

Amend **HB 3241** (committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.13 to read as follows:

Art. 42.13. SETTING ASIDE CONVICTION FOR MINORS WHO ARE VICTIMS OF TRAFFICKING OF PERSONS. (a) In this article, "minor" means a person younger than 18 years of age.

(b) A court in which a defendant has been convicted of an offense under Section 43.02, Penal Code, committed when the defendant was a minor may, if the court retains jurisdiction in the case, hear a petition from the defendant to set aside the order of conviction. The petition must allege specific facts and be supported by a personal affidavit from the petitioner that, if proved, would establish that the petitioner:

(1) was a minor at the time of the offense; and

(2) engaged in prostitution solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code.

(c) On the filing of the petition under Subsection (b), the clerk of the court shall promptly serve a copy of the petition and the supporting documents on the appropriate office of the attorney representing the state. Any response to the petition by the attorney representing the state must be filed not later than the 15th business day after the date of service under this subsection.

(d) If in considering the petition, the supporting documents, and any response of the attorney representing the state the court finds that there are reasonable grounds to believe the facts alleged in the petition, the court shall order a hearing on the petition. The court shall dismiss the petition and shall promptly notify the petitioner of the court's decision if the court finds that the petitioner was not a minor at the time of the offense, there are not any reasonable grounds to believe the petitioner engaged in prostitution solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code, or the petitioner has filed a previous petition under this article based solely on the same evidence.

(e) After the court orders a hearing under this article, the

court, as the court considers necessary to ensure a fair hearing on the petition, may order any discovery from the attorney representing the state or from the petitioner. An order of discovery may include any order for probative evidence relevant to the petitioner's age or to proving or disproving the petitioner's claim of having engaged in the conduct for which the petitioner was convicted under Section 43.02, Penal Code, solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code.

(f) If after the court orders a hearing under this article the court finds that, based on the sworn statements of the petitioner or based on submitted evidence or affidavits, the petitioner is not represented by an attorney and is indigent, the court shall appoint an attorney to represent the petitioner at the hearing and, if appropriate, before the court of appeals and the court of criminal appeals.

(g) At the conclusion of the hearing, the court shall make a finding as to whether the petitioner has shown by clear and convincing evidence that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons.

(h) The court may set aside the order of conviction for the offense under Section 43.02, Penal Code, if the court finds that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons and that setting aside the order is in the best interest of justice.

(i) The court reporter shall record a hearing under this article. If the court makes a finding that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons, and if the petitioner is indigent, the court reporter shall transcribe the hearing, including the finding, at the county's expense. The entire record must be included with an application for appeal filed as described by this article.

(j) The petitioner and the attorney representing the state may appeal the findings of the court in the same manner as an appeal of a conviction in a criminal case.

(k) A petition for a finding that the petitioner engaged in

prostitution when the petitioner was a minor and solely as the victim of trafficking of persons filed under this article and a proceeding conducted under this article do not constitute an application for a writ of habeas corpus or a proceeding based on an application for a writ of habeas corpus. A restriction on filing a subsequent application for a writ of habeas corpus imposed by Article 11.07 does not apply to a petition or proceeding under this article.

(1) This article is not intended to preclude a petitioner from receiving a reduction or termination of community supervision and a set-aside of verdict under Section 20, Article 42.12, if the petitioner is otherwise qualified to receive a dismissal under that section.

SECTION _____. Chapter 48, Code of Criminal Procedure, is amended by adding Article 48.06 to read as follows:

Art. 48.06. PETITION FOR PARDON FOR CERTAIN MINORS WHO ARE TRAFFICKING-VICTIM OFFENDERS; JUDICIAL PROCEEDINGS. (a) In this article, "minor" means a person younger than 18 years of age.

(b) In this article, a person is considered to have been convicted in a case if:

(1) a judgment, a sentence, or both a judgment and a sentence are imposed on the person;

(2) the person receives community supervision, deferred adjudication, or deferred disposition; or

(3) the court defers final disposition of the case or imposition of the judgment and sentence.

(c) This article applies only to a person described by Subsection (d) who is unable to obtain relief under Section 20, Article 42.12, or Article 42.13 because the convicting court no longer retains jurisdiction over the case.

(d) A person convicted of an offense under Section 43.02, Penal Code, may file in the court of conviction a petition alleging specific facts and supported by a personal affidavit from the petitioner that, if proved, would establish that the petitioner:

(1) was a minor at the time of the offense; and

(2) engaged in prostitution solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code.

(e) On the filing of the petition under Subsection (d), the clerk of the court shall promptly serve a copy of the petition and the supporting documents on the appropriate office of the attorney representing the state. Any response to the petition by the attorney representing the state must be filed not later than the 15th business day after the date of service under this subsection.

(f) If in considering the petition, the supporting documents, and any response of the attorney representing the state the court finds that there are reasonable grounds to believe the facts alleged in the petition, the court shall order a hearing on the petition. The court shall dismiss the petition and shall promptly notify the petitioner of the court's decision if the court finds that the petitioner was not a minor at the time of the offense, there are not any reasonable grounds to believe the petitioner engaged in prostitution solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code, or the petitioner has filed a previous petition under this article based solely on the same evidence.

(g) After the court orders a hearing under this article, the court, as the court considers necessary to ensure a fair hearing on the petition, may order any discovery from the attorney representing the state or from the petitioner. An order of discovery may include any order for probative evidence relevant to the petitioner's age or to proving or disproving the petitioner's claim of having engaged in the conduct for which the petitioner was convicted under Section 43.02, Penal Code, solely as the victim of an offense under Section 20A.02(a)(3) or (7), Penal Code.

(h) If after the court orders a hearing under this article the court finds that, based on the sworn statements of the petitioner or based on submitted evidence or affidavits, the petitioner is not represented by an attorney and is indigent, the court shall appoint an attorney to represent the petitioner at the hearing and, if appropriate, before the court of appeals and the court of criminal appeals.

(i) At the conclusion of the hearing, the court shall make a finding as to whether the petitioner has shown by clear and convincing evidence that the petitioner engaged in prostitution

when the petitioner was a minor and solely as the victim of trafficking of persons. A finding that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons does not authorize the court to set aside a conviction of the offense if the court is not authorized to set aside that sentence under other law.

(j) If the court finds that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons, the petitioner may file an application for a pardon, but the application may not be filed later than the 90th day after the date the court makes the finding.

(k) The court reporter shall record a hearing under this article. If the court makes a finding that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons, and if the petitioner is indigent, the court reporter shall transcribe the hearing, including the finding, at the county's expense. The entire record must be included with an application for a pardon filed as described by this article.

(l) The petitioner and the attorney representing the state may appeal the findings of the court in the same manner as an appeal of a conviction in a criminal case.

(m) A petition for a finding that the petitioner engaged in prostitution when the petitioner was a minor and solely as the victim of trafficking of persons filed under this article and a proceeding conducted under this article do not constitute an application for a writ of habeas corpus or a proceeding based on an application for a writ of habeas corpus. A restriction on filing a subsequent application for a writ of habeas corpus imposed by Article 11.07 does not apply to a petition or proceeding under this article.

SECTION _____. Section 5, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (k) to read as follows:

(k) If a judge dismisses proceedings against a defendant charged with an offense under Section 43.02, Penal Code, alleged to have been committed when the defendant was younger than 18 years of age and discharges the defendant, the judge may attach to the papers

in the case a statement that the defendant was a minor and a victim of trafficking of persons.

SECTION _____. Article 55.01, Code of Criminal Procedure, is amended by adding Subsection (a-3) to read as follows:

(a-3) A person who has been placed under a custodial or noncustodial arrest for commission of an offense under Section 43.02, Penal Code, is entitled to have all records and files relating to the arrest expunged in the same manner provided for a person described by Subsection (a), if a court determines under Article 42.13(g) or 48.06(i) that the person engaged in prostitution when the person was a minor and solely as the victim of trafficking of persons.