

By: Whitmire

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 if the defendant:

22 (1) has not been previously convicted of a felony
23 offense other than an offense under Section 43.02(a)(1), Penal
24 Code; and

25 (2) is not convicted of any other felony offense
26 before the second anniversary of the date of the defendant's
27 successful completion of the program.

1 Sec. 169A.002. AUTHORITY TO ESTABLISH PROGRAM;
2 ELIGIBILITY. (a) The commissioners court of a county or governing
3 body of a municipality may establish a prostitution prevention
4 program for defendants charged with an offense under Section
5 43.02(a)(1), Penal Code, in which the defendant offered or agreed
6 to engage in or engaged in sexual conduct for a fee.

7 (b) A defendant is eligible to participate in a prostitution
8 prevention program established under this chapter only if:

9 (1) the attorney representing the state consents to
10 the defendant's participation in the program; and

11 (2) the court in which the criminal case is pending
12 finds that the defendant has not previously participated in a
13 prostitution prevention program established under this chapter.

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

18 (d) If a defendant who chooses to participate in the
19 prostitution prevention program fails to attend any portion of the
20 program, the court in which the defendant's criminal case is
21 pending shall issue a warrant for the defendant's arrest and
22 proceed on the criminal case as if the defendant had chosen not to
23 participate in the program.

24 Sec. 169A.0025. ESTABLISHMENT OF REGIONAL PROGRAM. The
25 commissioners courts of two or more counties, or the governing
26 bodies of two or more municipalities, may elect to establish a
27 regional prostitution prevention program under this chapter for the

1 participating counties or municipalities.

2 Sec. 169A.003. PROGRAM POWERS AND DUTIES. (a) A
3 prostitution prevention program established under this chapter
4 must:

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

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

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

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

15 (b) To provide each program participant with information,
16 counseling, and services described by Subsection (a)(3), a program
17 established under this chapter may employ a person or solicit a
18 volunteer who is:

19 (1) a health care professional;

20 (2) a psychologist;

21 (3) a licensed social worker or counselor;

22 (4) a former prostitute;

23 (5) a family member of a person arrested for
24 soliciting prostitution;

25 (6) a member of a neighborhood association or
26 community that is adversely affected by the commercial sex trade or
27 trafficking of persons; or

1 (7) an employee of a nongovernmental organization
2 specializing in advocacy or laws related to sex trafficking or
3 human trafficking or in providing services to victims of those
4 offenses.

5 (c) A program established under this chapter shall
6 establish and publish local procedures to promote maximum
7 participation of eligible defendants in programs established in the
8 county or municipality in which the defendants reside.

9 Sec. 169A.004. OVERSIGHT. (a) The lieutenant governor and
10 the speaker of the house of representatives may assign to
11 appropriate legislative committees duties relating to the
12 oversight of prostitution prevention programs established under
13 this chapter.

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

18 (c) A prostitution prevention program established under
19 this chapter shall:

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

22 (2) provide information regarding the performance of
23 the program to the division on request.

24 Sec. 169A.005. FEES. (a) A prostitution prevention
25 program established under this chapter may collect from a
26 participant in the program a nonrefundable program fee in a
27 reasonable amount not to exceed \$1,000, from which the following

1 must be paid:

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

5 (2) a victim services fee in an amount equal to 10
6 percent of the amount paid under Subdivision (1), to be deposited to
7 the credit of the general revenue fund to be appropriated only to
8 cover costs associated with the grant program described by Section
9 531.383, Government Code; and

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

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

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

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

26 (2) a municipality in the county has not established a
27 prostitution prevention program.

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

6 (c) Notwithstanding Subsection (a), a county is required to
7 establish a prostitution prevention program under this section only
8 if the county receives federal or state funding specifically for
9 that purpose.

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

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

21 (b) On a participant's successful completion of a
22 prostitution prevention program, a judge or magistrate may excuse
23 the participant from any condition of community supervision
24 previously suspended under Subsection (a).

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

27 Sec. 103.0292. ADDITIONAL MISCELLANEOUS FEES AND COSTS:

1 HEALTH AND SAFETY CODE. A nonrefundable program fee for a
2 prostitution prevention program established under Section
3 169A.002, Health and Safety Code, shall be collected under Section
4 169A.005, Health and Safety Code, in a reasonable amount not to
5 exceed \$1,000, which includes:

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

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

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

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

15 (2) "Specialty court" means:

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

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

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

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

24 SECTION 4. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

S.B. No. 484

1 Act takes effect September 1, 2013.