

BILL ANALYSIS

Senate Research Center

S.B. 92
By: Van de Putte; Paxton
Jurisprudence
6/25/2013
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 92 gives juvenile probation departments the authority to create a diversion program with treatment and services for minors involved in prostitution instead of strictly punishing them. The majority of minors involved in prostitution are considered domestic minor sex trafficking victims.

The bill provides a process by which a minor who is apprehended by law enforcement officers for prostitution would be eligible to participate in a court diversion program in which the minor receives treatment and other services.

The bill provides a process for courts with juvenile justice jurisdiction and courts with family abuse cases to share jurisdiction in cases where those courts' jurisdictions overlap.

S.B. 92 amends current law relating to the designation of a juvenile court and a program for certain juveniles who may be the victims of human trafficking.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 51.04, Family Code, by amending Subsections (b) and (e) and adding Subsection (i), as follows:

(b) Requires the county's juvenile board, in each county, to designate one or more district, criminal district, domestic relations, juvenile, or county courts or county courts at law as the juvenile court, subject to Subsections (c) (relating to requiring at least one other court to be designated as a juvenile court if a county court is designated as a juvenile court and providing that a county court does not have jurisdiction of a proceeding involving a petition approved by a grand jury under Section 53.045, Family Code), (d) (relating to requiring a designated alternate court with a judge who is an attorney licensed in this state if the judge of a court designated in Subsection (b) or (c) is not an attorney licensed in Texas), and (i), rather than subject to Subsections (c) and (d). Makes nonsubstantive changes.

(e) Authorizes a designation made under Subsection (b), (c), or (i), rather than a designation made under Subsection (b) or (c), to be changed from time to time by the authorized boards or judges for the convenience of the people and the welfare of children. Makes nonsubstantive changes.

(i) Authorizes the county's juvenile board to designate at least one other court that does have jurisdiction over proceedings under Subtitle E (Protection of the Child), Title 5 (The Parent-Child Relationship and the Suit Affecting the Parent-Child Relationship), as a juvenile court or alternative juvenile court if the court designated as the juvenile court under Subsection (b) does not have jurisdiction over proceedings under Subtitle E, Title 5.

SECTION 2. Amends Chapter 51, Family Code, by adding Section 51.0413, as follows:

Sec. 51.0413. JURISDICTION OVER AND TRANSFER OF COMBINATION OF PROCEEDINGS. (a) Authorizes a juvenile court designated under Section 51.04(b) or, if that court does not have jurisdiction over proceedings under Subtitle E, Title 5, the juvenile court designated under Section 51.04(i), to simultaneously exercise jurisdiction over proceedings under this title (Juvenile Justice Code) and proceedings under Subtitle E, Title 5, if there is probable cause to believe that the child who is the subject of those proceedings engaged in delinquent conduct or conduct indicating a need for supervision and cause to believe that the child may be the victim of conduct that constitutes an offense under Section 20A.02 (Trafficking of Persons), Penal Code.

(b) Requires the court, if a proceeding is instituted under this title in a juvenile court designated under Section 51.04(b) that does not have jurisdiction over proceedings under Subtitle E, Title 5, to assess the case and authorizes the court to transfer the proceedings to a court designated as a juvenile court or alternative juvenile court under Section 51.04(i) if the receiving court agrees, and if, in the course of the proceedings, evidence is presented that constitutes cause to believe that the child who is the subject of those proceedings is a child described by Subsection (a).

SECTION 3. Amends Section 52.032, Family Code, as follows:

Sec. 52.032. INFORMAL DISPOSITION GUIDELINES. (a) Creates this subsection from existing text and makes no further change.

(b) Prohibits the guidelines adopted under Subsection (a) (relating to guidelines for the disposition of a child) from allowing for the case of a child to be disposed of under Section 52.03 (Disposition Without Referral to Court) or 52.031 (First Offender Program) if there is probable cause to believe that the child engaged in delinquent conduct or conduct indicating a need for supervision and cause to believe that the child may be the victim of conduct that constitutes an offense under Section 20A.02, Penal Code.

SECTION 4. Amends Chapter 54, Family Code, by adding Section 54.0326, as follows:

Sec. 54.0326. DEFERRAL OF ADJUDICATION AND DISMISSAL OF CERTAIN CASES ON COMPLETION OF TRAFFICKED PERSONS PROGRAM. (a) Provides that this section applies to a juvenile court or to an alternative juvenile court exercising simultaneous jurisdiction over proceedings under this title and Subtitle E, Title 5, in the manner authorized by Section 51.0413.

(b) Authorizes a juvenile court to defer adjudication proceedings under Section 54.03 (Adjudication Hearing) until the child's 18th birthday and to require a child to participate in a program established under Section 152.0016, Human Resources Code, if the child:

(1) is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision and may be a victim of conduct that constitutes an offense under Section 20A.02, Penal Code; and

(2) presents to the court an oral or written request to participate in the program.

(c) Requires the court, following a child's completion of the program, to dismiss the case with prejudice at the time the child presents satisfactory evidence that the child successfully completed the program.

SECTION 5. Amends Chapter 54, Family Code, by adding Section 54.04011, as follows:

Sec. 54.04011. TRAFFICKED PERSONS PROGRAM. (a) Provides that this section applies to a juvenile court or to an alternative juvenile court exercising simultaneous jurisdiction over proceedings under this title and Subtitle E, Title 5, in the manner authorized by Section 51.0413.

(b) Authorizes a juvenile board to require a child adjudicated to have engaged in delinquent conduct or conduct indicating a need for supervision and who is believed to be a victim of conduct that constitutes an offense under Section 20A.02, Penal Code, to participate in a program established under Section 152.0016, Human Resources Code.

(c) Authorizes the court to require a child participating in the program to periodically appear in court for monitoring and compliance purposes.

(d) Authorizes the court, following a child's successful completion of the program, to order the sealing of the records of the case in the manner provided by Sections 58.003(c-7) and (c-8).

SECTION 6. Amends Section 58.003, Family Code, by adding Subsections (c-7) and (c-8), as follows:

(c-7) Authorizes a juvenile court, notwithstanding Subsections (a) (relating to requiring the court to order the sealing of the records in certain cases) and (c) (relating to authorizing a court to order the sealing of the records concerning a person adjudicated as having engaged in delinquent conduct as per certain provisions) and subject to Subsection (b) (relating to prohibiting the court from ordering the sealing of the records of a person who has received a determinative sentence for violating certain penal laws or engaging in certain habitual felony conduct), to order the sealing of records concerning a child found to have engaged in delinquent conduct or conduct indicating a need for supervision or taken into custody to determine whether the child engaged in delinquent conduct or conduct indicating a need for supervision if the child successfully completed a trafficked persons program under Section 152.0016, Human Resources Code. Authorizes the court to:

(1) order the sealing of the records immediately and without a hearing; or

(2) hold a hearing to determine whether to seal the records.

(c-8) Authorizes a prosecuting attorney or juvenile probation department, if the court orders the sealing of a child's records under Subsection (c-7), to maintain until the child's 18th birthday a separate record of the child's name and date of birth and the date the child successfully completed the trafficked persons program. Requires the prosecuting attorney or juvenile probation department, as applicable, to send the record to the court as soon as practicable after the child's 18th birthday to be added to the child's other sealed records.

SECTION 7. Amends Subchapter A, Chapter 152, Human Resources Code, by adding Section 152.0016, as follows:

Sec. 152.0016. TRAFFICKED PERSONS PROGRAM. (a) Authorizes a juvenile board to establish a trafficked persons program under this section for the assistance, treatment, and rehabilitation of children who are alleged to have engaged in or adjudicated as having engaged in delinquent conduct or conduct indicating a need for supervision, and who may be victims of conduct that constitutes an offense under Section 20A.02, Penal Code.

(b) Requires that a program established under this section, if applicable, allow for the integration of services available to a child pursuant to proceedings under Title 3, Family Code, and Subtitle E, Title 5, Family Code, if applicable, allow for the referral to a facility that can address issues associated with human trafficking, and

require a child participating in the program to periodically appear in court for monitoring and compliance purposes.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: September 1, 2013.