

BILL ANALYSIS

C.S.H.B. 1363
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, interested parties note, the penalty for a prostitution conviction can range from a Class B misdemeanor to a state jail felony depending on the number of previous convictions for the offense. The parties suggest that these penalties have not been effective in reducing prostitution recidivism and may be criminalizing individuals who have been coerced into engaging in prostitution. In addition, the parties note the need to include information regarding sexual exploitation and human trafficking in certain rehabilitation programs. C.S.H.B. 1363 seeks to reduce prostitution re-offenses and prevent the continuous trafficking of persons by diverting individuals charged with prostitution into existing rehabilitation programs.

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

C.S.H.B. 1363 amends the Code of Criminal Procedure to authorize a court, at any time before trial commences for a prostitution offense and 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 to permit the defendant to participate in an applicable prostitution prevention program established under the Health and Safety Code if the defendant is otherwise eligible to participate in the applicable program. The bill authorizes the court to dismiss the proceedings against the defendant and discharge the defendant if the defendant successfully completes the program not later than the first anniversary of the date the proceedings were deferred.

C.S.H.B. 1363 amends the Penal Code to decrease the penalty for prostitution involving knowingly offering to engage, agreeing to engage, or engaging in sexual conduct for a fee from a Class B misdemeanor to a Class C misdemeanor and decreases the penalty enhancements for such an offense from a Class A misdemeanor to a Class B misdemeanor for one or two previous convictions of the offense and from a state jail felony to a Class A misdemeanor for three or more previous convictions of the offense. The bill makes the second degree felony enhancement for a prostitution offense applicable only to an offense involving the solicitation of another in a public place to engage in sexual conduct for hire.

C.S.H.B. 1363 amends the Health and Safety Code to include provision of information, counseling, and services relating to commercial sexual exploitation and trafficking of persons among the information required to be provided to participants of a first offender prostitution

prevention program or a prostitution prevention program. The bill includes access to such information, counseling, and services among the requisite essential characteristics of such programs.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1363 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 32, Code of Criminal Procedure, is amended.

SECTION 2. Section 43.02, Penal Code, is amended.

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 5. Same as introduced version.

SECTION 6. Same as introduced version.

SECTION 1. Section 169.001(a), Health and Safety Code, is amended to read as follows:

(a) In this chapter, "first offender 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 commercial sexual exploitation, trafficking of persons, sex addiction, sexually transmitted diseases, mental health, and substance abuse;
- (5) a coordinated strategy to govern program responses to participant compliance;
- (6) monitoring and evaluation of program goals and effectiveness;
- (7) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and
- (8) development of partnerships with public agencies and community organizations.

No equivalent provision.

SECTION 2. Section 169.003(a), Health and Safety Code, is amended to read as follows:

(a) A first offender prostitution prevention program established under this chapter must:

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

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

(3) provide each participant with information, counseling, and services relating to commercial sexual exploitation, trafficking of persons, sex addiction, sexually transmitted diseases, mental health, and substance abuse; and

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

No equivalent provision.

SECTION 3. Section 169A.001(a), Health and Safety Code, is amended to read as follows:

(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 commercial sexual exploitation, trafficking of persons, sex addiction, sexually transmitted diseases, mental health, and substance abuse;

(5) a coordinated strategy to govern program responses to participant compliance;

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

(7) continuing interdisciplinary education to

promote effective program planning, implementation, and operations; and
(8) development of partnerships with public agencies and community organizations.

No equivalent provision.

SECTION 4. Section 169A.003(a), Health and Safety Code, is amended to read as follows:

(a) A prostitution prevention program established under this chapter must:

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

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

(3) provide each participant with information, counseling, and services relating to commercial sexual exploitation, trafficking of persons, sex addiction, sexually transmitted diseases, mental health, and substance abuse; and

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

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 7. Same as introduced version.

SECTION 4. This Act takes effect September 1, 2015.

SECTION 8. Same as introduced version.