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et al.

H.B. No. 162

A BILL TO BE ENTITLED

1 AN ACT
2 relating to a prohibition on prosecuting or referring to juvenile
3 court certain persons for certain conduct constituting the offense
4 of prostitution, to the provision of services to those persons, and
5 to the prosecution of related criminal offenses.

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

7 SECTION 1. This Act may be cited as the Child Sex
8 Trafficking Victims Protections and Provisions Act.

9 SECTION 2. Section 51.03, Family Code, is amended by
10 amending Subsection (b) and adding Subsections (d) and (d-1) to
11 read as follows:

12 (b) Conduct indicating a need for supervision is:

13 (1) subject to Subsection (f), conduct, other than a
14 traffic offense, that violates:

15 (A) the penal laws of this state of the grade of
16 misdemeanor that are punishable by fine only; or

17 (B) the penal ordinances of any political
18 subdivision of this state;

19 (2) the voluntary absence of a child from the child's
20 home without the consent of the child's parent or guardian for a
21 substantial length of time or without intent to return;

22 (3) conduct prohibited by city ordinance or by state
23 law involving the inhalation of the fumes or vapors of paint and
24 other protective coatings or glue and other adhesives and the

1 volatile chemicals itemized in Section [485.001](#), Health and Safety
2 Code;

3 (4) an act that violates a school district's
4 previously communicated written standards of student conduct for
5 which the child has been expelled under Section [37.007\(c\)](#),
6 Education Code;

7 (5) notwithstanding Subsection (a)(1), conduct
8 described by Section [43.02\(b\)](#) [~~[43.02\(a\)](#) or [\(b\)](#)~~], Penal Code; or

9 (6) notwithstanding Subsection (a)(1), conduct that
10 violates Section [43.261](#), Penal Code.

11 (d) Notwithstanding Subsection (a)(1), conduct that
12 violates Section [43.02\(a\)](#), Penal Code, is not delinquent conduct or
13 conduct indicating a need for supervision. A child may not be
14 referred to the juvenile court for conduct that violates Section
15 [43.02\(a\)](#), Penal Code.

16 (d-1) A law enforcement officer who suspects that a child
17 may be a victim of an offense under Chapter [20A](#), Penal Code, or may
18 have engaged in conduct that violates Section [43.02\(a\)](#), Penal Code,
19 shall take possession of the child in accordance with Section
20 [262.104](#). The officer shall, as soon as possible, transfer
21 possession of the child to the Department of Family and Protective
22 Services. The Department of Family and Protective Services shall,
23 on taking possession of the child, contact a local service provider
24 or care coordinator who will, in consultation with the child sex
25 trafficking prevention unit established under Section [772.0062](#),
26 Government Code, and the governor's program for victims of child
27 sex trafficking established under Section [772.0063](#), Government

1 Code, facilitate the assignment of a caseworker for the child to
2 create a customized package of services to fit the child's
3 immediate and long-term rehabilitation and treatment needs,
4 including medical, psychiatric, psychological, safety, and housing
5 needs.

6 SECTION 3. Chapter 20A, Penal Code, is amended by adding
7 Section 20A.05 to read as follows:

8 Sec. 20A.05. DEFENSE EXCLUDED. It is not a defense to
9 prosecution under this chapter that the person trafficked by the
10 actor was forced to engage in conduct:

- 11 (1) prohibited by Section 43.02(a); and
12 (2) for which the person may not be prosecuted as
13 provided by Section 43.02(b-1).

14 SECTION 4. Section 43.02, Penal Code, is amended by adding
15 Subsection (b-1) to read as follows:

16 (b-1) A person may not be prosecuted for an offense under
17 Subsection (a) that the person committed when younger than 17 years
18 of age.

19 SECTION 5. Subchapter A, Chapter 43, Penal Code, is amended
20 by adding Section 43.07 to read as follows:

21 Sec. 43.07. DEFENSE EXCLUDED. It is not a defense to
22 prosecution under Section 43.03, 43.031, 43.04, 43.041, or 43.05
23 that the person who engaged in conduct prohibited by Section
24 43.02(a) may not be prosecuted for that conduct as provided by
25 Section 43.02(b-1).

26 SECTION 6. This Act applies only to an offense committed or
27 conduct that occurs on or after the effective date of this Act. An

1 offense committed or conduct that occurs before the effective date
2 of this Act is governed by the law in effect on the date the offense
3 was committed or the conduct occurred, and the former law is
4 continued in effect for that purpose. For the purposes of this
5 section, an offense was committed or conduct occurred before the
6 effective date of this Act if any element of the offense or conduct
7 occurred before that date.

8 SECTION 7. This Act takes effect September 1, 2021.