

A BILL TO BE ENTITLED

AN ACT

relating to judicial findings, a criminal offense, and preventative actions regarding human trafficking or other similar abuse.

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

SECTION 1. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0191 to read as follows:

Art. 42.0191. FINDING REGARDING VICTIMS OF TRAFFICKING OR OTHER ABUSE. (a) In the trial of an offense, on the motion of the attorney representing the state the judge shall 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:

(1) 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

(2) 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).

(b) That part of the papers in the case containing an affirmative finding under this article:

(1) must include specific information identifying the victim, as available;

(2) may not include information identifying the

1 victim's location; and

2 (3) is confidential, unless written consent for the
3 release of the affirmative finding is obtained from the victim or,
4 if the victim is younger than 18 years of age, the victim's parent
5 or guardian.

6 SECTION 2. Section 5, Article 42.12, Code of Criminal
7 Procedure, is amended by adding Subsections (i) and (j) to read as
8 follows:

9 (i) If a judge places on community supervision under this
10 section a defendant charged with an offense, on the motion of the
11 attorney representing the state the judge shall make an affirmative
12 finding of fact and file a statement of that affirmative finding in
13 the papers in the case if the judge determines that, regardless of
14 whether the conduct at issue is the subject of the prosecution or
15 part of the same criminal episode as the conduct that is the subject
16 of the prosecution, a victim in the trial:

17 (1) is or has been a victim of a severe form of
18 trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or

19 (2) has suffered substantial physical or mental abuse
20 as a result of having been a victim of criminal activity described
21 by 8 U.S.C. Section 1101(a)(15)(U)(iii).

22 (j) That part of the papers in the case containing an
23 affirmative finding under Subsection (i):

24 (1) must include specific information identifying the
25 victim, as available;

26 (2) may not include information identifying the
27 victim's location; and

1 (3) is confidential, unless written consent for the
2 release of the affirmative finding is obtained from the victim or,
3 if the victim is younger than 18 years of age, the victim's parent
4 or guardian.

5 SECTION 3. Section 54.04, Family Code, is amended by adding
6 Subsections (v) and (w) to read as follows:

7 (v) If the judge orders a disposition under this section for
8 delinquent conduct based on a violation of an offense, on the motion
9 of the attorney representing the state the judge shall make an
10 affirmative finding of fact and enter the affirmative finding in
11 the papers in the case if the judge determines that, regardless of
12 whether the conduct at issue is the subject of the prosecution or
13 part of the same criminal episode as the conduct that is the subject
14 of the prosecution, a victim in the trial:

15 (1) is or has been a victim of a severe form of
16 trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or

17 (2) has suffered substantial physical or mental abuse
18 as a result of having been a victim of criminal activity described
19 by 8 U.S.C. Section 1101(a)(15)(U)(iii).

20 (w) That part of the papers in the case containing an
21 affirmative finding under Subsection (v):

22 (1) must include specific information identifying the
23 victim, as available;

24 (2) may not include information identifying the
25 victim's location; and

26 (3) is confidential, unless written consent for the
27 release of the affirmative finding is obtained from the victim or,

1 if the victim is younger than 18 years of age, the victim's parent
2 or guardian.

3 SECTION 4. Section 20A.01, Penal Code, is amended to read as
4 follows:

5 Sec. 20A.01. DEFINITIONS. In this chapter:

6 (1) "Forced labor or services" means labor or
7 services, including conduct that constitutes an offense under
8 Section 43.02, that are performed or provided by another person and
9 obtained through an actor's:

10 (A) causing or threatening to cause bodily injury
11 to the person or another person or otherwise causing the person
12 performing or providing labor or services to believe that the
13 person or another person will suffer bodily injury;

14 (B) restraining or threatening to restrain the
15 person or another person in a manner described by Section 20.01(1)
16 or causing the person performing or providing labor or services to
17 believe that the person or another person will be restrained; [~~or~~]

18 (C) knowingly destroying, concealing, removing,
19 confiscating, or withholding from the person or another person, or
20 threatening to destroy, conceal, remove, confiscate, or withhold
21 from the person or another person, the person's actual or
22 purported:

- 23 (i) government records;
24 (ii) identifying information; or
25 (iii) personal property;

26 (D) threatening the person with abuse of the law
27 or the legal process in relation to the person or another person;

1 (E) threatening to report the person or another
2 person to immigration officials or other law enforcement officials
3 or otherwise blackmailing or extorting the person or another
4 person;

5 (F) exerting financial control over the person or
6 another person by placing the person or another person under the
7 actor's control as security for a debt to the extent that:

8 (i) the value of the services provided by
9 the person or another person as reasonably assessed is not applied
10 toward the liquidation of the debt;

11 (ii) the duration of the services provided
12 by the person or another person is not limited and the nature of the
13 services provided by the person or another person is not defined; or

14 (iii) the principal amount of the debt does
15 not reasonably reflect the value of the items or services for which
16 the debt was incurred; or

17 (G) using any scheme, plan, or pattern intended
18 to cause the person to believe that the person or another person
19 will be subjected to serious harm or restraint if the person does
20 not perform or provide the labor or services.

21 (2) "Traffic" means to transport, ~~[another person or~~
22 ~~to]~~ entice, recruit, harbor, provide, or otherwise obtain another
23 person by any means ~~[for transport by deception, coercion, or~~
24 ~~force]~~.

25 SECTION 5. Sections 20A.02(a) and (b), Penal Code, are
26 amended to read as follows:

27 (a) A person commits an offense if the person:

1 (1) knowingly traffics another person with the intent
2 or knowledge that the trafficked person will engage in[+]

3 ~~[(1)]~~ forced labor or services; or

4 (2) intentionally or knowingly benefits from
5 participating in a venture that involves an activity described by
6 Subdivision (1), including by receiving labor or services the
7 person knows are forced labor or services ~~[conduct that constitutes~~
8 ~~an offense under Chapter 43]~~.

9 (b) Except as otherwise provided by this subsection, an
10 offense under this section is a felony of the second degree. An
11 offense under this section is a felony of the first degree if:

12 (1) the applicable conduct constitutes an offense
13 under Section 43.02 ~~[offense is committed under Subsection (a)(2)]~~
14 and the person who is trafficked is younger than 18 ~~[14]~~ years of
15 age at the time of the offense; or

16 (2) the commission of the offense results in the death
17 of the person who is trafficked.

18 SECTION 6. Section 125.002, Civil Practice and Remedies
19 Code, is amended by adding Subsection (f-1) to read as follows:

20 (f-1) If the defendant required to execute the bond is a
21 hotel, motel, or similar establishment that rents overnight lodging
22 to the public and the alleged common nuisance is under Section
23 125.0015(a)(6) or (7), the bond must also be conditioned that the
24 defendant will, in each of the defendant's lodging units on the
25 premises that are the subject of the suit, post in a conspicuous
26 place near the room rate information required to be posted under
27 Section 2155.001, Occupations Code, an operating toll-free

1 telephone number of a nationally recognized information and
2 referral hotline for victims of human trafficking.

3 SECTION 7. Section 125.045, Civil Practice and Remedies
4 Code, is amended by adding Subsection (a-1) to read as follows:

5 (a-1) If the defendant required to execute the bond is a
6 hotel, motel, or similar establishment that rents overnight lodging
7 to the public and the alleged common nuisance is under Section
8 125.0015(a)(6) or (7), the bond must also be conditioned that the
9 defendant will, in each of the defendant's lodging units on the
10 premises that are the subject of the suit, post in a conspicuous
11 place near the room rate information required to be posted under
12 Section 2155.001, Occupations Code, an operating toll-free
13 telephone number of a nationally recognized information and
14 referral hotline for victims of human trafficking.

15 SECTION 8. (a) Not later than September 1, 2008, the
16 attorney general, in consultation with the Health and Human
17 Services Commission, shall prepare and issue a report:

18 (1) outlining how existing laws and rules concerning
19 victims and witnesses address or fail to address the needs of
20 victims of human trafficking; and

21 (2) recommending areas of improvement and
22 modifications in existing laws and rules.

23 (b) Not later than September 1, 2008, the Health and Human
24 Services Commission, in consultation with the attorney general,
25 shall prepare and issue a report:

26 (1) outlining how existing social service programs
27 address or fail to address the needs of victims of human

1 trafficking;

2 (2) with respect to those needs, outlining the
3 interplay of existing social service programs with federally funded
4 victim service programs; and

5 (3) recommending areas of improvement and
6 modifications in existing social service programs.

7 SECTION 9. Sections 20A.01 and 20A.02, Penal Code, as
8 amended by this Act, apply only to an offense committed on or after
9 the effective date of this Act. An offense committed before the
10 effective date of this Act is governed by the law in effect when the
11 offense was committed, and the former law is continued in effect for
12 that purpose. For purposes of this section, an offense is committed
13 before the effective date of this Act if any element of the offense
14 occurs before the effective date.

15 SECTION 10. Section 125.002(f-1) and Section 125.045(a-1),
16 Civil Practice and Remedies Code, as added by this Act, apply only
17 to a suit filed on or after the effective date of this Act. A suit
18 filed before the effective date of this Act is governed by the law
19 in effect immediately before that date, and that law is continued in
20 effect for that purpose.

21 SECTION 11. The change in law made by this Act applies only
22 to a judgment of conviction entered on or after the effective date
23 of this Act, a grant of deferred adjudication made on or after the
24 effective date of this Act, or a disposition of delinquent conduct
25 made on or after the effective date of this Act.

26 SECTION 12. This Act takes effect immediately if it
27 receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.
2 If this Act does not receive the vote necessary for immediate
3 effect, this Act takes effect September 1, 2007.