

By: Anchia, Hughes

H.B. No. 533

Substitute the following for H.B. No. 533:

By: Madden

C.S.H.B. No. 533

A BILL TO BE ENTITLED

AN ACT

relating to civil liability for the trafficking of persons.

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

SECTION 1. Title 4, Civil Practice and Remedies Code, is amended by adding Chapter 98 to read as follows:

CHAPTER 98. LIABILITY FOR TRAFFICKING OF PERSONS

Sec. 98.001. DEFINITION. In this chapter, "trafficking of persons" means conduct that constitutes an offense under Chapter 20A, Penal Code.

Sec. 98.002. LIABILITY. (a) A defendant who engages in the trafficking of persons or who intentionally or knowingly benefits from participating in a venture that traffics another person, is liable to the person trafficked, as provided by this chapter, for damages arising from the trafficking of that person by the defendant or venture.

(b) It is not a defense to liability under this chapter that a defendant has been acquitted or has not been prosecuted or convicted under Chapter 20A, Penal Code, 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 under this chapter.

Sec. 98.003. DAMAGES. (a) A claimant who prevails in a suit under this chapter shall be awarded:

(1) actual damages, including damages for mental

1 anguish even if an injury other than mental anguish is not shown;

2 (2) court costs; and

3 (3) reasonable attorney's fees.

4 (b) In addition to an award under Subsection (a), a claimant  
5 who prevails in a suit under this chapter may recover exemplary  
6 damages.

7 Sec. 98.004. CAUSE OF ACTION CUMULATIVE. The cause of  
8 action created by this chapter is cumulative of any other remedy  
9 provided by common law or statute.

10 Sec. 98.005. JOINT AND SEVERAL LIABILITY. A person who  
11 engages in the trafficking of persons or who intentionally or  
12 knowingly benefits from participating in a venture that traffics  
13 another person and is found liable under this chapter or other law  
14 for any amount of damages arising from the trafficking is jointly  
15 liable with any other defendant for the entire amount of damages  
16 arising from the trafficking.

17 Sec. 98.006. LIBERAL CONSTRUCTION AND APPLICATION. This  
18 chapter shall be liberally construed and applied to promote its  
19 underlying purpose to protect persons from human trafficking and  
20 provide adequate remedies to victims of human trafficking.

21 SECTION 2. Section 41.008(c), Civil Practice and Remedies  
22 Code, is amended to read as follows:

23 (c) This section does not apply to a cause of action against  
24 a defendant from whom a plaintiff seeks recovery of exemplary  
25 damages based on conduct described as a felony in the following  
26 sections of the Penal Code if, except for Sections 49.07 and 49.08,  
27 the conduct was committed knowingly or intentionally:

- 1 (1) Section 19.02 (murder);
- 2 (2) Section 19.03 (capital murder);
- 3 (3) Section 20.04 (aggravated kidnapping);
- 4 (4) Section 22.02 (aggravated assault);
- 5 (5) Section 22.011 (sexual assault);
- 6 (6) Section 22.021 (aggravated sexual assault);
- 7 (7) Section 22.04 (injury to a child, elderly
- 8 individual, or disabled individual, but not if the conduct occurred
- 9 while providing health care as defined by Section 74.001);
- 10 (8) Section 32.21 (forgery);
- 11 (9) Section 32.43 (commercial bribery);
- 12 (10) Section 32.45 (misapplication of fiduciary
- 13 property or property of financial institution);
- 14 (11) Section 32.46 (securing execution of document by
- 15 deception);
- 16 (12) Section 32.47 (fraudulent destruction, removal,
- 17 or concealment of writing);
- 18 (13) Chapter 31 (theft) the punishment level for which
- 19 is a felony of the third degree or higher;
- 20 (14) Section 49.07 (intoxication assault);
- 21 (15) Section 49.08 (intoxication manslaughter); [~~ex~~]
- 22 (16) Section 21.02 (continuous sexual abuse of young
- 23 child or children); or
- 24 (17) Chapter 20A (trafficking of persons).

25 SECTION 3. The change in law made by this Act applies only  
26 to a cause of action that accrues on or after the effective date of  
27 this Act. A cause of action that accrues before the effective date

1 of this Act is governed by the law in effect immediately before that  
2 date, and that law is continued in effect for that purpose.

3 SECTION 4. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2009.