

By: Whitmire, et al.
(Turner of Harris)

S.B. No. 484

Substitute the following for S.B. No. 484:

By: Herrero

C.S.S.B. No. 484

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a prostitution prevention program;
authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle H, Title 2, Health and Safety Code, is
amended by adding Chapter 169A to read as follows:

CHAPTER 169A. PROSTITUTION PREVENTION PROGRAM

Sec. 169A.001. PROSTITUTION PREVENTION PROGRAM; PROCEDURES
FOR CERTAIN DEFENDANTS. (a) In this chapter, "prostitution
prevention program" means a program that has the following
essential characteristics:

(1) the integration of services in the processing of
cases in the judicial system;

(2) the use of a nonadversarial approach involving
prosecutors and defense attorneys to promote public safety, to
reduce the demand for the commercial sex trade and trafficking of
persons by educating offenders, and to protect the due process
rights of program participants;

(3) early identification and prompt placement of
eligible participants in the program;

(4) access to information, counseling, and services
relating to sex addiction, sexually transmitted diseases, mental
health, and substance abuse;

(5) a coordinated strategy to govern program responses

1 to participant compliance;

2 (6) monitoring and evaluation of program goals and
3 effectiveness;

4 (7) continuing interdisciplinary education to promote
5 effective program planning, implementation, and operations; and

6 (8) development of partnerships with public agencies
7 and community organizations.

8 (b) If a defendant successfully completes a prostitution
9 prevention program, regardless of whether the defendant was
10 convicted of the offense for which the defendant entered the
11 program or whether the court deferred further proceedings without
12 entering an adjudication of guilt, after notice to the state and a
13 hearing on whether the defendant is otherwise entitled to the
14 petition, including whether the required time has elapsed, and
15 whether issuance of the order is in the best interest of justice,
16 the court shall enter an order of nondisclosure under Section
17 411.081, Government Code, as if the defendant had received a
18 discharge and dismissal under Section 5(c), Article 42.12, Code of
19 Criminal Procedure, with respect to all records and files related
20 to the defendant's arrest for the offense for which the defendant
21 entered the program.

22 Sec. 169A.002. AUTHORITY TO ESTABLISH PROGRAM;
23 ELIGIBILITY. (a) The commissioners court of a county or governing
24 body of a municipality may establish a prostitution prevention
25 program for defendants charged with an offense under Section
26 43.02(a)(1), Penal Code, in which the defendant offered or agreed
27 to engage in or engaged in sexual conduct for a fee.

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

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

9 Sec. 169A.0025. ESTABLISHMENT OF REGIONAL PROGRAM. The
10 commissioners courts of two or more counties, or the governing
11 bodies of two or more municipalities, may elect to establish a
12 regional prostitution prevention program under this chapter for the
13 participating counties or municipalities.

14 Sec. 169A.003. PROGRAM POWERS AND DUTIES. (a) A
15 prostitution prevention program established under this chapter
16 must:

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

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

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

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

27 (b) To provide each program participant with information,

1 counseling, and services described by Subsection (a)(3), a program
2 established under this chapter may employ a person or solicit a
3 volunteer who is:

4 (1) a health care professional;

5 (2) a psychologist;

6 (3) a licensed social worker or counselor;

7 (4) a former prostitute;

8 (5) a family member of a person arrested for
9 soliciting prostitution;

10 (6) a member of a neighborhood association or
11 community that is adversely affected by the commercial sex trade or
12 trafficking of persons; or

13 (7) an employee of a nongovernmental organization
14 specializing in advocacy or laws related to sex trafficking or
15 human trafficking or in providing services to victims of those
16 offenses.

17 (c) A program established under this chapter shall
18 establish and publish local procedures to promote maximum
19 participation of eligible defendants in programs established in the
20 county or municipality in which the defendants reside.

21 Sec. 169A.004. OVERSIGHT. (a) The lieutenant governor and
22 the speaker of the house of representatives may assign to
23 appropriate legislative committees duties relating to the
24 oversight of prostitution prevention programs established under
25 this chapter.

26 (b) A legislative committee or the governor may request the
27 state auditor to perform a management, operations, or financial or

1 accounting audit of a prostitution prevention program established
2 under this chapter.

3 (c) A legislative committee may require a county that does
4 not establish a prostitution prevention program under this chapter
5 due to a lack of sufficient funding, as provided by Section
6 169A.0055(c), to provide the committee with any documentation in
7 the county's possession that concerns federal or state funding
8 received by the county.

9 (d) A prostitution prevention program established under
10 this chapter shall:

11 (1) notify the criminal justice division of the
12 governor's office before or on implementation of the program; and

13 (2) provide information regarding the performance of
14 the program to the division on request.

15 Sec. 169A.005. FEES. (a) A prostitution prevention
16 program established under this chapter may collect from a
17 participant in the program a nonrefundable program fee in a
18 reasonable amount not to exceed \$1,000, from which the following
19 must be paid:

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

23 (2) a victim services fee in an amount equal to 10
24 percent of the amount paid under Subdivision (1), to be deposited to
25 the credit of the general revenue fund to be appropriated only to
26 cover costs associated with the grant program described by Section
27 531.383, Government Code; and

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

7 (b) Fees collected under this section may be paid on a
8 periodic basis or on a deferred payment schedule at the discretion
9 of the judge, magistrate, or program director administering the
10 prostitution prevention program. The fees must be based on the
11 participant's ability to pay.

12 Sec. 169A.0055. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a)
13 The commissioners court of a county shall establish a prostitution
14 prevention program if:

15 (1) the county has a population of more than 200,000;
16 and

17 (2) a municipality in the county has not established a
18 prostitution prevention program.

19 (b) A county required under this section to establish a
20 prostitution prevention program shall apply for federal and state
21 funds available to pay the costs of the program. The criminal
22 justice division of the governor's office may assist a county in
23 applying for federal funds as required by this subsection.

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

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

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

12 (b) On a participant's successful completion of a
13 prostitution prevention program, a judge or magistrate may excuse
14 the participant from any condition of community supervision
15 previously suspended under Subsection (a).

16 SECTION 2. Subchapter B, Chapter 103, Government Code, is
17 amended by adding Section 103.0292 to read as follows:

18 Sec. 103.0292. ADDITIONAL MISCELLANEOUS FEES AND COSTS:
19 HEALTH AND SAFETY CODE. A nonrefundable program fee for a
20 prostitution prevention program established under Section
21 169A.002, Health and Safety Code, shall be collected under Section
22 169A.005, Health and Safety Code, in a reasonable amount based on
23 the defendant's ability to pay and not to exceed \$1,000, which
24 includes:

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

1 (2) a victim services fee in an amount equal to 10
2 percent of the total fee; and

3 (3) a law enforcement training fee in an amount equal
4 to five percent of the total fee.

5 SECTION 3. Section 772.0061(a)(2), Government Code, is
6 amended to read as follows:

7 (2) "Specialty court" means:

8 (A) a prostitution prevention program
9 established under Chapter 169A, Health and Safety Code;

10 (B) a drug court program established under
11 Chapter 469, Health and Safety Code;

12 (C) [~~(B)~~] a mental health court program
13 established under Chapter 616, Health and Safety Code; and

14 (D) [~~(C)~~] a veterans court program established
15 under Chapter 617, Health and Safety Code.

16 SECTION 4. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2013.