

By: Johnson

H.B. No. 1363

Substitute the following for H.B. No. 1363:

By: Herrero

C.S.H.B. No. 1363

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of and punishment for the offense of prostitution.

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

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.

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.

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;

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

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

8           (4) access to information, counseling, and services  
9 relating to commercial sexual exploitation, trafficking of  
10 persons, sex addiction, sexually transmitted diseases, mental  
11 health, and substance abuse;

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

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

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

18           (8) development of partnerships with public agencies  
19 and community organizations.

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

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

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

27           (2) allow any participant to withdraw from the program

1 at any time before a trial on the merits has been initiated;

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

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

8 SECTION 5. Chapter 32, Code of Criminal Procedure, is  
9 amended by adding Article 32.03 to read as follows:

10 Art. 32.03. DISMISSAL OF CERTAIN PROSTITUTION OFFENSES. At  
11 any time before trial commences for an offense under Section 43.02,  
12 Penal Code, a court may, on the request of the defendant and with  
13 the consent of the attorney representing the state, defer  
14 proceedings without entering an adjudication of guilt and permit  
15 the defendant to participate in a prostitution prevention program  
16 established under Chapter 169 or 169A, Health and Safety Code, if  
17 the defendant is otherwise eligible to participate in the program  
18 under the applicable chapter. If the defendant successfully  
19 completes the prostitution prevention program not later than the  
20 first anniversary of the date the proceedings were deferred, the  
21 court may dismiss the proceedings against the defendant and  
22 discharge the defendant.

23 SECTION 6. Section 43.02, Penal Code, is amended by  
24 amending Subsection (c) and adding Subsection (c-1) to read as  
25 follows:

26 (c) An offense under Subsection (a)(1) is a Class C  
27 misdemeanor, except that the offense is:

1           (1) a Class B misdemeanor if the actor has previously  
2 been convicted one or two times of an offense under Subsection  
3 (a)(1); or

4           (2) a Class A misdemeanor if the actor has previously  
5 been convicted three or more times of an offense under Subsection  
6 (a)(1).

7           (c-1) An offense under Subsection (a)(2) [~~this section~~] is a  
8 Class B misdemeanor, except that the offense is:

9           (1) a Class A misdemeanor if the actor has previously  
10 been convicted one or two times of an offense under Subsection  
11 (a)(2) [~~this section~~];

12           (2) a state jail felony if the actor has previously  
13 been convicted three or more times of an offense under Subsection  
14 (a)(2) [~~this section~~]; or

15           (3) a felony of the second degree if the person  
16 solicited is younger than 18 years of age, regardless of whether the  
17 actor knows the age of the person solicited at the time the actor  
18 commits the offense.

19           SECTION 7. The change in law made by this Act applies only  
20 to an offense committed on or after the effective date of this Act.  
21 An offense committed before the effective date of this Act is  
22 governed by the law in effect on the date the offense was committed,  
23 and the former law is continued in effect for that purpose. For  
24 purposes of this section, an offense was committed before the  
25 effective date of this Act if any element of the offense occurred  
26 before that date.

27           SECTION 8. This Act takes effect September 1, 2015.