

1-1 By: Van de Putte, et al. S.B. No. 89  
1-2 (In the Senate - Filed November 10, 2008; February 10, 2009,  
1-3 read first time and referred to Committee on Criminal Justice;  
1-4 April 22, 2009, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 22, 2009,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 89 By: Hinojosa  
1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the prosecution, punishment, and prevention of offenses  
1-11 involving trafficking of persons or certain forced or sex-based  
1-12 labor or services, law enforcement training relating to the  
1-13 trafficking of persons, and the creation of the trafficking of  
1-14 persons investigation and prosecution account in the general  
1-15 revenue fund.

1-16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
1-17 SECTION 1. Subchapter B, Chapter 402, Government Code, is  
1-18 amended by adding Section 402.035 to read as follows:

1-19 Sec. 402.035. HUMAN TRAFFICKING PREVENTION TASK FORCE.

1-20 (a) In this section, "task force" means the human trafficking  
1-21 prevention task force.

1-22 (b) The office of the attorney general shall establish the  
1-23 human trafficking prevention task force to develop policies and  
1-24 procedures to assist in the prevention and prosecution of human  
1-25 trafficking crimes.

1-26 (c) The task force is composed of the following:

1-27 (1) the governor or the governor's designee;

1-28 (2) the attorney general or the attorney general's  
1-29 designee;

1-30 (3) the executive commissioner of the Health and Human  
1-31 Services Commission or the executive commissioner's designee;

1-32 (4) the commissioner of the Department of Family and  
1-33 Protective Services or the commissioner's designee;

1-34 (5) the public safety director of the Department of  
1-35 Public Safety or the director's designee;

1-36 (6) one representative from each of the following  
1-37 state agencies, appointed by the chief administrative officer of  
1-38 the respective agency:

1-39 (A) the Texas Workforce Commission;

1-40 (B) the Texas Department of Criminal Justice;

1-41 (C) the Texas Youth Commission;

1-42 (D) the Texas Juvenile Probation Commission; and

1-43 (E) the Texas Alcoholic Beverage Commission; and

1-44 (7) as appointed by the attorney general:

1-45 (A) a public defender, as defined by Article  
1-46 26.044, Code of Criminal Procedure;

1-47 (B) an attorney representing the state;

1-48 (C) a representative of:

1-49 (i) a hotel and motel association;

1-50 (ii) a district and county attorneys  
1-51 association; and

1-52 (iii) a state police association;

1-53 (D) representatives of sheriff's departments;

1-54 (E) representatives of local law enforcement  
1-55 agencies affected by human trafficking; and

1-56 (F) representatives of nongovernmental entities  
1-57 making comprehensive efforts to combat human trafficking by:

1-58 (i) identifying human trafficking victims;

1-59 (ii) providing legal or other services to  
1-60 human trafficking victims;

1-61 (iii) participating in community outreach  
1-62 or public awareness efforts regarding human trafficking;

1-63 (iv) providing or developing training

2-1 regarding the prevention of human trafficking; or  
2-2 (v) engaging in other activities designed  
2-3 to prevent human trafficking.  
2-4 (d) The task force shall:  
2-5 (1) collaborate, as needed to fulfill the duties of  
2-6 the task force, with:  
2-7 (A) United States attorneys for the districts of  
2-8 Texas; and  
2-9 (B) special agents or customs and border  
2-10 protection officers and border patrol agents of:  
2-11 (i) the Federal Bureau of Investigation;  
2-12 (ii) the United States Drug Enforcement  
2-13 Administration;  
2-14 (iii) the Bureau of Alcohol, Tobacco,  
2-15 Firearms and Explosives;  
2-16 (iv) the United States Immigration and  
2-17 Customs Enforcement Agency; or  
2-18 (v) the United States Department of  
2-19 Homeland Security;  
2-20 (2) collect, organize, and periodically publish  
2-21 statistical data on the nature and extent of human trafficking in  
2-22 this state;  
2-23 (3) solicit cooperation and assistance from state and  
2-24 local governmental agencies, political subdivisions of the state,  
2-25 nongovernmental organizations, and other persons, as appropriate,  
2-26 for the purpose of collecting and organizing statistical data under  
2-27 Subdivision (2);  
2-28 (4) ensure that each state or local governmental  
2-29 agency and political subdivision of the state that assists in the  
2-30 prevention of human trafficking collects statistical data related  
2-31 to human trafficking, including, as appropriate:  
2-32 (A) the number of investigations concerning,  
2-33 arrests and prosecutions for, and convictions of:  
2-34 (i) the offense of trafficking of persons;  
2-35 and  
2-36 (ii) the offense of forgery or an offense  
2-37 under Chapter 43, Penal Code, if committed as part of a criminal  
2-38 episode involving the trafficking of persons;  
2-39 (B) demographic information on persons who are  
2-40 convicted of offenses described by Paragraph (A) and persons who  
2-41 are the victims of those offenses;  
2-42 (C) geographic routes by which human trafficking  
2-43 victims are trafficked and geographic patterns in human  
2-44 trafficking, including the country or state of origin and the  
2-45 country or state of destination;  
2-46 (D) means of transportation and methods used by  
2-47 persons who engage in trafficking to transport their victims; and  
2-48 (E) social and economic factors that create a  
2-49 demand for the labor or services that victims of human trafficking  
2-50 are forced to provide;  
2-51 (5) work with the Commission on Law Enforcement  
2-52 Officer Standards and Education to develop and conduct training for  
2-53 law enforcement personnel, victim service providers, and medical  
2-54 service providers to identify victims of human trafficking;  
2-55 (6) on the request of a judge of a county court, county  
2-56 court at law, or district court or a county attorney, district  
2-57 attorney, or criminal district attorney, assist and train the judge  
2-58 or the judge's staff or the attorney or the attorney's staff in the  
2-59 recognition and prevention of human trafficking;  
2-60 (7) examine training protocols related to human  
2-61 trafficking issues, as developed and implemented by federal, state,  
2-62 and local law enforcement agencies;  
2-63 (8) collaborate with state and local governmental  
2-64 agencies, political subdivisions of the state, and nongovernmental  
2-65 organizations to implement a media awareness campaign in  
2-66 communities affected by human trafficking; and  
2-67 (9) develop recommendations on how to strengthen state  
2-68 and local efforts to prevent human trafficking, protect and assist  
2-69 human trafficking victims, and prosecute human trafficking

3-1 offenders.

3-2 (e) The presiding officer of the task force is the attorney  
3-3 general or the attorney general's designee.

3-4 (f) The office of the attorney general shall supervise the  
3-5 administration of the task force. The attorney general shall  
3-6 provide the necessary staff and facilities to assist the task force  
3-7 in performing its duties.

3-8 (g) Not later than December 1 of each even-numbered year,  
3-9 the task force shall submit a report regarding the task force's  
3-10 activities, findings, and recommendations, including any proposed  
3-11 legislation, to the governor, the lieutenant governor, and the  
3-12 legislature.

3-13 (h) This section expires September 1, 2013.

3-14 SECTION 2. Section 772.006, Government Code, is amended by  
3-15 adding Subsections (d), (e), and (f) to read as follows:

3-16 (d) The trafficking of persons investigation and  
3-17 prosecution account is created in the general revenue fund. The  
3-18 account is composed of legislative appropriations and other money  
3-19 required by law to be deposited in the account. Income from money  
3-20 in the account shall be credited to the account. Sections 403.095  
3-21 and 404.071 do not apply to the account.

3-22 (e) The legislature may appropriate money from the  
3-23 trafficking of persons investigation and prosecution account  
3-24 created under Subsection (d) only to the criminal justice division  
3-25 for the purposes of this subsection. The division may use the  
3-26 appropriated money solely to distribute grants to:

3-27 (1) counties that apply for the grants and that have  
3-28 dedicated full-time or part-time personnel to identify, prevent,  
3-29 investigate, or prosecute offenses under Chapter 20A, Penal Code;  
3-30 and

3-31 (2) nongovernmental organizations that apply for the  
3-32 grants and that provide comprehensive services in this state to  
3-33 prevent the commission of offenses under Chapter 20A, Penal Code,  
3-34 or to address the needs of victims of those offenses, including  
3-35 public awareness activities, community outreach and training,  
3-36 victim identification services, legal services, and other services  
3-37 designed to assist victims.

3-38 (f) The total amount of grants that may be distributed to  
3-39 counties and nongovernmental organizations from the trafficking of  
3-40 persons investigation and prosecution account during each state  
3-41 fiscal year may not exceed \$10 million.

3-42 SECTION 3. Subchapter C, Chapter 141, Human Resources Code,  
3-43 is amended by adding Section 141.056 to read as follows:

3-44 Sec. 141.056. STUDY OF ALTERNATIVES TO JUVENILE JUSTICE  
3-45 SYSTEM FOR CHILDREN WHO ENGAGE IN ACTS OF PROSTITUTION. (a) The  
3-46 director shall establish a committee to evaluate alternatives to  
3-47 the juvenile justice system, such as government programs,  
3-48 faith-based programs, and programs offered by nonprofit  
3-49 organizations, for children who are accused of engaging in acts of  
3-50 prostitution.

3-51 (b) The director shall determine the size of the committee.  
3-52 The committee must be composed of:

3-53 (1) members of the Texas Juvenile Probation  
3-54 Commission, the Texas Youth Commission, and other relevant state  
3-55 agencies as determined by the director;

3-56 (2) members of the legislature;

3-57 (3) members of nongovernmental organizations that  
3-58 provide programs and services to combat and prevent trafficking of  
3-59 persons as described by Section 20A.02, Penal Code, in this state,  
3-60 including the following with respect to that trafficking:

3-61 (A) programs to promote public awareness;

3-62 (B) programs to identify and provide services to  
3-63 victims;

3-64 (C) legal services; and

3-65 (D) community outreach and training programs;  
3-66 and

3-67 (4) other juvenile justice experts.

3-68 (c) Not later than January 1, 2011, the committee shall  
3-69 prepare and deliver to each member of the legislature a report that

4-1 includes the results of the study and recommendations for  
4-2 alternatives to the juvenile justice system for children who are  
4-3 accused of engaging in acts of prostitution.

4-4 (d) This section expires June 1, 2011.

4-5 SECTION 4. Subchapter F, Chapter 1701, Occupations Code, is  
4-6 amended by adding Section 1701.258 to read as follows:

4-7 Sec. 1701.258. EDUCATION AND TRAINING PROGRAMS ON  
4-8 TRAFFICKING OF PERSONS. (a) The commission by rule shall require  
4-9 an officer first licensed by the commission on or after January 1,  
4-10 2011, to complete within a reasonable time after obtaining the  
4-11 license a one-time basic education and training program on the  
4-12 trafficking of persons. The program must:

4-13 (1) consist of at least four hours of training; and

4-14 (2) include a review of the substance of Sections  
4-15 20A.02 and 43.05, Penal Code.

4-16 (b) The commission shall make available to each officer a  
4-17 voluntary advanced education, instruction, and training program on  
4-18 the trafficking of persons and compelling prostitution prohibited  
4-19 under Sections 20A.02 and 43.05, Penal Code.

4-20 (c) Not later than January 1, 2011, the commission shall  
4-21 begin offering the basic and advanced programs established under  
4-22 this section. This subsection expires September 1, 2011.

4-23 SECTION 5. Section 1701.402, Occupations Code, is amended  
4-24 by adding Subsection (h) to read as follows:

4-25 (h) As a requirement for an intermediate or advanced  
4-26 proficiency certificate issued by the commission on or after  
4-27 January 1, 2011, an officer must complete the basic education and  
4-28 training program on the trafficking of persons described by Section  
4-29 1701.258(a).

4-30 SECTION 6. Subsections (a) and (b), Section 20A.02, Penal  
4-31 Code, are amended to read as follows:

4-32 (a) A person commits an offense if the person knowingly:

4-33 (1) [~~knowingly~~] traffics another person with the  
4-34 intent or knowledge that the trafficked person will engage  
4-35 in forced labor or services; or

4-36 (2) [~~intentionally or knowingly~~] benefits from  
4-37 participating in a venture that involves an activity described by  
4-38 Subdivision (1), including by receiving labor or services the  
4-39 person knows are forced labor or services.

4-40 (b) Except as otherwise provided by this subsection, an  
4-41 offense under this section is a felony of the second degree. An  
4-42 offense under this section is a felony of the first degree if:

4-43 (1) the applicable conduct constitutes an offense  
4-44 under Section 43.05 or 43.25 [~~43.02~~] and the person who is  
4-45 trafficked is a child younger than 18 years of age at the time of the  
4-46 offense, regardless of whether the actor knows the age of the child  
4-47 at the time the actor commits the offense; or

4-48 (2) the commission of the offense results in the death  
4-49 of the person who is trafficked.

4-50 SECTION 7. Section 43.02, Penal Code, is amended by adding  
4-51 Subsection (d) to read as follows:

4-52 (d) It is a defense to prosecution under this section that  
4-53 the actor engaged in the conduct that constitutes the offense  
4-54 because the actor was the victim of conduct that constitutes an  
4-55 offense under Section 20A.02.

4-56 SECTION 8. Subsection (a), Section 43.05, Penal Code, is  
4-57 amended to read as follows:

4-58 (a) A person commits an offense if the person [~~he~~]  
4-59 knowingly:

4-60 (1) causes another by force, threat, or fraud to  
4-61 commit prostitution; or

4-62 (2) causes by any means a child [~~person~~] younger than  
4-63 18 [~~17~~] years to commit prostitution, regardless of whether the  
4-64 actor knows the age of the child at the time the actor commits the  
4-65 offense.

4-66 SECTION 9. (a) Not later than December 1, 2009, the office  
4-67 of the attorney general shall establish the human trafficking  
4-68 prevention task force as required by Section 402.035, Government  
4-69 Code, as added by this Act.

5-1 (b) Not later than October 1, 2009, the executive director  
5-2 of the Texas Juvenile Probation Commission shall establish a  
5-3 committee to evaluate alternatives to the juvenile justice system  
5-4 for children who are accused of engaging in acts of prostitution, as  
5-5 required by Section 141.056, Human Resources Code, as added by this  
5-6 Act.

5-7 (c) Not later than December 1, 2010, the Commission on Law  
5-8 Enforcement Officer Standards and Education shall adopt the rules  
5-9 necessary to implement Section 1701.258, Occupations Code, as added  
5-10 by this Act.

5-11 (d) The changes in law made by this Act to Sections 20A.02,  
5-12 43.02, and 43.05, Penal Code, apply only to an offense committed on  
5-13 or after the effective date of this Act. An offense committed  
5-14 before the effective date of this Act is covered by the law in  
5-15 effect when the offense was committed, and the former law is  
5-16 continued in effect for that purpose. For purposes of this section,  
5-17 an offense was committed before the effective date of this Act if  
5-18 any element of the offense was committed before that date.

5-19 SECTION 10. This Act does not make an appropriation. This  
5-20 Act takes effect only if a specific appropriation for the  
5-21 implementation of the Act is provided in a general appropriations  
5-22 act of the 81st Legislature.

5-23 SECTION 11. This Act takes effect September 1, 2009.

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