

By: Hayes

H.B. No. 236

A BILL TO BE ENTITLED

AN ACT

relating to an affirmative defense to prosecution for certain victims of trafficking of persons or compelling prostitution.

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

SECTION 1. Chapter 8, Penal Code, is amended by adding Section 8.09 to read as follows:

Sec. 8.09. VICTIM OF TRAFFICKING OR COMPELLING PROSTITUTION. (a) Except as provided by Subsection (b), it is an affirmative defense to prosecution that the actor:

(1) was a victim of an offense under Section 20A.02 or 43.05; and

(2) engaged in the conduct that is the subject of the prosecution as a direct result of being caused, through means of force, fraud, or coercion as described by Subsection (c), to engage in that specific conduct.

(b) Subsection (a) applies only if:

(1) the actor would not have engaged in the conduct that is the subject of the prosecution but for the use of force, fraud, or coercion;

(2) the use of force, fraud, or coercion would have compelled a reasonable person in the actor's circumstances to engage in the conduct;

(3) the actor was not merely afforded an opportunity to engage in the conduct without the use of force, fraud, or

1 coercion; and

2 (4) the conduct does not constitute an offense listed  
3 in Article 42A.054(a), Code of Criminal Procedure, unless the actor  
4 is charged only as a party to that offense under Section 7.01.

5 (c) For purposes of this section, "force, fraud, or  
6 coercion" has the same meaning as in Section 20A.02.

7 (d) Information relevant to the identification of a  
8 defendant's status as a victim of an offense described by  
9 Subsection (a)(1) may be offered to establish an affirmative  
10 defense under this section.

11 (e) For purposes of this section, the actor is not required  
12 to prove that the person using force, fraud, or coercion to cause  
13 the actor to engage in the conduct that is the subject of the  
14 prosecution was charged with or convicted of an offense under  
15 Section 20A.02 or 43.05.

16 SECTION 2. The change in law made by this Act applies only  
17 to the prosecution of an offense committed on or after the effective  
18 date of this Act. The prosecution of an offense committed before  
19 the effective date of this Act is governed by the law in effect on  
20 the date the offense was committed, and the former law is continued  
21 in effect for that purpose. For purposes of this section, an  
22 offense was committed before the effective date of this Act if any  
23 element of the offense occurred before that date.

24 SECTION 3. This Act takes effect on the 91st day after the  
25 last day of the legislative session.