

BILL ANALYSIS

C.S.H.B. 533
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Human trafficking is the illegal trade in human beings and is considered a form of modern-day slavery. The U.S. Department of State estimates that between 18,000 and 20,000 victims are trafficked into the United States annually. Since 2001, more than 20 percent of the total identified victims nationwide have been located in Texas according to the Texas Association Against Sexual Assault. Language barriers, torture, beatings, and threats of retaliation against family members are only a few of the methods human traffickers use to silence their victims. Moreover, victims of human trafficking are typically told by their captors that police are the enemy and that, if caught, they will be deported.

C.S.H.B. 533 allows a victim of human trafficking to hold a trafficker liable in a civil court for damages arising from the trafficking of that person by the defendant or venture. The bill provides that it is not a defense to liability that a defendant has been acquitted or has not been prosecuted or convicted, or has been convicted of a different offense or of a different type or class of offense, for the conduct that is alleged to give rise to liability. The bill allows a claimant who prevails in a civil suit to recover actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown. The bill provides that a claimant who prevails in a civil suit against the defendant may recover exemplary damages and reasonable attorney's fees.

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. 533 amends the Civil Practice and Remedies Code to make a defendant who engages in the trafficking of persons or intentionally or knowingly benefits from participating in a venture that traffics another person liable to the person trafficked for damages arising from the trafficking of that person by the defendant or venture. The bill establishes that it is not a defense to liability that the defendant has been acquitted or has not been prosecuted or convicted of the trafficking of persons, or has been convicted of a different offense or of a different type or class of offense, for the conduct that is alleged to give rise to liability for trafficking persons. The bill defines "trafficking of persons" for the purposes of its provisions.

C.S.H.B. 533 requires that a claimant who prevails in a civil liability suit for trafficking of persons to be awarded actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown, exemplary damages, court costs, and reasonable attorney's fees.

C.S.H.B. 533 establishes that a cause of action created by the liability for trafficking of persons is cumulative of any other remedy provided by common law or statute. The bill establishes that a person who engages in the trafficking of persons or who intentionally or knowingly benefits

from participating in a trafficking of persons or who intentionally or knowingly benefits from participating in a venture that traffics another person and is found liable for trafficking of persons or other law for any amount of damages arising from the trafficking is jointly liable with any other defendant for the entire amount of damages arising from the trafficking. The bill requires provisions regarding liability for trafficking of persons to be liberally construed and applied to promote its underlying purpose to protect persons from human trafficking and provide adequate remedies to victims of human trafficking.

C.S.H.B. 533 establishes that the limitation on amount of recovery does not apply to a cause of action based on the trafficking of persons if the conduct was committed knowingly or intentionally.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 533 differs from the original by including court costs among the items awardable in a trafficking of persons liability suit. The substitute differs from the original by adding provisions establishing that a cause of action created by the liability for trafficking of persons is cumulative of any other remedy provided by common law or statute. The substitute differs from the original by adding provisions establishing that a person who engages in the trafficking of persons or who intentionally or knowingly benefits from participating in trafficking of persons or who intentionally or knowingly benefits from participating in a venture that traffics another person and is found liable for trafficking of persons or other law for any amount of damages arising from the trafficking is jointly liable with any other defendant for the entire amount of damages arising from the trafficking. The substitute differs from the original by adding provisions requiring provisions regarding liability for trafficking of persons to be liberally construed and applied to promote its underlying purpose to protect persons from human trafficking and provide adequate remedies to victims of human trafficking.

C.S.H.B. 533 differs from the original by adding that the limitation on amount of recovery does not apply to a cause of action based on the trafficking of persons if the conduct was committed knowingly or intentionally.