

BILL ANALYSIS

Senate Research Center
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S.B. 1712
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, Texas is the only state in the country that punishes prostitution with a felony conviction. In 2012, there were an estimated 350 individuals incarcerated in the Texas Department of Criminal Justice for prostitution. There are lifelong collateral consequences for people with felony convictions, which include limited access to employment, housing, medical and mental health care, along with access to federal and state benefits. Additionally, taxpayers pay between \$15,000 and \$18,000 per year to house these individuals in state jail or prisons, while participation in a community-based rehabilitation program costs approximately \$4,300 per year. And of course, incarceration does not begin to address the mental illness, drug and alcohol addictions, and trauma faced by many individuals who have turned to prostitution.

Because of these factors, anyone convicted of prostitution should, with the approval of the district attorney, be allowed to participate in a community-based rehabilitation program, consisting of, at the minimum, at least 100 hours of education, counseling, or treatment in regard to mental health, substance and sexually based abuse issues. Completion of that program should result in a dismissal of the charges. This will allow these individuals to resume their lives as productive citizens, without the stigma undeniably faced by those with felony convictions. In addition, the savings to both counties and the state will be significant.

S.B. 1712 allows a court, at the request of the defendant and with the approval of the state's attorney, to divert the defendant into a program that, if completed successfully, may result in the dismissal of the charges. This bill caps the penalty for prostitution at a Class A misdemeanor.

As proposed, S.B. 1712 amends current law relating to the prosecution of the offense 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 Chapter 32, Code of Criminal Procedure, by adding Article 32.03, as follows:

Art. 32.03. DISMISSAL OF CERTAIN PROSTITUTION OFFENSES. (a) Authorizes a court, at any time before trial commences for an offense under Section 43.02, Penal Code, on the request of the defendant and with the consent of the attorney representing the state, to defer proceedings without entering an adjudication of guilt and permit the defendant to participate in a pretrial intervention program.

(b) Authorizes that a pretrial intervention program be offered by a faith-based organization or other nonprofit organization and requires that the program:

(1) require the defendant to complete not more than 50 hours of community service; and

(2) include at least 100 hours of instruction, counseling, or treatment concerning sexual abuse, sexually transmitted diseases, mental health, and substance abuse.

(c) Provides that notwithstanding Subsection (b), a first offender prostitution prevention program established under Chapter 169 (First Offender Prostitution Program), Health and Safety Code, satisfies the requirements of this article.

(d) Authorizes the court, if a defendant successfully completes a pretrial intervention program not later than the first anniversary of the date the proceedings were deferred, to dismiss the proceedings against the defendant and discharge the defendant.

SECTION 2. Amends Section 43.02, Penal Code, by amending Subsection (c) and adding Subsection (c-1), as follows:

(c) Provides that an offense under Subsection (a)(1) (relating to providing that a person commits an offense if he knowingly offers to engage, agrees to engage, or engages in sexual conduct for a fee) is a Class C misdemeanor, except that the offense is:

(1) a Class B misdemeanor if the actor has previously been convicted one or two times of an offense under Subsection (a)(1); or

(2) a Class A misdemeanor if the actor has previously been convicted three or more times of an offense under Subsection (a)(1).

(c-1) Creates this subsection from existing text. Provides that an offense under Subsection (a)(2) (relating to providing that a person commits an offense if he knowingly solicits another in a public place to engage with him in sexual conduct for hire) is a Class B misdemeanor, except that the offense is:

(1) a Class A misdemeanor if the actor has previously been convicted one or two times of an offense under Subsection (a)(2), rather than under this section;

(2) a state jail felony if the actor has previously been convicted three or more times of an offense under Subsection (a)(2), rather than under this section;

(3) a felony of the third degree if the person solicited is 14 years of age or older and younger than 18 years of age; or

(4) a felony of the second degree if the person solicited is younger than 14 years of age.

Deletes existing text providing that an offense under this section is a Class B misdemeanor, except that the offense is a Class A misdemeanor or certain felonies under certain criteria.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2013.