

BILL ANALYSIS

S.B. 92
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that the majority of minors involved in prostitution offenses are considered to be trafficking victims and that these minors would benefit from the creation of a diversion program that would provide treatment and services to the minors, instead of strictly punishing them. S.B. 92 seeks to address this concern by providing for such a program and by amending certain statutes relating to juvenile courts.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 92 amends the Human Resources Code to authorize a juvenile board to establish a trafficked persons program 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 the offense of trafficking of a person. The bill requires such a program, if applicable, to allow for the integration of services available to a child pursuant to juvenile justice proceedings and proceedings relating to the protection of a child; if applicable, to allow for the referral to a facility that can address issues associated with human trafficking; and to require a child participating in the program to periodically appear in court for monitoring and compliance purposes.

S.B. 92 amends the Family Code to authorize a county juvenile board, if the court designated by the board as the juvenile court for the county does not have jurisdiction over proceedings relating to the protection of a child, to designate at least one other court that does have jurisdiction over such proceedings as a juvenile court or alternative juvenile court. The bill authorizes a juvenile court with jurisdiction over proceedings relating to the protection of a child to simultaneously exercise jurisdiction over such proceedings and juvenile justice proceedings 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 the offense of trafficking of a person. The bill requires a juvenile court that does not have jurisdiction over proceedings relating to the protection of a child to assess the case of a juvenile justice proceeding instituted in the court and authorizes the court to transfer the proceedings to a juvenile court or alternative juvenile court with such jurisdiction 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 engaged in delinquent conduct or conduct indicating a need for supervision and that the child may be the victim of conduct that constitutes the offense of trafficking of a person.

S.B. 92 prohibits the informal disposition guidelines adopted by each county's juvenile board from allowing the case of a child taken into custody to be disposed of without referral to a

juvenile court or to a 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 the offense of trafficking of a person.

S.B. 92 authorizes a juvenile court or an alternative juvenile court exercising simultaneous jurisdiction over juvenile justice proceedings and proceedings relating to the protection of a child to defer adjudication proceedings until the child's 18th birthday and require the child to participate in a trafficked persons program established under the bill's provisions if the child is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision and may be a victim of conduct that constitutes the offense of trafficking of a person and the child presents to the court an oral or written request to participate in the program. The bill requires the court, following a child's completion of the program, to dismiss the child's case with prejudice at the time the child presents satisfactory evidence that the child successfully completed the program.

S.B. 92 also authorizes such a juvenile court or alternative juvenile court to require such a child to participate in the program without the child requesting to participate in the program and to require a child participating in the program to periodically appear in court for monitoring and compliance purposes. The bill authorizes the court, following a child's successful completion of the program, to order the sealing of the records of the case. The bill authorizes a juvenile court 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 such conduct if the child successfully completed a trafficked persons program. The bill authorizes the court to order the sealing of the records immediately and without a hearing or to hold a hearing to determine whether to seal the records. The bill authorizes a prosecuting attorney or juvenile probation department, if the court so orders the sealing of the child's records, 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. The bill 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.

EFFECTIVE DATE

September 1, 2013.