

BILL ANALYSIS

Senate Research Center
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S.B. 94
By: Van de Putte
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Often times traffickers or those promoting prostitution are not charged with a crime and victims are often left without a way to seek remedy. Currently, human trafficking victims may be able to seek civil recourse through Chapter 98 (Liability for Trafficking of Persons), Civil Practice and Remedies Code.

The bill provides a legal mechanism for victims of sex trafficking to seek a civil remedy from the person who compelled them into prostitution or a publisher of an advertisement that the publisher reasonable knows is promotion of prostitution.

Victims could recover actual damages, including mental anguish, court costs and attorney's fees, and exemplary damages.

S.B. 94 holds another person who intentionally or knowingly benefited from participating in the promotion of prostitution joint liable with any other defendant for the entire amount of damages arising from the promotion of prostitution.

The bill allows for the same civil recourse to be available for victims of compelled prostitution. The bill also includes civil liability for those websites to publish advertisements dealing with compelling prostitution.

As proposed, S.B. 94 amends current law relating to civil liability for compelled prostitution and certain promotion of prostitution.

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 Title 4, Civil Practice and Remedies Code, by adding Chapter 98A, as follows:

CHAPTER 98A. LIABILITY FOR COMPELLED PROSTITUTION AND CERTAIN PROMOTION OF PROSTITUTION

Sec. 98A.001. DEFINITIONS. Defines "advertisement," "aggravated promotion of prostitution," "compelled prostitution," "compelling prostitution," "promotion of prostitution," "prostitution," "victim of compelled prostitution," and "victim" in this chapter.

Sec. 98A.002. LIABILITY. (a) Provides that a defendant is liable to a victim of compelled prostitution, as provided by this chapter, for damages arising from the compelled prostitution if the defendant:

- (1) engages in compelling prostitution with respect to the victim;

(2) knowingly or intentionally engages in promotion of prostitution or aggravated promotion of prostitution that results in compelling prostitution with respect to the victim; or

(3) publishes an advertisement that the defendant knows or reasonably should know constitutes promotion of prostitution or aggravated promotion of prostitution, and the publication of the advertisement results in compelling prostitution with respect to the victim.

(b) Provides that it is not a defense to liability under this chapter that:

(1) the defendant has been acquitted or has not been prosecuted or convicted under Subchapter A (Prostitution), Chapter 43 (Public Indecency), Penal Code, or has been convicted of a different offense or of a different type or class of offense for the conduct that is alleged to give rise to liability under this chapter, is related to the victim by affinity or consanguinity, has been in a consensual sexual relationship with the victim, or has resided with the victim in a household, or has paid or otherwise compensated the victim for prostitution; or

(2) the victim voluntarily engaged in prostitution before or after the compelled prostitution occurred or did not attempt to escape, flee, or otherwise terminate contact with the defendant at the time the compelled prostitution allegedly occurred.

Sec. 98A.003. DAMAGES. (a) Requires a claimant who prevails in a suit under this chapter to be awarded actual damages, including damages for mental anguish even if an injury other than mental anguish is not shown; court costs; and reasonable attorney's fees.

(b) Authorizes a claimant who prevails in a suit under this chapter to recover exemplary damages in addition to an award under Subsection (a).

Sec. 98A.004. CAUSE OF ACTION CUMULATIVE. Provides that the cause of action created by this chapter is cumulative of any other remedy provided by common law or statute.

Sec. 98A.005. JOINT AND SEVERAL LIABILITY. Provides that a person who engages in conduct described by Section 98A.002 and is found liable under this chapter or other law for any amount of damages arising from that conduct is jointly and severally liable with any other defendant for the entire amount of damages arising from that conduct.

Sec. 98A.006. LIBERAL CONSTRUCTION AND APPLICATION. Requires that this chapter be liberally construed and applied to promote its underlying purpose to protect persons from compelled prostitution and provide adequate remedies to victims of compelled prostitution.

SECTION 2. Makes application of Chapter 98A, Civil Practice and Remedies Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2013.