

BILL ANALYSIS

H.B. 2014
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texas was one of the first states to pass human trafficking legislation. Following that achievement, the Texas Legislature required the Office of the Attorney General (OAG) to complete a report on the laws and services available to victims of human trafficking in Texas. According to that report, Texas is considered a major hub for human trafficking. It is estimated that there are more than 17,000 victims trafficked into the United States and that approximately 20 percent of those can be found in Texas. Moreover, it is contended that victims of this crime tend to come from the most vulnerable populations, characterized by oppression, high rates of illiteracy, little social mobility, and few economic opportunities.

During a recent legislative session, the Texas Legislature created a human trafficking-related task force in an effort to create a statewide partnership between law enforcement agencies, social service providers, nongovernmental organizations, legal representatives, and state agencies that are fighting to deter this crime. The task force worked to develop policies and procedures to assist in the prevention and prosecution of human trafficking crimes and to propose legislative recommendations that better protect both adult and child victims. H.B. 2014 seeks to continue efforts against human trafficking and further prevent these crimes from occurring in Texas.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Alcoholic Beverage Commission in SECTION 1.03 of this bill.

ANALYSIS

Article 1. Changes Relating to Alcoholic Beverage Code

H.B. 2014 amends the Alcoholic Beverage Code to require the Texas Alcoholic Beverage Commission (TABC) or the administrator appointed by TABC to refuse to issue for a period of three years an alcoholic beverage permit or license for any location to an applicant who submitted a prior application that was voluntarily surrendered before the hearing on the application was held on a protest involving allegations of an offense involving trafficking of persons, among other offenses. The bill requires TABC or the administrator to refuse to issue for a period of one year after cancellation a mixed beverage permit or private club registration permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of an offense involving prostitution or trafficking of persons, among other offenses and violent acts. The bill requires a county judge, TABC, or the administrator to refuse to approve or issue for a period of one year a retail dealer's on-premise license or a wine and beer retailer's permit for a premises where a license or permit has been canceled during the preceding 12 months as a result of an offense involving prostitution or trafficking of persons, among other offenses.

H.B. 2014 prohibits TABC or the administrator, when authorized to suspend a permit or license, from giving a permittee or licensee the opportunity to pay a civil penalty rather than have the

permit or license suspended, if the basis for the suspension is a violation of an offense relating to trafficking of persons, among other offenses and violations.

Article 2. Changes Relating to Code of Criminal Procedure

H.B. 2014 amends the Code of Criminal Procedure to make provisions of law relating to denial of bail for a defendant charged with certain felony offenses committed against a child younger than 14 years of age who violates a condition of bond relating to the safety of the victim or of the community apply to a defendant charged with an offense of compelling prostitution of a child or an offense of trafficking of persons, if the defendant is alleged to have trafficked the child with the intent or knowledge that the child would engage in sexual conduct or benefited from participating in a venture that involved a trafficked child engaging in sexual conduct.

H.B. 2014 requires a court to order a defendant convicted of a trafficking of persons or compelling prostitution of a child offense to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for any victim of the offense who is younger than 18 years of age. The bill requires the court, after considering the financial circumstances of the defendant, to specify in a restitution order the manner in which the defendant must pay the restitution. The bill authorizes the state or a victim named in an order to receive restitution to enforce an order in the same manner as a judgment in a civil action. The bill authorizes the court to hold a hearing, make findings of fact, and amend a restitution order if the defendant fails to pay the victim named in the order in the manner specified by the court.

H.B. 2014 makes provisions of law relating to judge ordered community supervision for sexual offenses against children apply to a defendant placed on community supervision for a compelling prostitution of a child offense or a trafficking of persons offense committed against a child, if the defendant trafficked the child with the intent or knowledge that the child would engage in sexual conduct or benefited from participating in a venture that involved a trafficked child engaging in sexual conduct. The bill requires a judge that grants community supervision to a defendant convicted of a compelling prostitution of a child offense or a trafficking of persons offense committed against a child, if the defendant is alleged to have trafficked the child with the intent or knowledge that the child would engage in sexual conduct or benefited from participating in a venture that involved a trafficked child engaging in sexual conduct, regardless of the age of the victim of the offense, to require as a condition of community supervision that the defendant pay an additional \$5 community supervision fee each month during the period of supervision.

H.B. 2014 reenacts and amends Article 59.01(2), Code of Criminal Procedure, as amended by Chapters 153 (S.B. 2225), 1130 (H.B. 2086), and 1357 (S.B. 554), Acts of the 81st Legislature, Regular Session, 2009, to expand the definition of "contraband," for purposes of provisions of law relating to forfeiture of contraband, to include property of any nature that is used in the commission of a felony prostitution-related offense or a felony trafficking of persons offense or used to facilitate or intended to be used to facilitate the commission of such a felony offense.

H.B. 2014 requires information in the computerized criminal history system maintained by the Department of Public Safety (DPS) to include, in addition to other information, the age of the victim of the offense if the defendant was arrested for or charged with a compelling prostitution of a child offense or a trafficking of persons offense, if the defendant is alleged to have trafficked the person with the intent or knowledge that the person would engage in sexual conduct or benefited from participating in a venture that involved a trafficked person engaging in sexual conduct, in addition to other offenses. The bill requires a person convicted of a compelling prostitution of a child offense or a trafficking of persons offense in which the defendant trafficked a person younger than 18 years of age with the intent or knowledge that the person would engage in sexual conduct or benefitted from participating in a venture that involved a trafficked person younger than 18 years of age engaging in sexual conduct to pay a \$100

additional court cost on conviction.

H.B. 2014 requires a person convicted of a trafficking of persons offense or a compelling prostitution offense to pay \$100 court cost on conviction. The bill establishes that such costs are imposed without regard to whether the defendant is placed on community supervision after conviction or receives deferred adjudication for the offense and that such costs are collected in the same manner as other fines or costs. The bill requires an officer collecting the costs to keep separate records of the money collected as costs attendant to the trafficking of persons or compelling prostitution conviction and to deposit the money in the county treasury. The bill requires the custodian of a county treasury to keep records of the amount of money on deposit collected for those costs; send to the comptroller, before the last day of the first month following each calendar quarter, 50 percent of the money collected for those costs during the preceding quarter; and deposit the remaining 50 percent of the money collected during the preceding quarter in a trafficking of persons and compelling prostitution prevention fund to be used only to pay for programs related to the prevention of offenses involving the trafficking of persons or compelling prostitution that are operated in the county in which the court is located. The bill requires the trafficking of persons and compelling prostitution prevention fund to be administered by or under the direction of the county commissioners court. The bill makes conforming and nonsubstantive changes.

Article 3. Changes Relating to the Government Code

H.B. 2014 amends the Government Code to require a district court, as a component of the official monthly report submitted to the Office of Court Administration of the Texas Judicial System, to report the number of cases filed for an offense of trafficking of persons, a prostitution offense, and a compelling prostitution offense. The bill makes a conforming change to require a defendant who is convicted of a trafficking of persons or compelling prostitution offense to pay a \$100 court cost on conviction, in addition to all other costs, to help fund the prevention of offenses involving the trafficking of persons or compelling prostitution.

H.B. 2014 includes among the duties required of the bureau of identification and records within DPS the collection of information that enables the bureau to create a statistical breakdown of trafficking of persons and compelling prostitution offenses.

H.B. 2014 makes provisions of law relating to a child safety zone established as a condition of parole or mandatory supervision applicable to a releasee serving a sentence for a compelling prostitution of a child offense or a trafficking of persons offense committed against a child, if the defendant is alleged to have trafficked the child with the intent or knowledge that the child would engage in sexual conduct or benefited from participating in a venture that involved a trafficked child engaging in sexual conduct.

H.B. 2014, in the provision of law authorizing the criminal justice division within the governor's office to use money appropriated from the trafficking of persons investigation and prosecution account solely to distribute grants, specifies that the authorization applies to the distribution of grants to qualified applicants, as determined by the division, that apply for the grants and meet other requirements, rather than to certain counties and nongovernmental entities that meet those other requirements. The bill makes conforming and nonsubstantive changes.

Article 4. Changes Relating to Penal Code

H.B. 2014 expands the conditions that constitute the offense of criminal solicitation of a minor to include requesting, commanding, or attempting, with the intent that a trafficking of persons, prostitution, or a compelling prostitution offense be committed, to induce a minor or another whom the person believes to be a minor to engage in specific conduct that would constitute a certain specified sexual, assaultive, trafficking of persons, or public indecency-related offense. The bill enhances the penalty for an offense of selling or purchasing a child from a third degree

felony to a second degree felony if the actor commits the offense with intent to commit a trafficking of persons, prostitution, or compelling prostitution offense.

H.B. 2014 enhances the penalty for prostitution from a Class B misdemeanor to a third degree felony if the person solicited is 14 years of age or older and younger than 18 years of age, and to a second degree felony if the person solicited is younger than 14 years of age. The bill increases the penalty for employment harmful to children from a Class A misdemeanor to a second degree felony and enhances the penalty to a first degree felony if the child is younger than 14 years of age at the time the offense is committed. The bill makes conforming and nonsubstantive changes.

Article 5. Transition; Effective Date

H.B. 2014 sets out transition provisions and the effective date and establishes that, to the extent of any conflict, the bill's provisions prevail over any other act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

EFFECTIVE DATE

September 1, 2011.