, Occupations Code, is amended
3 by adding Subsection (h) to read as follows:

4 (h) As a requirement for an intermediate or advanced
5 proficiency certificate issued by the commission on or after
6 January 1, 2011, an officer must complete the basic education and
7 training program on the trafficking of persons described by Section
8 1701.258(a).

9 SECTION 6. Section 20A.01(1), Penal Code, is amended to
10 read as follows:

11 (1) "Forced labor or services" means labor or
12 services [~~including conduct that constitutes an offense under~~
13 ~~Section 43.02,~~] that are performed or provided by another person
14 and obtained through an actor's:

15 (A) causing or threatening to cause bodily injury
16 to the person or another person or otherwise causing the person
17 performing or providing labor or services to believe that the
18 person or another person will suffer bodily injury;

19 (B) restraining or threatening to restrain the
20 person or another person in a manner described by Section 20.01(1)
21 or causing the person performing or providing labor or services to
22 believe that the person or another person will be restrained;

23 (C) knowingly destroying, concealing, removing,
24 confiscating, or withholding from the person or another person, or
25 threatening to destroy, conceal, remove, confiscate, or withhold
26 from the person or another person, the person's actual or
27 purported:

- 1 (i) government records;
- 2 (ii) identifying information; or
- 3 (iii) personal property;
- 4 (D) threatening the person with abuse of the law
- 5 or the legal process in relation to the person or another person;
- 6 (E) threatening to report the person or another
- 7 person to immigration officials or other law enforcement officials
- 8 or otherwise blackmailing or extorting the person or another
- 9 person;
- 10 (F) exerting financial control over the person or
- 11 another person by placing the person or another person under the
- 12 actor's control as security for a debt to the extent that:
- 13 (i) the value of the services provided by
- 14 the person or another person as reasonably assessed is not applied
- 15 toward the liquidation of the debt;
- 16 (ii) the duration of the services provided
- 17 by the person or another person is not limited and the nature of the
- 18 services provided by the person or another person is not defined; or
- 19 (iii) the principal amount of the debt does
- 20 not reasonably reflect the value of the items or services for which
- 21 the debt was incurred; or
- 22 (G) using any scheme, plan, or pattern intended
- 23 to cause the person to believe that the person or another person
- 24 will be subjected to serious harm or restraint if the person does
- 25 not perform or provide the labor or services.

26 SECTION 7. Chapter 20A, Penal Code, is amended by amending

27 Section 20A.02 and adding Sections 20A.03, 20A.04, and 20A.05 to

1 read as follows:

2 Sec. 20A.02. TRAFFICKING OF PERSONS. (a) A person commits
3 an offense if the person knowingly:

4 (1) [~~knowingly~~] traffics another person with the
5 intent or knowledge that the trafficked person will engage
6 in forced labor or services, other than forced labor or services
7 constituting an offense under Section 43.02; or

8 (2) [~~intentionally or knowingly~~] benefits from
9 participating in a venture that involves an activity described by
10 Subdivision (1), including by receiving labor or services the
11 person knows are forced labor or services.

12 (b) Except as otherwise provided by this subsection, an
13 offense under this section is a felony of the second degree. An
14 offense under this section is a felony of the first degree if [+

15 [~~(1) the applicable conduct constitutes an offense~~
16 ~~under Section 43.02 and the person who is trafficked is younger than~~
17 ~~18 years of age at the time of the offense; or~~

18 [~~(2)~~] the commission of the offense results in the
19 death of the person who is trafficked.

20 [~~(c) If conduct constituting an offense under this section~~
21 ~~also constitutes an offense under another section of this code, the~~
22 ~~actor may be prosecuted under either section or under both~~
23 ~~sections.]~~

24 Sec. 20A.03. SEX TRAFFICKING OF AN ADULT. (a) A person
25 commits an offense if the person knowingly:

26 (1) traffics another person who is 18 years of age or
27 older, with the intent or knowledge that the trafficked person will

1 engage in forced labor or services constituting an offense under
2 Section 43.02; or

3 (2) benefits from participating in a venture that
4 involves an activity described by Subdivision (1), including by
5 receiving labor or services the person knows are forced labor or
6 services.

7 (b) An offense under this section is a felony of the second
8 degree.

9 Sec. 20A.04. SEX TRAFFICKING OF A CHILD. (a) In this
10 section, "child" means a person younger than 18 years of age.

11 (b) A person commits an offense if the person, regardless of
12 whether the person knows the age of the child at the time the person
13 commits the offense, knowingly:

14 (1) traffics a child with the intent or knowledge that
15 the child will engage in conduct constituting an offense under
16 Section 43.02 or 43.25; or

17 (2) benefits from participating in a venture that
18 involves an activity described by Subdivision (1).

19 (c) An offense under this section is a felony of the first
20 degree.

21 Sec. 20A.05. PROSECUTION OF CONDUCT CONSTITUTING SEPARATE
22 OFFENSE. If conduct constituting an offense under this chapter
23 also constitutes an offense under another section of this code, the
24 actor may be prosecuted under this chapter, the other section of
25 this code, or both this chapter and the other section of this code.

26 SECTION 8. Section 43.02, Penal Code, is amended by adding
27 Subsections (d) and (e) to read as follows:

1 (d) It is an exception to the application of this section
2 that the actor was younger than 18 years of age at the time of the
3 offense.

4 (e) It is a defense to prosecution under this section that
5 the actor engaged in the conduct that constitutes the offense
6 because the actor was the victim of conduct that constitutes an
7 offense under Section 20A.03.

8 SECTION 9. Section 43.05, Penal Code, is amended to read as
9 follows:

10 Sec. 43.05. COMPELLING PROSTITUTION. (a) A person commits
11 an offense if the person [~~he~~] knowingly:

12 (1) causes another by force, threat, or fraud to
13 commit prostitution; or

14 (2) causes by any means a person younger than 18 [~~17~~]
15 years to commit prostitution, regardless of whether the actor knows
16 the age of the person at the time the actor commits the offense.

17 (b) An offense under Subsection (a)(1) [~~this section~~] is a
18 felony of the second degree. An offense under Subsection (a)(2) is a
19 felony of the first degree.

20 SECTION 10. (a) Not later than December 1, 2009, the office
21 of the attorney general shall establish the human trafficking
22 prevention task force as required by Section 402.035, Government
23 Code, as added by this Act.

24 (b) Not later than October 1, 2009, the director of the
25 Texas Juvenile Probation Commission shall establish a committee to
26 evaluate alternatives to the juvenile justice system for children
27 who are accused of engaging in acts of prostitution, as required by

1 Section 141.056, Human Resources Code, as added by this Act.

2 (c) Not later than December 1, 2010, the Commission on Law
3 Enforcement Officer Standards and Education shall adopt the rules
4 necessary to implement Section 1701.258, Occupations Code, as added
5 by this Act.

6 (d) The changes in law made by this Act to Chapters 20A and
7 43, Penal Code, apply only to an offense committed on or after the
8 effective date of this Act. An offense committed before the
9 effective date of this Act is covered by the law in effect when the
10 offense was committed, and the former law is continued in effect for
11 that purpose. For purposes of this section, an offense was
12 committed before the effective date of this Act if any element of
13 the offense was committed before that date.

14 SECTION 11. This Act takes effect September 1, 2009.