

BILL ANALYSIS

S.B. 1283
By: Van de Putte
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, Section 20A.01, Penal Code, defines "forced labor and services" pertaining to victims of human trafficking. However, the definitions surrounding "forced labor and services" do not fully describe many victims of human trafficking and the ways in which they are threatened and coerced into rendering services. In many trafficking cases, the victims are forced to perform a labor or service as a result of threats to their family or to destroy their citizenship documents. The current definition fails to include threat of legal action, threats to others, and other ways that a person may be forced to render labor or services.

S.B. 1283 enhances the legal definition of human trafficking in Texas and modifies the offense of trafficking of persons. The bill also makes changes to Sections 125.002 and 125.045, Civil Practice and Remedies Code, relating to the conditioning of a bond to require a defendant operating a hotel or motel to post a toll-free hotline number for victims of human trafficking. S.B. 1283 also requires the attorney general and the Health and Human Services Commission to prepare reports concerning the offense of trafficking persons, and issue those reports not later than September 1, 2008.

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

Senate Bill 1283 amends the Penal Code, to redefine "forced labor or services" and "traffic." "Forced labor or services" means labor or services, including conduct that constitutes an offense under Section 43.02, Penal Code, that are performed or provided by another person and obtained through an actor's:

- causing or threatening to cause bodily injury to the person or another person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer bodily injury;
- restraining or threatening to restrain the person or another person in a manner described by Section 20.01(1), Penal Code, or causing the person performing or providing labor or services to believe that the person or another person will be restrained;
- knowingly destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person, the person's actual or purported government records, identifying information, or personal property;
- threatening the person with abuse of the law or the legal process in relation to the person or another person;
- threatening to report the person or another person to immigration officials or other law enforcement officials or otherwise blackmailing or extorting the person or another person;
- exerting financial control over the person or another person by placing the person or another person under the actor's control as security for a debt to the extent that the value of the services provided by the person or another person as reasonably assessed is not applied toward the liquidation of the debt, the duration of the services provided is not limited and the nature of the services provided is not defined, or the principal amount of

the debt does not reasonably reflect the value of the items or services for which the debt was incurred; or

- using any scheme, plan, or pattern intended to cause the person to believe that the person or another person will be subjected to serious harm or restraint if the person does not perform or provide the labor or services.

The bill redefines "traffic" to mean to transport, entice, recruit, harbor, provide, or otherwise obtain another person by any means.

S.B. 1283 provides that a person commits an offense if the person knowingly traffics another person with the intent or knowledge that the trafficked person will engage in forced labor or services, or intentionally or knowingly benefits from participating in a venture that involves an activity of forced labor or services, including by receiving labor or services that the person knows are forced. Deletes existing text providing that a person commits an offense if the person engages in conduct constituting an offense under Chapter 43 (Public Indecency), Penal Code.

The bill provides that an offense under this section (Trafficking of Persons) is a second degree felony, except that an offense under this section is a first degree felony under certain circumstances, including if the applicable conduct constitutes an offense under Section 43.02 (Prostitution), Penal Code, and the person who is trafficked is younger than 18 years of age at the time of the offense.

The bill also amends the Civil Practice and Remedies Code by adding that if the defendant required to execute the bond is a hotel, motel or similar establishment that rents overnight lodging to the public and the alleged common nuisance is under Section 125.0015(a)(6) or (7), Civil Practices and Remedies Code, the bond must also be conditioned that the defendant will, in each of its lodging units on the premises that are the subject of the suit, post in a conspicuous place near the room rate information required to be posted under Section 2155.001, Occupations Code, an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

Not later than September 1, 2008, the attorney general, in consultation with the Health and Human Services Commission, shall prepare and issue a report outlining how existing laws and rules concerning victims and witnesses address or fail to address the needs of victims of human trafficking, and recommending areas of improvement and modifications in existing laws and rules. Not later than September 1, 2008, the Health and Human Services Commission, in consultation with the attorney general, shall prepare and issue a report outlining how existing social service programs address or fail to address the needs of victims of human trafficking, with respect to those needs, outlining the interplay of existing social service programs with federally funded victim service programs, and recommending areas of improvement and modifications in existing social service programs.

Sections 20A.01 and 20A.02, Penal Code, as amended by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date. Makes application of this Act prospective.

Subsection (f-1), Section 125.002, and Subsection (a-1), Section 125.045, Civil Practice and Remedies Code, as added by this Act, apply only to a suit filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

EFFECTIVE DATE

September 1, 2007.

