

BILL ANALYSIS

C.S.H.B. 1997
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

During the 78th Legislature, Chapter 20A, "Trafficking of Persons," was added to the Penal Code. Under Section 20A.02 of the Penal Code, a person commits an offense if the person knowingly traffics another person with the intent that the trafficked person engage in forced labor or services or an offense under Chapter 43, "Public Indecency." C.S.H.B. 1997 will make it an offense to unlawfully transport illegal aliens.

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

Committee Substitute to House Bill 1997 amends Chapter 20A of the Penal Code by adding Section 20A.03 to create the offense of unlawfully transporting an illegal alien. The bill defines "illegal alien" to mean a person who is not a citizen or national of the United States, and is unlawfully present in the United States according to the terms of 8 U.S.C. Section 1101 et seq. The bill provides that a person commits an offense if the person transports an illegal alien in a manner designed to conceal the illegal alien from law enforcement authorities. An offense under Section 20A.03, Penal Code, is a state jail felony, except it is a third degree felony offense if the offense is committed for pecuniary benefit, or in a manner that creates a substantial likelihood that the illegal alien will suffer bodily injury. It is an affirmative defense to prosecution that the actor is related to the illegal alien within the third degree of consanguinity or, at the time of the offense, within the third degree of affinity. If conduct constituting an offense under this section also constitutes an offense under another section of the code, the actor may be prosecuted under either section.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The committee substitute provides that it is an affirmative defense to prosecution that the actor is related to the illegal alien within the third degree of consanguinity or, at the time of the offense, within the third degree of affinity. The original provides that it is an exception to the application of Section 20A.03, Penal Code, that the actor is related to the illegal alien within the third degree of consanguinity or at the time of the offense within the third degree of affinity.