

BILL ANALYSIS

H.B. 10
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Homeland Security & Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

During the 81st Legislative Session, the Texas Legislature created the Human Trafficking Prevention Task Force to create a statewide partnership between law enforcement agencies, social service providers, nongovernmental organizations, legal representatives, and state agencies that are fighting on the front line against human trafficking. The task force works to develop policies and procedures to fulfill that purpose and proposes legislative recommendations to better protect adult and child victims of human trafficking. H.B. 10 seeks to prevent and ultimately eliminate human trafficking by enacting the recommendations made by the task force in the 2014 Human Trafficking Prevention Task Force Report.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 10 amends the Code of Criminal Procedure to remove the statute of limitations for the felony offense of compelling prostitution of a child younger than 18 years of age. The bill includes in the definition of "trafficking of persons," for purposes of the Crime Victims' Compensation Act, any offense that results in a person engaging in forced labor or services, including sexual conduct. The bill establishes that the requirement that the attorney general deny an application for compensation under that act if the claimant or victim knowingly and willingly participated in criminally injurious conduct and the authorization of the attorney general to deny such an application if the claimant or victim was engaging in an activity that at the time of the conduct was prohibited by law or a rule made under law do not apply to a claimant or victim who seeks compensation under that act for criminally injurious conduct that is in violation of a trafficking of persons offense committed by a person who knowingly traffics a child and by any means causes the trafficked child to engage in, or become the victim of, certain prohibited sexual conduct or for criminally injurious conduct that is trafficking of persons if the conduct or activity was the result of force, fraud, or coercion. The bill includes in the definition of "reportable conviction or adjudication," for purposes of the requirement to register as a sex offender, a conviction for or an adjudication for or based on a second degree felony prostitution offense, as that offense is amended by the bill's provisions, and a conviction for or an adjudication for or based on a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of that second degree felony prostitution offense, as that offense is amended by the bill's provisions, but not if the violation results in a deferred

adjudication.

H.B. 10 amends the Education Code to include reports related to the trafficking of a child under certain specified trafficking of persons offenses among the reports of child abuse or neglect for which the Texas Education Agency is required to develop a governing policy and includes the trafficking of a child under certain specified trafficking of persons offenses among the child abuse or neglect each school district and open-enrollment charter school employee is required to report in the manner required by the Family Code.

H.B. 10 amends the Government Code to include the problems of trafficking of persons among the problems of family violence, sexual assault, and child abuse and the issues concerning sex offender characteristics for which the Texas Supreme Court is required to provide judicial instruction and training and requires the supreme court, not later than December 1, 2015, to adopt rules necessary to provide the training as required by the bill's provisions. The bill includes the problems of trafficking of persons among the problems of family violence, sexual assault, and child abuse and neglect for which the Texas Court of Criminal Appeals is required to assure that judicial instruction and training are provided. The bill also requires issues related to trafficking of persons to be contained in certain required court of criminal appeals rules adopted for the provision of judicial instruction and training and requires the court of criminal appeals, not later than December 1, 2015, to adopt the rules necessary to provide the training as required by the bill's provisions. The bill requires a judge, master, referee, and magistrate who is in office on the bill's effective date to complete the training not later than December 1, 2017.

H.B. 10 adds one representative from the Texas Education Agency, from the Texas Parks and Wildlife Department, and from the Supreme Court of Texas Permanent Judicial Commission for Children, Youth and Families, each to be appointed by the chief administrative officer of the respective agency, to the human trafficking prevention task force and clarifies that the task force is required to collaborate, as needed to fulfill the duties of the task force, with U.S. Attorneys' Offices for all of the federal districts of Texas. The bill specifies that, in addition to developing recommendations on how to strengthen state and local efforts to prosecute human trafficking offenders, the task force is also required to develop recommendations on how to strengthen state and local efforts to investigate human trafficking offenders. The bill requires the Texas Alcoholic Beverage Commission (TABC), the Department of Family and Protective Services (DFPS), the Department of Public Safety (DPS), the Department of State Health Services (DSHS), the Health and Human Services Commission (HHSC), the Texas Juvenile Justice Department (TJJD), the office of the attorney general, and the office of the governor to each designate an individual who is authorized to coordinate the agency's resources to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims, and investigate and prosecute human trafficking offenders and to provide the task force with the names of the designated individuals. The bill changes the expiration date of the task force from September 1, 2015, to September 1, 2017.

H.B. 10 requires the governor to establish the Child Sex Trafficking Prevention Unit within the criminal justice division in the governor's office and to appoint a director for the unit to serve at the pleasure of the governor. The bill requires the unit to assist the office of the attorney general, HHSC, DFPS, TJJD, DSHS, TABC, and DPS in leveraging and coordinating state resources directed toward child sex trafficking prevention; to facilitate collaborative efforts among those agencies to prevent child sex trafficking, to recover victims of child sex trafficking, and to place victims of child sex trafficking in suitable short-term and long-term housing; to collect and analyze research and information in all areas related to child sex trafficking and to distribute the research, information, and analyses to the agencies and to relevant nonprofit organizations; to refer victims of child sex trafficking to available rehabilitation programs and other resources; to provide support for child sex trafficking prosecutions; and to develop recommendations for improving state efforts to prevent child sex trafficking that are to be submitted to the legislature as part of the criminal justice division's required biennial report. The bill defines "child sex trafficking," for purposes of this provision establishing the unit, to mean conduct prohibited

under the trafficking of persons offense that is committed by a person who knowingly traffics a child and by any means causes the trafficked child to engage in, or become the victim of, certain prohibited sexual conduct or by a person who knowingly receives a benefit from participating in a venture that involves that described prohibited activity or who engages in sexual conduct with a child trafficked in the manner so described.

H.B. 10 amends the Penal Code to add the specification to the offense of continuous trafficking of persons that a person commits such an offense if the conduct that constitutes the underlying trafficking of persons offense is against one or more victims. The bill establishes that a party to an offense of trafficking of persons or continuous trafficking of persons may be required to provide evidence or testify about the offense. The bill prohibits a party to an offense of trafficking of persons or continuous trafficking of persons from being prosecuted for any offense about which the party is required to provide evidence or testify and prohibits the evidence and testimony from being used against the party in any adjudicatory proceeding except a prosecution for aggravated perjury. The bill establishes that a conviction of an offense of trafficking of persons or continuous trafficking of persons may be had on the uncorroborated testimony of a party to the offense. The bill expands the conduct that constitutes a second degree felony prostitution offense if the person solicited is younger than 18 years of age, regardless of whether the actor knows the age of the person solicited at the time the actor commits the offense, to include the solicitation of a person represented to the actor as being younger than 18 years of age or believed by the actor to be younger than 18 years of age.

EFFECTIVE DATE

September 1, 2015.