

1-1 By: Whitmire S.B. No. 484
 1-2 (In the Senate - Filed February 11, 2013; February 13, 2013,
 1-3 read first time and referred to Committee on Criminal Justice;
 1-4 March 13, 2013, reported favorably by the following vote:
 1-5 Yeas 6, Nays 0; March 13, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the creation of a prostitution prevention program;
 1-18 authorizing a fee.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Subtitle H, Title 2, Health and Safety Code, is
 1-21 amended by adding Chapter 169A to read as follows:

1-22 CHAPTER 169A. PROSTITUTION PREVENTION PROGRAM

1-23 Sec. 169A.001. PROSTITUTION PREVENTION PROGRAM; PROCEDURES
 1-24 FOR CERTAIN DEFENDANTS. (a) In this chapter, "prostitution
 1-25 prevention program" means a program that has the following
 1-26 essential characteristics:

1-27 (1) the integration of services in the processing of
 1-28 cases in the judicial system;

1-29 (2) the use of a nonadversarial approach involving
 1-30 prosecutors and defense attorneys to promote public safety, to
 1-31 reduce the demand for the commercial sex trade and trafficking of
 1-32 persons by educating offenders, and to protect the due process
 1-33 rights of program participants;

1-34 (3) early identification and prompt placement of
 1-35 eligible participants in the program;

1-36 (4) access to information, counseling, and services
 1-37 relating to sex addiction, sexually transmitted diseases, mental
 1-38 health, and substance abuse;

1-39 (5) a coordinated strategy to govern program responses
 1-40 to participant compliance;

1-41 (6) monitoring and evaluation of program goals and
 1-42 effectiveness;

1-43 (7) continuing interdisciplinary education to promote
 1-44 effective program planning, implementation, and operations; and

1-45 (8) development of partnerships with public agencies
 1-46 and community organizations.

1-47 (b) If a defendant successfully completes a prostitution
 1-48 prevention program, regardless of whether the defendant was
 1-49 convicted of the offense for which the defendant entered the
 1-50 program or whether the court deferred further proceedings without
 1-51 entering an adjudication of guilt, after notice to the state and a
 1-52 hearing on whether the defendant is otherwise entitled to the
 1-53 petition, including whether the required time has elapsed, and
 1-54 whether issuance of the order is in the best interest of justice,
 1-55 the court shall enter an order of nondisclosure under Section
 1-56 411.081, Government Code, as if the defendant had received a
 1-57 discharge and dismissal under Section 5(c), Article 42.12, Code of
 1-58 Criminal Procedure, with respect to all records and files related
 1-59 to the defendant's arrest for the offense for which the defendant
 1-60 entered the program if the defendant:

1-61 (1) has not been previously convicted of a felony

2-1 offense other than an offense under Section 43.02(a)(1), Penal
2-2 Code; and

2-3 (2) is not convicted of any other felony offense
2-4 before the second anniversary of the date of the defendant's
2-5 successful completion of the program.

2-6 Sec. 169A.002. AUTHORITY TO ESTABLISH PROGRAM;
2-7 ELIGIBILITY. (a) The commissioners court of a county or governing
2-8 body of a municipality may establish a prostitution prevention
2-9 program for defendants charged with an offense under Section
2-10 43.02(a)(1), Penal Code, in which the defendant offered or agreed
2-11 to engage in or engaged in sexual conduct for a fee.

2-12 (b) A defendant is eligible to participate in a prostitution
2-13 prevention program established under this chapter only if:

2-14 (1) the attorney representing the state consents to
2-15 the defendant's participation in the program; and

2-16 (2) the court in which the criminal case is pending
2-17 finds that the defendant has not previously participated in a
2-18 prostitution prevention program established under this chapter.

2-19 (c) The court in which the criminal case is pending shall
2-20 allow an eligible defendant to choose whether to participate in the
2-21 prostitution prevention program or otherwise proceed through the
2-22 criminal justice system.

2-23 (d) If a defendant who chooses to participate in the
2-24 prostitution prevention program fails to attend any portion of the
2-25 program, the court in which the defendant's criminal case is
2-26 pending shall issue a warrant for the defendant's arrest and
2-27 proceed on the criminal case as if the defendant had chosen not to
2-28 participate in the program.

2-29 Sec. 169A.0025. ESTABLISHMENT OF REGIONAL PROGRAM. The
2-30 commissioners courts of two or more counties, or the governing
2-31 bodies of two or more municipalities, may elect to establish a
2-32 regional prostitution prevention program under this chapter for the
2-33 participating counties or municipalities.

2-34 Sec. 169A.003. PROGRAM POWERS AND DUTIES. (a) A
2-35 prostitution prevention program established under this chapter
2-36 must:

2-37 (1) ensure that a person eligible for the program is
2-38 provided legal counsel before volunteering to proceed through the
2-39 program and while participating in the program;

2-40 (2) allow any participant to withdraw from the program
2-41 at any time before a trial on the merits has been initiated;

2-42 (3) provide each participant with information,
2-43 counseling, and services relating to sex addiction, sexually
2-44 transmitted diseases, mental health, and substance abuse; and

2-45 (4) provide each participant with classroom
2-46 instruction related to the prevention of prostitution.

2-47 (b) To provide each program participant with information,
2-48 counseling, and services described by Subsection (a)(3), a program
2-49 established under this chapter may employ a person or solicit a
2-50 volunteer who is:

2-51 (1) a health care professional;

2-52 (2) a psychologist;

2-53 (3) a licensed social worker or counselor;

2-54 (4) a former prostitute;

2-55 (5) a family member of a person arrested for
2-56 soliciting prostitution;

2-57 (6) a member of a neighborhood association or
2-58 community that is adversely affected by the commercial sex trade or
2-59 trafficking of persons; or

2-60 (7) an employee of a nongovernmental organization
2-61 specializing in advocacy or laws related to sex trafficking or
2-62 human trafficking or in providing services to victims of those
2-63 offenses.

2-64 (c) A program established under this chapter shall
2-65 establish and publish local procedures to promote maximum
2-66 participation of eligible defendants in programs established in the
2-67 county or municipality in which the defendants reside.

2-68 Sec. 169A.004. OVERSIGHT. (a) The lieutenant governor and
2-69 the speaker of the house of representatives may assign to

3-1 appropriate legislative committees duties relating to the
 3-2 oversight of prostitution prevention programs established under
 3-3 this chapter.

3-4 (b) A legislative committee or the governor may request the
 3-5 state auditor to perform a management, operations, or financial or
 3-6 accounting audit of a prostitution prevention program established
 3-7 under this chapter.

3-8 (c) A prostitution prevention program established under
 3-9 this chapter shall:

3-10 (1) notify the criminal justice division of the
 3-11 governor's office before or on implementation of the program; and

3-12 (2) provide information regarding the performance of
 3-13 the program to the division on request.

3-14 Sec. 169A.005. FEES. (a) A prostitution prevention
 3-15 program established under this chapter may collect from a
 3-16 participant in the program a nonrefundable program fee in a
 3-17 reasonable amount not to exceed \$1,000, from which the following
 3-18 must be paid:

3-19 (1) a counseling and services fee in an amount
 3-20 necessary to cover the costs of the counseling and services
 3-21 provided by the program;

3-22 (2) a victim services fee in an amount equal to 10
 3-23 percent of the amount paid under Subdivision (1), to be deposited to
 3-24 the credit of the general revenue fund to be appropriated only to
 3-25 cover costs associated with the grant program described by Section
 3-26 531.383, Government Code; and

3-27 (3) a law enforcement training fee, in an amount equal
 3-28 to five percent of the total amount paid under Subdivision (1), to
 3-29 be deposited to the credit of the treasury of the county or
 3-30 municipality that established the program to cover costs associated
 3-31 with the provision of training to law enforcement personnel on
 3-32 domestic violence, prostitution, and the trafficking of persons.

3-33 (b) Fees collected under this section may be paid on a
 3-34 periodic basis or on a deferred payment schedule at the discretion
 3-35 of the judge, magistrate, or program director administering the
 3-36 prostitution prevention program. The fees must be based on the
 3-37 participant's ability to pay.

3-38 Sec. 169A.0055. PROGRAM IN CERTAIN COUNTIES MANDATORY.

3-39 (a) The commissioners court of a county shall establish a
 3-40 prostitution prevention program if:

3-41 (1) the county has a population of more than 200,000;
 3-42 and

3-43 (2) a municipality in the county has not established a
 3-44 prostitution prevention program.

3-45 (b) A county required under this section to establish a
 3-46 prostitution prevention program shall apply for federal and state
 3-47 funds available to pay the costs of the program. The criminal
 3-48 justice division of the governor's office may assist a county in
 3-49 applying for federal funds as required by this subsection.

3-50 (c) Notwithstanding Subsection (a), a county is required to
 3-51 establish a prostitution prevention program under this section only
 3-52 if the county receives federal or state funding specifically for
 3-53 that purpose.

3-54 (d) A county that does not establish a prostitution
 3-55 prevention program as required by this section and maintain the
 3-56 program is ineligible to receive from the state funds for a
 3-57 community supervision and corrections department.

3-58 Sec. 169A.006. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE
 3-59 REQUIREMENT. (a) To encourage participation in a prostitution
 3-60 prevention program established under this chapter, the judge or
 3-61 magistrate administering the program may suspend any requirement
 3-62 that, as a condition of community supervision, a participant in the
 3-63 program work a specified number of hours at a community service
 3-64 project.

3-65 (b) On a participant's successful completion of a
 3-66 prostitution prevention program, a judge or magistrate may excuse
 3-67 the participant from any condition of community supervision
 3-68 previously suspended under Subsection (a).

3-69 SECTION 2. Subchapter B, Chapter 103, Government Code, is

4-1 amended by adding Section 103.0292 to read as follows:

4-2 Sec. 103.0292. ADDITIONAL MISCELLANEOUS FEES AND COSTS:
4-3 HEALTH AND SAFETY CODE. A nonrefundable program fee for a
4-4 prostitution prevention program established under Section
4-5 169A.002, Health and Safety Code, shall be collected under Section
4-6 169A.005, Health and Safety Code, in a reasonable amount not to
4-7 exceed \$1,000, which includes:

4-8 (1) a counseling and services fee in an amount
4-9 necessary to cover the costs of counseling and services provided by
4-10 the program;

4-11 (2) a victim services fee in an amount equal to 10
4-12 percent of the total fee; and

4-13 (3) a law enforcement training fee in an amount equal
4-14 to five percent of the total fee.

4-15 SECTION 3. Subdivision (2), Subsection (a), Section
4-16 772.0061, Government Code, is amended to read as follows:

4-17 (2) "Specialty court" means:

4-18 (A) a prostitution prevention program
4-19 established under Chapter 169A, Health and Safety Code;

4-20 (B) a drug court program established under
4-21 Chapter 469, Health and Safety Code;

4-22 (C) [~~(B)~~] a mental health court program
4-23 established under Chapter 616, Health and Safety Code; and

4-24 (D) [~~(C)~~] a veterans court program established
4-25 under Chapter 617, Health and Safety Code.

4-26 SECTION 4. This Act takes effect immediately if it receives
4-27 a vote of two-thirds of all the members elected to each house, as
4-28 provided by Section 39, Article III, Texas Constitution. If this
4-29 Act does not receive the vote necessary for immediate effect, this
4-30 Act takes effect September 1, 2013.

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