

## **BILL ANALYSIS**

C.S.H.B. 639  
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Judiciary & Civil Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to the attorney general's report on human trafficking and the U.S. Department of Justice, Texas is considered a major hub for human trafficking. There are more than 17,000 victims trafficked into the United States with more than 20 percent of the victims found in Texas. Trafficking victims tend to come from vulnerable populations characterized by oppression, high rates of illiteracy, little social mobility, and few economic opportunities. The intent of C.S.H.B. 639 is to prevent and eliminate the crime of human trafficking through a number of means. A defense to prosecution for victims and a study of alternatives to the juvenile justice system are necessary to ensure that victims of human trafficking can receive services or benefits they would forfeit if convicted of a crime.

C.S.H.B. 639 creates a statewide human trafficking prevention taskforce and requires all new peace officers, as well as officers seeking intermediate or advanced certification, to receive education and training regarding human trafficking. The bill creates the trafficking of persons investigation and prosecution account in the general revenue fund to provide funding for law enforcement as well as nongovernmental organizations working to prevent or combat human trafficking. The bill commissions a study to evaluate alternatives to the juvenile justice system for children who engage in acts of prostitution to protect minor victims of human trafficking. The bill establishes a defense to prosecution for prostitution for victims of human trafficking.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Commission on Law Enforcement Officer Standards and Education in SECTIONS 4 and 9 of this bill.

### **ANALYSIS**

C.S.H.B. 639 amends the Government Code to add a temporary provision, set to expire September 1, 2013, that requires the office of the attorney general, not later than December 1, 2009, to establish the human trafficking prevention task force to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes. The bill establishes that the task force is composed of the following:

- the governor or the governor's designee;
- the attorney general or the attorney general's designee;
- the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee;
- the commissioner of the Department of Family and Protective services or the commissioner's designee;
- the public safety director of the Department of Public Safety or the director's designee;
- one representative, as appointed by the agency's chief administrative officer, from the Texas Workforce Commission, the Texas Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, and the Texas Alcoholic Beverage Commission;

- as appointed by the attorney general, a public defender, an attorney representing the state, and one representative each of a hotel and motel association, a district and county attorneys association, and a state police association;
- representatives of sheriff's departments;
- representatives of local law enforcement agencies affected by human trafficking; and
- representatives of nongovernmental entities making comprehensive efforts to combat human trafficking.

The bill designates the attorney general or the attorney general's designee as the presiding officer.

C.S.H.B. 639 requires the task force to collaborate with United States attorneys for the districts of Texas and special agents, customs and border protection officers, and border patrol agents of the Federal Bureau of Investigation, the United States Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the United States Immigration and Customs Enforcement Agency, or the U.S. Department of Homeland Security; to collect, organize, and periodically publish statistical data on the nature and extent of human trafficking in Texas; to solicit cooperation and assistance from state and local governmental agencies, political subdivisions of Texas, nongovernmental organizations, and other persons as appropriate for the purpose of collecting and organizing the statistical data; to ensure that each state or local governmental agency and political subdivision of Texas that assists in the prevention of human trafficking collects statistical data related to human trafficking; to work with the Commission on Law Enforcement Officer Standards and Education to develop and conduct training for law enforcement personnel, victim service providers, and medical service providers to identify victims of human trafficking; to assist and train certain judges or the judge's staff and certain prosecuting attorneys or the attorney's staff in the recognition and prevention of human trafficking on request of the judge or the attorney; to examine training protocols related to human trafficking issues, as developed and implemented by federal, state, and local law enforcement agencies; to collaborate with state and local governmental agencies, political subdivisions of Texas, and nongovernmental organizations to implement a media awareness campaign in communities affected by human trafficking; and to develop recommendations on how to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, and prosecute human trafficking offenders. The bill requires the office of the attorney general to supervise the administration of the task force, and requires the attorney general to provide the necessary staff and facilities to assist the task force in performing its duties. The bill requires the task force, not later than December 1 of each even-numbered year, to submit a report regarding the task force's activities, findings, and recommendations, including any proposed legislation, to the governor, the lieutenant governor, and the legislature.

C.S.H.B. 639 creates the trafficking of persons investigation and prosecution account in the general revenue fund. The bill provides that the account is composed of legislative appropriations and other money required by law to be deposited in the account and requires income from money in the account to be credited to the account. The bill exempts the account from provisions relating to the use of excess dedicated revenue for general governmental purposes and to the allocation of interest received from investments and money in funds and accounts in the charge of the comptroller of public accounts. The bill authorizes the legislature to appropriate money from the account only to the governor's criminal justice division, and authorizes the division to use the appropriated money solely to distribute the grants to certain counties and nongovernmental organizations that apply for the grants. The bill limits the total amount of grants that may be distributed during each state fiscal year to not more than \$10 million.

C.S.H.B. 639 amends the Human Resources Code to add a temporary provision, set to expire June 1, 2011, that requires the executive director of the Texas Juvenile Probation Commission, not later than October 1, 2009, to establish a committee to evaluate alternatives to the juvenile justice system, such as government programs, faith-based programs, and programs offered by

nonprofit organizations, for children who are accused of engaging in acts of prostitution. The bill requires the director to determine the size of the committee and sets forth the membership of the committee. The bill requires the committee, not later than January 1, 2011, to prepare and deliver to each member of the legislature a report that includes the results of the study and recommendations for alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution.

C.S.H.B. 639 amends the Occupations Code to require the Commission on Law Enforcement Officer Standards and Education to require by rule an officer first licensed by the commission on or after January 1, 2011, to complete within a reasonable time after obtaining the license a one-time basic education and training program on the trafficking of persons. The bill requires the program to consist of at least four hours of training and include a review of Penal Code provisions relating to certain offenses for trafficking of persons and compelling prostitution. The bill requires the commission to make available to each officer a voluntary advanced education, instruction, and training program on the trafficking of persons and compelling prostitution as prohibited by those provisions. The bill adds a temporary provision, set to expire September 1, 2011, that requires the commission to begin offering the basic and advanced programs not later than January 1, 2011. The bill requires the commission to adopt rules necessary to implement the education and training programs not later than December 1, 2010. The bill requires a peace officer or reserve law enforcement officer to complete the basic education and training program as a requirement for an intermediate or advanced proficiency certificate issued by the commission on or after January 1, 2011.

C.S.H.B. 639 amends the Penal Code to establish a defense to prosecution for prostitution that the actor engaged in conduct that constitutes prostitution because the actor was the victim of conduct that constitutes an offense of trafficking of persons. The bill clarifies that the penalty for trafficking of persons is increased to a felony in the first degree if the applicable conduct constitutes an offense of compelling prostitution or an offense of sexual performance by a child, rather than an offense of prostitution, and the person who is trafficked is a child younger than 18 years of age at the time of the offense, regardless of whether the actor knows the age of the child at the time the actor commits the offense. The bill clarifies that a person commits the offense of compelling prostitution if the person knowingly causes by any means a child younger than 18 years, rather than 17 years of age, to commit prostitution, regardless of whether the actor knows the age of the person at the time the actor commits the offense.

#### **EFFECTIVE DATE**

September 1, 2009.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 639 differs from the original by adding to the composition of the task force the following: the governor or the governor's designee; one representative each from certain state agencies appointed by the agency's chief administrative officers; one representative each of a hotel and motel association, a district and county attorneys association, and a state police association as appointed by the attorney general; and representatives of sheriffs' departments. The substitute differs from the original by including agents and officers of the Federal Bureau of Investigation, the United States Drug Enforcement Administration, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and the United States Immigration and Customs Enforcement Agency among those federal agents and officers with whom the task force is required to collaborate to fulfill the duties of the task force. The substitute requires the task force to periodically publish statistical data on the nature and extent of human trafficking in Texas, in addition to collecting and organizing that data as in the original. The substitute adds provisions not in the original requiring the task force to solicit cooperation and assistance from certain state, local, and nongovernmental agencies and entities for statistical data collection purposes and to ensure those agencies and entities collect specified data. The substitute differs from the original

by including medical service providers among those for whom the task force is required to develop and conduct training. The substitute requires the task force to work with the Commission of Law Enforcement Officer Standards and Education to develop and conduct training and to collaborate with state and local governmental agencies, political subdivisions of Texas, and nongovernmental organizations to implement a media awareness campaign, whereas the original does not specify that the task force is required to work or collaborate with any such entity in performing those duties. The substitute, in the provision requiring the task force to submit its report to certain state officers, requires the report to be submitted to the legislature, rather than to the speaker of the house of representatives as in the original.

C.S.H.B. 639 differs from the original by not striking conduct that constitutes an offense of prostitution from the definition of "forced labor or services," for purposes of a human trafficking offense and making related conforming changes, whereas the original strikes that language.

C.S.H.B. 639, in the provision enhancing the penalty for trafficking of persons to a felony in the first degree, applies the enhancement if the applicable conduct constitutes an offense of compelling prostitution or an offense of sexual performance by a child, rather than an offense of prostitution, and the person who is trafficked is a child younger than 18 years of age at the time of the offense, regardless of whether the actor knows the age of the child at the time the actor commits the offense, whereas the original removes this penalty enhancement. The substitute removes provisions in the original creating the offenses of sex trafficking of an adult and sex trafficking of a child, and makes related conforming changes. The substitute removes a provision in the original providing an exception to the application of provisions regarding the offense of prostitution if the actor is younger than 18 years of age at the time of the offense. The substitute establishes as a defense to prosecution for prostitution that the person engaged in prostitution because the person was the victim of the offense of trafficking of persons, rather than the offense of sex trafficking of an adult, as in the original. The substitute removes a provision in the original increasing the penalty for compelling prostitution of a person younger than 18 years of age from a second degree felony to a first degree felony. The substitute refers to a child, rather than a person, younger than 18 years of age, in the description of that offense.