

BILL ANALYSIS

C.S.H.B. 1121
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Federal law protects victims of trafficking by making special "T" and "U" visas available to them. These visas are designed to help prosecutors prosecute cases against human trafficking offenders by providing support to those individuals who assist in the case. Unfortunately, Texas and federal definitions of trafficking differ, preventing some victims from obtaining the protection that the law affords. C.S.H.B. 1121 requires judges to make certain findings of fact in the adjudication of human trafficking offenses in order to address this issue and provide prosecutors with an additional tool to present more effective cases against perpetrators of human trafficking.

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. 1121 amends the Code of Criminal Procedure to provide that in a trial of an offense or if a judge places a defendant charged with an offense under community supervision, on the state's attorney's motion the judge is required to make an affirmative finding of fact and enter the affirmative finding in the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(8) or has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii). The part of the papers in the case that contain the affirmative finding must include specific information identifying the victim or the victim's location, as available, and is confidential, unless the victim or the victim's parent or guardian, if the victim is younger than 18 years old, gives written consent for the release of the affirmative finding.

The change in law made by this Act applies only to a judgment of conviction entered on or after the effective date of this Act, a grant of deferred adjudication made on or after the effective date of this Act, or a disposition of delinquent conduct made on or after the effective date of this Act.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The caption in the substitute reads "relating to judicial findings regarding victims of trafficking or other abuse." The caption in the original read "relating to judicial findings regarding victims of trafficking and related offenses."

The substitute deletes language from the original bill that provided that in addition to the information already described by Section 1 of Article 42.01, Code of Criminal Procedure, the judgment should reflect affirmative findings entered pursuant to Article 42.0191, Code of Criminal Procedure.

The substitute provides that in the trial of an offense, on the state's attorney's motion the judge is required to make an affirmative finding of fact and enter the affirmative finding in the papers in the case if the judge determine certain conclusions. However, the original provided that in the trial of an offense under trafficking of persons, an offense that is part of the same criminal episode as an offense under trafficking of persons, or an attempt, conspiracy, or solicitation to commit one of these offenses, the judge is required to make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines certain conclusions.

The substitute also provides that if a judge places a defendant charged with an offense under community supervision, on the state's attorney's motion the judge is required to make an affirmative finding of fact and enter the affirmative finding in the papers in the case if the judge determine certain conclusions. The original states that if a judge places a defendant charged with an offense under trafficking of persons, an offense that is part of the same criminal episode as an offense under trafficking of persons, or an attempt, conspiracy, or solicitation to commit one of these offenses, the judge is required to make an affirmative finding of fact and enter the affirmative finding with the papers in the case if the judge determines certain conclusions.

The substitute does not amend the Family Code; whereas, the original bill amended the Family Code to provide that if a judge orders a disposition for delinquent conduct based on a violation of an offense under trafficking of persons, an offense that is part of the same criminal episode as an offense under trafficking of persons, or an attempt, conspiracy, or solicitation to commit one of these offenses, the judge is required to make an affirmative finding of fact and enter the affirmative finding in the order if the judge determines certain conclusions.

The substitute also adds that the part of the papers in the case containing the affirmative finding is confidential, unless the victim or victim's parent or guardian, if the victim is younger than 18, gives written consent for the release of the affirmative finding.