

BILL ANALYSIS

Senate Research Center

S.B. 484
By: Whitmire; West
Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 484 establishes mandatory prostitution courts under specialty court statutes. There are currently more than 350 offenders charged with prostitution under control of the Texas Department of Criminal Justice. The average annual cost to house an offender in a state jail is \$15,500, while the cost is \$18,538 for a state prison. Rehabilitation programs specifically aimed at prostitutes have been identified as a viable, cost-effective alternative to incarceration, at a much lower cost to the taxpayer of only \$4,300 per year.

The high recidivism rate among this population signifies that incarceration has not provided convicted prostitutes with the rehabilitation needed to break the cycle. Prostitutes often come from long histories of abuse, neglect, and addiction. This bill more directly addresses the needs of this special population.

Similar to the state's drug courts, treatment programs established by this legislation will provide access to information, counseling, and services to those convicted of prostitution. Prostitution courts created by this bill would focus on sex addiction, sexually transmitted diseases, mental health, and substance abuse.

S.B. 484 amends current law relating to the creation of a prostitution prevention program, and authorizes a fee.

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 Subtitle H, Title 2, Health and Safety Code, by adding Chapter 169A, as follows:

CHAPTER 169A. PROSTITUTION PREVENTION PROGRAM

Sec. 169A.001. PROSTITUTION PREVENTION PROGRAM; PROCEDURES FOR CERTAIN DEFENDANTS. (a) Defines "prostitution prevention program" in this chapter.

(b) Requires the court, if a defendant successfully completes a prostitution prevention program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an adjudication of guilt, after notice to the state and a hearing on whether the defendant is otherwise entitled to the petition, including whether the required time has elapsed, and whether issuance of the order is in the best interest of justice, to enter an order of nondisclosure under Section 411.081 (Application of Subchapter), Government Code, as if the defendant had received a discharge and dismissal under Section 5(c) (relating to dismissal of defendant), Article 42.12 (Community Supervision), Code of

Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program.

Sec. 169A.002. **AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.** (a) Authorizes the commissioners court of a county or governing body of a municipality to establish a prostitution prevention program for defendants charged with an offense under Section 43.02(a)(1), Penal Code, in which the defendant offered or agreed to engage in or engaged in sexual conduct for a fee.

(b) Provides that a defendant is eligible to participate in a prostitution prevention program established under this chapter only if the attorney representing the state consents to the defendant's participation in the program.

(c) Requires the court in which the criminal case is pending to allow an eligible defendant to choose whether to participate in the prostitution prevention program or otherwise proceed through the criminal justice system.

Sec. 169A.0025. **ESTABLISHMENT OF REGIONAL PROGRAM.** Authorizes the commissioners courts of two or more counties, or the governing bodies of two or more municipalities, to elect to establish a regional prostitution prevention program under this chapter for the participating counties or municipalities.

Sec. 169A.003. **PROGRAM POWERS AND DUTIES.** (a) Requires that a prostitution prevention program established under this chapter:

(1) ensure that a person eligible for the program is provided legal counsel before volunteering to proceed through the program and while participating in the program;

(2) allow any participant to withdraw from the program at any time before a trial on the merits has been initiated;

(3) provide each participant with information, counseling, and services relating to sex addiction, sexually transmitted diseases, mental health, and substance abuse; and

(4) provide each participant with instruction related to the prevention of prostitution.

(b) Authorizes a program established under this chapter, to provide each program participant with information, counseling, and services described by Subsection (a)(3), to employ a person or solicit a volunteer who is a health care professional, a psychologist, a licensed social worker or counselor, a former prostitute, a family member of a person arrested for soliciting prostitution, a member of a neighborhood association or community that is adversely affected by the commercial sex trade or trafficking of persons, or an employee of a nongovernmental organization specializing in advocacy or laws related to sex trafficking or human trafficking or in providing services to victims of those offenses.

(c) Requires that a program established under this chapter establish and publish local procedures to promote maximum participation of eligible defendants in programs established in the county or municipality in which the defendants reside.

Sec. 169A.004. **OVERSIGHT.** (a) Authorizes the lieutenant governor and the speaker of the house of representatives to assign to appropriate legislative committees duties relating to the oversight of prostitution prevention programs established under this chapter.

(b) Authorizes a legislative committee or the governor to request the state auditor to perform a management, operations, or financial or accounting audit of a prostitution prevention program established under this chapter.

(c) Authorizes a legislative committee to require a county that does not establish a prostitution prevention program under this chapter due to a lack of sufficient funding, as provided by Section 169A.0055(c), to provide the committee with any documentation in the county's possession that concerns federal or state funding received by the county.

(d) Requires that a prostitution prevention program established under this chapter notify the criminal justice division of the governor's office before or on implementation of the program and provide information regarding the performance of the program to the division on request.

Sec. 169A.005. FEES. (a) Authorizes a prostitution prevention program established under this chapter to collect from a participant in the program a nonrefundable program fee in a reasonable amount not to exceed \$1,000, from which the following is required to be paid:

(1) a counseling and services fee in an amount necessary to cover the costs of the counseling and services provided by the program;

(2) a victim services fee in an amount equal to 10 percent of the amount paid under Subdivision (1), to be deposited to the credit of the general revenue fund to be appropriated only to cover costs associated with the grant program described by Section 531.383 (Grant Program), Government Code; and

(3) a law enforcement training fee, in an amount equal to five percent of the total amount paid under Subdivision (1), to be deposited to the credit of the treasury of the county or municipality that established the program to cover costs associated with the provision of training to law enforcement personnel on domestic violence, prostitution, and the trafficking of persons.

(b) Authorizes fees collected under this section to be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the prostitution prevention program. Requires that the fees be based on the participant's ability to pay.

Sec. 169A.0055. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a) Requires the commissioners court of a county to establish a prostitution prevention program if the county has a population of more than 200,000 and a municipality in the county has not established a prostitution prevention program.

(b) Requires a county required under this section to establish a prostitution prevention program to apply for federal and state funds available to pay the costs of the program. Authorizes the criminal justice division of the governor's office to assist a county in applying for federal funds as required by this subsection.

(c) Provides that, notwithstanding Subsection (a), a county is required to establish a prostitution prevention program under this section only if the county receives sufficient federal or state funding specifically for that purpose.

(d) Provides that a county that does not establish a prostitution prevention program as required by this section and maintain the program is ineligible to receive from the state funds for a community supervision and corrections department.

Sec. 169A.006. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE REQUIREMENT. (a) Authorizes a judge or magistrate administering the program, to encourage participation in a prostitution prevention program established under this chapter, to suspend any requirement that, as a condition of community supervision, a participant in the program work a specified number of hours at a community service project.

(b) Authorizes a judge or magistrate, on a participant's successful completion of a prostitution prevention program, to excuse the participant from any condition of community supervision previously suspended under Subsection (a).

SECTION 2. Amends Subchapter B, Chapter 103, Government Code, as follows:

Sec. 103.0292. ADDITIONAL MISCELLANEOUS FEES AND COSTS: HEALTH AND SAFETY CODE. Requires that a nonrefundable program fee for a prostitution prevention program established under Section 169A.002, Health and Safety Code, be collected under Section 169A.005, Health and Safety Code, in a reasonable amount based on the defendant's ability to pay and not to exceed \$1,000, which includes a counseling and services fee in an amount necessary to cover the costs of counseling and services provided by the program, a victim services fee in an amount equal to 10 percent of the total fee, and a law enforcement training fee in an amount equal to five percent of the total fee.

SECTION 3. Amends Section 772.0061(a)(2), Government Code, to redefine "specialty court" to include a prostitution prevention program established under Chapter 169A, Health and Safety Code.

SECTION 4. Effective date: upon passage or September 1, 2013.