

SENATE AMENDMENTS

2nd Printing

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H.B. No. 2552

A BILL TO BE ENTITLED

1 AN ACT

2 relating to measures to address and deter certain criminal or other
3 unlawful activity, including trafficking of persons, sexual
4 offenses, prostitution, and activity that may constitute a public
5 nuisance; increasing criminal penalties; creating a criminal
6 offense.

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

8 SECTION 1. Section 17.46(b), Business & Commerce Code, as
9 amended by Chapters 1023 (H.B. 1265) and 1080 (H.B. 2573), Acts of
10 the 84th Legislature, Regular Session, 2015, is reenacted and
11 amended to read as follows:

12 (b) Except as provided in Subsection (d) of this section,
13 the term "false, misleading, or deceptive acts or practices"
14 includes, but is not limited to, the following acts:

15 (1) passing off goods or services as those of another;

16 (2) causing confusion or misunderstanding as to the
17 source, sponsorship, approval, or certification of goods or
18 services;

19 (3) causing confusion or misunderstanding as to
20 affiliation, connection, or association with, or certification by,
21 another;

22 (4) using deceptive representations or designations
23 of geographic origin in connection with goods or services;

24 (5) representing that goods or services have

1 sponsorship, approval, characteristics, ingredients, uses,
2 benefits, or quantities which they do not have or that a person has
3 a sponsorship, approval, status, affiliation, or connection which
4 the person does not;

5 (6) representing that goods are original or new if
6 they are deteriorated, reconditioned, reclaimed, used, or
7 secondhand;

8 (7) representing that goods or services are of a
9 particular standard, quality, or grade, or that goods are of a
10 particular style or model, if they are of another;

11 (8) disparaging the goods, services, or business of
12 another by false or misleading representation of facts;

13 (9) advertising goods or services with intent not to
14 sell them as advertised;

15 (10) advertising goods or services with intent not to
16 supply a reasonable expectable public demand, unless the
17 advertisements disclosed a limitation of quantity;

18 (11) making false or misleading statements of fact
19 concerning the reasons for, existence of, or amount of price
20 reductions;

21 (12) representing that an agreement confers or
22 involves rights, remedies, or obligations which it does not have or
23 involve, or which are prohibited by law;

24 (13) knowingly making false or misleading statements
25 of fact concerning the need for parts, replacement, or repair
26 service;

27 (14) misrepresenting the authority of a salesman,

1 representative or agent to negotiate the final terms of a consumer
2 transaction;

3 (15) basing a charge for the repair of any item in
4 whole or in part on a guaranty or warranty instead of on the value of
5 the actual repairs made or work to be performed on the item without
6 stating separately the charges for the work and the charge for the
7 warranty or guaranty, if any;

8 (16) disconnecting, turning back, or resetting the
9 odometer of any motor vehicle so as to reduce the number of miles
10 indicated on the odometer gauge;

11 (17) advertising of any sale by fraudulently
12 representing that a person is going out of business;

13 (18) advertising, selling, or distributing a card
14 which purports to be a prescription drug identification card issued
15 under Section 4151.152, Insurance Code, in accordance with rules
16 adopted by the commissioner of insurance, which offers a discount
17 on the purchase of health care goods or services from a third party
18 provider, and which is not evidence of insurance coverage, unless:

19 (A) the discount is authorized under an agreement
20 between the seller of the card and the provider of those goods and
21 services or the discount or card is offered to members of the
22 seller;

23 (B) the seller does not represent that the card
24 provides insurance coverage of any kind; and

25 (C) the discount is not false, misleading, or
26 deceptive;

27 (19) using or employing a chain referral sales plan in

1 connection with the sale or offer to sell of goods, merchandise, or
2 anything of value, which uses the sales technique, plan,
3 arrangement, or agreement in which the buyer or prospective buyer
4 is offered the opportunity to purchase merchandise or goods and in
5 connection with the purchase receives the seller's promise or
6 representation that the buyer shall have the right to receive
7 compensation or consideration in any form for furnishing to the
8 seller the names of other prospective buyers if receipt of the
9 compensation or consideration is contingent upon the occurrence of
10 an event subsequent to the time the buyer purchases the merchandise
11 or goods;

12 (20) representing that a guaranty or warranty confers
13 or involves rights or remedies which it does not have or involve,
14 provided, however, that nothing in this subchapter shall be
15 construed to expand the implied warranty of merchantability as
16 defined in Sections 2.314 through 2.318 and Sections 2A.212 through
17 2A.216 to involve obligations in excess of those which are
18 appropriate to the goods;

19 (21) promoting a pyramid promotional scheme, as
20 defined by Section 17.461;

21 (22) representing that work or services have been
22 performed on, or parts replaced in, goods when the work or services
23 were not performed or the parts replaced;

24 (23) filing suit founded upon a written contractual
25 obligation of and signed by the defendant to pay money arising out
26 of or based on a consumer transaction for goods, services, loans, or
27 extensions of credit intended primarily for personal, family,

1 household, or agricultural use in any county other than in the
2 county in which the defendant resides at the time of the
3 commencement of the action or in the county in which the defendant
4 in fact signed the contract; provided, however, that a violation of
5 this subsection shall not occur where it is shown by the person
6 filing such suit that the person neither knew or had reason to know
7 that the county in which such suit was filed was neither the county
8 in which the defendant resides at the commencement of the suit nor
9 the county in which the defendant in fact signed the contract;

10 (24) failing to disclose information concerning goods
11 or services which was known at the time of the transaction if such
12 failure to disclose such information was intended to induce the
13 consumer into a transaction into which the consumer would not have
14 entered had the information been disclosed;

15 (25) using the term "corporation," "incorporated," or
16 an abbreviation of either of those terms in the name of a business
17 entity that is not incorporated under the laws of this state or
18 another jurisdiction;

19 (26) selling, offering to sell, or illegally promoting
20 an annuity contract under Chapter 22, Acts of the 57th Legislature,
21 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
22 Statutes), with the intent that the annuity contract will be the
23 subject of a salary reduction agreement, as defined by that Act, if
24 the annuity contract is not an eligible qualified investment under
25 that Act or is not registered with the Teacher Retirement System of
26 Texas as required by Section 8A of that Act;

27 (27) taking advantage of a disaster declared by the

1 governor under Chapter 418, Government Code, by:

2 (A) selling or leasing fuel, food, medicine, or
3 another necessity at an exorbitant or excessive price; or

4 (B) demanding an exorbitant or excessive price in
5 connection with the sale or lease of fuel, food, medicine, or
6 another necessity;

7 (28) using the translation into a foreign language of
8 a title or other word, including "attorney," "lawyer," "licensed,"
9 "notary," and "notary public," in any written or electronic
10 material, including an advertisement, a business card, a
11 letterhead, stationery, a website, or an online video, in reference
12 to a person who is not an attorney in order to imply that the person
13 is authorized to practice law in the United States;

14 (29) [~~(28)~~] delivering or distributing a solicitation
15 in connection with a good or service that:

16 (A) represents that the solicitation is sent on
17 behalf of a governmental entity when it is not; or

18 (B) resembles a governmental notice or form that
19 represents or implies that a criminal penalty may be imposed if the
20 recipient does not remit payment for the good or service;

21 (30) [~~(29)~~] delivering or distributing a solicitation
22 in connection with a good or service that resembles a check or other
23 negotiable instrument or invoice, unless the portion of the
24 solicitation that resembles a check or other negotiable instrument
25 or invoice includes the following notice, clearly and conspicuously
26 printed in at least 18-point type:

27 "SPECIMEN-NON-NEGOTIABLE";

1 (31) [~~(30)~~] in the production, sale, distribution, or
2 promotion of a synthetic substance that produces and is intended to
3 produce an effect when consumed or ingested similar to, or in excess
4 of, the effect of a controlled substance or controlled substance
5 analogue, as those terms are defined by Section 481.002, Health and
6 Safety Code:

7 (A) making a deceptive representation or
8 designation about the synthetic substance; or

9 (B) causing confusion or misunderstanding as to
10 the effects the synthetic substance causes when consumed or
11 ingested; [~~or~~]

12 (32) [~~(31)~~] a licensed public insurance adjuster
13 directly or indirectly soliciting employment, as defined by Section
14 38.01, Penal Code, for an attorney, or a licensed public insurance
15 adjuster entering into a contract with an insured for the primary
16 purpose of referring the insured to an attorney without the intent
17 to actually perform the services customarily provided by a licensed
18 public insurance adjuster, provided that this subdivision may not
19 be construed to prohibit a licensed public insurance adjuster from
20 recommending a particular attorney to an insured; or

21 (33) owning, operating, maintaining, or advertising a
22 massage establishment, as defined by Section 455.001, Occupations
23 Code, that:

24 (A) is not appropriately licensed under Chapter
25 455, Occupations Code, or is not in compliance with the applicable
26 licensing and other requirements of that chapter; or

27 (B) is not in compliance with an applicable local

1 ordinance relating to the licensing or regulation of massage
2 establishments.

3 SECTION 2. Section 125.001, Civil Practice and Remedies
4 Code, is amended by adding Subdivisions (1-a) and (4) to read as
5 follows:

6 (1-a) "Computer network" means the interconnection of
7 two or more computers or computer systems by satellite, microwave,
8 line, or other communication medium with the capability to transmit
9 information between the computers.

10 (4) "Web address" means a website operating on the
11 Internet.

12 SECTION 3. Section 125.0015, Civil Practice and Remedies
13 Code, is amended by adding Subsections (c), (d), and (e) to read as
14 follows:

15 (c) A person operating a web address or computer network in
16 connection with an activity described by Subsection (a)(3), (6),
17 (7), (10), (11), (17), (18), (19), (20), (21), or (22) maintains a
18 common nuisance.

19 (d) Subsection (c) does not apply to:

20 (1) a provider of remote computing services or
21 electronic communication services to the public;

22 (2) a provider of an interactive computer service as
23 defined by 47 U.S.C. Section 230;

24 (3) an Internet service provider;

25 (4) a search engine operator;

26 (5) a browsing or hosting company;

27 (6) an operating system provider; or

1 (7) a device manufacturer.

2 (e) This section does not apply to an activity exempted,
3 authorized, or otherwise lawful activity regulated by federal law.

4 SECTION 4. The heading to Section 125.002, Civil Practice
5 and Remedies Code, is amended to read as follows:

6 Sec. 125.002. SUIT TO ABATE CERTAIN COMMON NUISANCES
7 [~~NUISANCE~~]; BOND.

8 SECTION 5. Sections 125.002(a), (g), and (h), Civil
9 Practice and Remedies Code, are amended to read as follows:

10 (a) A suit to enjoin and abate a common nuisance described
11 by Section 125.0015(a) or (b) may be brought by an individual, by
12 the attorney general, or by a district, county, or city attorney.
13 The suit must be brought in the county in which it is alleged to
14 exist against the person who is maintaining or about to maintain the
15 nuisance. The suit must be brought in the name of the state if
16 brought by the attorney general or a district or county attorney, in
17 the name of the city if brought by a city attorney, or in the name of
18 the individual if brought by a private citizen. Verification of the
19 petition or proof of personal injury by the acts complained of need
20 not be shown. For purposes of this subsection, personal injury may
21 include economic or monetary loss.

22 (g) In an action brought under this chapter, other than an
23 action brought under Section 125.0025, the petitioner may file a
24 notice of lis pendens and a certified copy of an order of the court
25 in the office of the county clerk in each county in which the land is
26 located. The notice of lis pendens must conform to the requirements
27 of Section 12.007, Property Code, and constitutes notice as

1 provided by Section 13.004, Property Code. A certified copy of an
2 order of the court filed in the office of the county clerk
3 constitutes notice of the terms of the order and is binding on
4 subsequent purchasers and lienholders.

5 (h) A person who may bring a suit under Subsection (a)
6 [~~Section 125.0015~~] shall consider, among other factors, whether the
7 property owner, the owner's authorized representative, or the
8 operator or occupant of the business, dwelling, or other place
9 where the criminal acts occurred:

10 (1) promptly notifies the appropriate governmental
11 entity or the entity's law enforcement agency of the occurrence of
12 criminal acts on the property; and

13 (2) cooperates with the governmental entity's law
14 enforcement investigation of criminal acts occurring at the
15 property.

16 SECTION 6. Subchapter A, Chapter 125, Civil Practice and
17 Remedies Code, is amended by adding Section 125.0025 to read as
18 follows:

19 Sec. 125.0025. SUIT TO DECLARE CERTAIN COMMON NUISANCES.

20 (a) A suit to declare that a person operating a web address or
21 computer network is maintaining a common nuisance may be brought by
22 an individual, by the attorney general, or by a district, county, or
23 city attorney.

24 (b) Except as provided by Section 125.003(d), on a finding
25 that a web address or computer network is a common nuisance, the
26 sole remedy available is a judicial finding issued to the attorney
27 general.

1 (c) The attorney general may:

2 (1) notify Internet service providers, search engine
3 operators, browsing or hosting companies, or device manufacturers
4 on which applications are hosted of the judicial finding issued to
5 the attorney general under Subsection (b) to determine if the
6 persons notified are able to offer technical assistance to the
7 attorney general in a manner consistent with 47 U.S.C. Section 230;
8 or

9 (2) post the judicial finding issued to the attorney
10 general under Subsection (b) on the attorney general's Internet
11 website.

12 SECTION 7. Section 125.004, Civil Practice and Remedies
13 Code, is amended by adding Subsections (a-1), (a-2), and (e) to read
14 as follows:

15 (a-1) Proof in the form of a person's arrest or the
16 testimony of a law enforcement agent that an activity described by
17 Section 125.0015(a)(6) or (7) is committed at a place licensed as a
18 massage establishment under Chapter 455, Occupations Code, or
19 advertised as offering massage therapy or massage services is prima
20 facie evidence that the defendant knowingly tolerated the activity.

21 (a-2) Proof that an activity described by Section
22 125.0015(a)(18) is committed at a place maintained by the defendant
23 is prima facie evidence that the defendant:

24 (1) knowingly tolerated the activity; and
25 (2) did not make a reasonable attempt to abate the
26 activity.

27 (e) Evidence of a previous suit filed under this chapter

1 that resulted in a judgment against a landowner with respect to an
2 activity described by Section 125.0015 at the landowner's property
3 is admissible in a subsequent suit filed under this chapter to
4 demonstrate that the landowner:

- 5 (1) knowingly tolerated the activity; and
6 (2) did not make a reasonable attempt to abate the
7 activity.

8 SECTION 8. Subchapter C, Chapter 11, Education Code, is
9 amended by adding Section 11.066 to read as follows:

10 Sec. 11.066. ELIGIBILITY FOR SERVICE BY TRUSTEE CONVICTED
11 OF CERTAIN OFFENSE. A person is ineligible to serve as a member of
12 the board of trustees of a school district if the person has been
13 convicted of an offense under Section 43.02(b), Penal Code.

14 SECTION 9. Section 411.042(b), Government Code, is amended
15 to read as follows:

- 16 (b) The bureau of identification and records shall:
17 (1) procure and file for record photographs, pictures,
18 descriptions, fingerprints, measurements, and other pertinent
19 information of all persons arrested for or charged with a criminal
20 offense or convicted of a criminal offense, regardless of whether
21 the conviction is probated;
22 (2) collect information concerning the number and
23 nature of offenses reported or known to have been committed in the
24 state and the legal steps taken in connection with the offenses, and
25 other information useful in the study of crime and the
26 administration of justice, including information that enables the
27 bureau to create a statistical breakdown of:

1 (A) offenses in which family violence was
2 involved;

3 (B) offenses under Sections 22.011 and 22.021,
4 Penal Code; and

5 (C) offenses under Sections 20A.02, 43.02(a),
6 43.02(b), 43.03, and 43.05, Penal Code;

7 (3) make ballistic tests of bullets and firearms and
8 chemical analyses of bloodstains, cloth, materials, and other
9 substances for law enforcement officers of the state;

10 (4) cooperate with identification and crime records
11 bureaus in other states and the United States Department of
12 Justice;

13 (5) maintain a list of all previous background checks
14 for applicants for any position regulated under Chapter 1702,
15 Occupations Code, who have undergone a criminal history background
16 check under Section 411.119, if the check indicates a Class B
17 misdemeanor or equivalent offense or a greater offense;

18 (6) collect information concerning the number and
19 nature of protective orders and magistrate's orders of emergency
20 protection and all other pertinent information about all persons
21 subject to active orders, including pertinent information about
22 persons subject to conditions of bond imposed for the protection of
23 the victim in any family violence, sexual assault or abuse,
24 stalking, or trafficking case. Information in the law enforcement
25 information system relating to an active order shall include:

26 (A) the name, sex, race, date of birth, personal
27 descriptors, address, and county of residence of the person to whom

1 the order is directed;

2 (B) any known identifying number of the person to
3 whom the order is directed, including the person's social security
4 number or driver's license number;

5 (C) the name and county of residence of the
6 person protected by the order;

7 (D) the residence address and place of employment
8 or business of the person protected by the order, unless that
9 information is excluded from the order under Section 85.007, Family
10 Code, or Article 17.292(e), Code of Criminal Procedure;

11 (E) the child-care facility or school where a
12 child protected by the order normally resides or which the child
13 normally attends, unless that information is excluded from the
14 order under Section 85.007, Family Code, or Article 17.292(e), Code
15 of Criminal Procedure;

16 (F) the relationship or former relationship
17 between the person who is protected by the order and the person to
18 whom the order is directed;

19 (G) the conditions of bond imposed on the person
20 to whom the order is directed, if any, for the protection of a
21 victim in any family violence, sexual assault or abuse, stalking,
22 or trafficking case;

23 (H) any minimum distance the person subject to
24 the order is required to maintain from the protected places or
25 persons; and

26 (I) the date the order expires;

27 (7) grant access to criminal history record

1 information in the manner authorized under Subchapter F;

2 (8) collect and disseminate information regarding
3 offenders with mental impairments in compliance with Chapter 614,
4 Health and Safety Code; and

5 (9) record data and maintain a state database for a
6 computerized criminal history record system and computerized
7 juvenile justice information system that serves:

8 (A) as the record creation point for criminal
9 history record information and juvenile justice information
10 maintained by the state; and

11 (B) as the control terminal for the entry of
12 records, in accordance with federal law and regulations, federal
13 executive orders, and federal policy, into the federal database
14 maintained by the Federal Bureau of Investigation.

15 SECTION 10. Subchapter A, Chapter 241, Health and Safety
16 Code, is amended by adding Section 241.011 to read as follows:

17 Sec. 241.011. HUMAN TRAFFICKING SIGNS REQUIRED. An
18 emergency department of a hospital shall display separate signs, in
19 English and Spanish, that comply with Section 245.025 as if the
20 hospital is an abortion facility.

21 SECTION 11. Chapter 245, Health and Safety Code, is amended
22 by adding Section 245.025 to read as follows:

23 Sec. 245.025. HUMAN TRAFFICKING SIGNS REQUIRED. (a) An
24 abortion facility shall display separate signs, in English,
25 Spanish, and any additional language as required by Subsection (b),
26 side by side in accordance with this section in each restroom and
27 patient consulting room. The signs must include the following

1 information:

2 (1) no person, including an individual's parents, may
3 force any individual to have an abortion;

4 (2) it is illegal for a person to force an individual
5 to engage in sexual acts;

6 (3) a woman who needs help may call or text a state or
7 national organization that assists victims of human trafficking and
8 forced abortions; and

9 (4) the toll-free number of an organization described
10 by Subdivision (3).

11 (b) Signs required under this section must be in English and
12 Spanish. If an abortion facility is located in a political
13 subdivision required to provide election materials in a language
14 other than English or Spanish under Section 272.011, Election Code,
15 the facility shall display a separate sign in that language.

16 (c) Signs required under this section must be at least 8-1/2
17 by 11 inches in size and displayed in a conspicuous manner clearly
18 visible to the public and employees of an abortion facility. The
19 notice must cover at least four-fifths of the sign.

20 (d) The executive commissioner shall adopt rules as
21 necessary to implement and enforce this section.

22 SECTION 12. Section 1602.354, Occupations Code, is amended
23 by adding Subsection (c) to read as follows:

24 (c) The commission shall require continuing education
25 programs under this chapter to include information on:

26 (1) activities commonly associated with human
27 trafficking;

1 (2) recognition of potential victims of human
2 trafficking; and

3 (3) methods for assisting victims of human
4 trafficking, including how to report human trafficking.

5 SECTION 13. Subchapter I, Chapter 1602, Occupations Code,
6 is amended by adding Section 1602.408 to read as follows:

7 Sec. 1602.408. POSTING OF CERTAIN NOTICES REQUIRED. (a) In
8 this section, "licensed facility" means the premises of a place of
9 business that holds a license, certificate, or permit under this
10 chapter.

11 (b) A licensed facility shall display a sign approved by or
12 acceptable to the commission or the department concerning services
13 and assistance available to victims of human trafficking.

14 (c) The sign required by this section must be in English,
15 Spanish, and Vietnamese and include a toll-free telephone number of
16 a nationally recognized information and referral hotline for
17 victims of human trafficking.

18 (d) The commission by rule shall establish requirements
19 regarding the posting of signs under this section.

20 SECTION 14. Section 20A.02(b), Penal Code, is amended to
21 read as follows:

22 (b) Except as otherwise provided by this subsection, an
23 offense under this section is a felony of the second degree. An
24 offense under this section is a felony of the first degree if:

25 (1) the applicable conduct constitutes an offense
26 under Subsection (a)(5), (6), (7), or (8), regardless of whether
27 the actor knows the age of the child at the time the actor commits

1 the offense; ~~[or]~~

2 (2) the commission of the offense results in the death
3 of the person who is trafficked; or

4 (3) the commission of the offense results in the death
5 of an unborn child of the person who is trafficked.

6 SECTION 15. (a) This section takes effect only if the Act
7 of the 85th Legislature, Regular Session, 2017, relating to
8 nonsubstantive additions to and corrections in enacted codes
9 becomes law.

10 (b) Section 21.16(g), Penal Code, as added by Chapter 852
11 (S.B. 1135), Acts of the 84th Legislature, Regular Session, 2015,
12 is amended to read as follows:

13 (g) An offense under this section is a state jail felony
14 ~~[Class A misdemeanor]~~.

15 (c) Chapter 21, Penal Code, is amended by adding Section
16 21.18 to read as follows:

17 Sec. 21.18. SEXUAL COERCION. (a) In this section:

18 (1) "Intimate visual material" means the visual
19 material described by Section 21.16(b)(1) or (c).

20 (2) "Sexual conduct" has the meaning assigned by
21 Section 43.25.

22 (b) A person commits an offense if the person intentionally
23 threatens, including by coercion or extortion, to commit an offense
24 under Chapter 43 or Section 20A.02(a)(3), (4), (7), or (8), 21.02,
25 21.08, 21.11, 21.12, 21.15, 21.16, 21.17, 22.011, or 22.021 to
26 obtain, in return for not committing the threatened offense or in
27 connection with the threatened offense, any of the following

1 benefits:

2 (1) intimate visual material;

3 (2) an act involving sexual conduct causing arousal or
4 gratification; or

5 (3) a monetary benefit or other benefit of value.

6 (c) A person commits an offense if the person intentionally
7 threatens, including by coercion or extortion, to commit an offense
8 under Chapter 19 or 20 or Section 20A.02(a)(1), (2), (5), or (6) to
9 obtain, in return for not committing the threatened offense or in
10 connection with the threatened offense, either of the following
11 benefits:

12 (1) intimate visual material; or

13 (2) an act involving sexual conduct causing arousal or
14 gratification.

15 (d) This section applies to a threat regardless of how that
16 threat is communicated, including a threat transmitted through
17 e-mail or an Internet website, social media account, or chat room
18 and a threat made by other electronic or technological means.

19 (e) An offense under this section is a state jail felony,
20 except that the offense is a felony of the third degree if it is
21 shown on the trial of the offense that the defendant has previously
22 been convicted of an offense under this section.

23 SECTION 16. (a) This section takes effect only if the Act
24 of the 85th Legislature, Regular Session, 2017, relating to
25 nonsubstantive additions to and corrections in enacted codes does
26 not become law.

27 (b) Section 21.16(g), Penal Code, as added by Chapter 852

1 (S.B. 1135), Acts of the 84th Legislature, Regular Session, 2015,
2 is amended to read as follows:

3 (g) An offense under this section is a state jail felony
4 [~~Class A misdemeanor~~].

5 (c) Chapter 21, Penal Code, is amended by adding Section
6 21.18 to read as follows:

7 Sec. 21.18. SEXUAL COERCION. (a) In this section:

8 (1) "Intimate visual material" means the visual
9 material described by Section 21.16(b)(1) or (c), as added by
10 Chapter 852 (S.B. 1135), Acts of the 84th Legislature, Regular
11 Session, 2015.

12 (2) "Sexual conduct" has the meaning assigned by
13 Section 43.25.

14 (b) A person commits an offense if the person intentionally
15 threatens, including by coercion or extortion, to commit an offense
16 under Chapter 43 or Section 20A.02(a)(3), (4), (7), or (8), 21.02,
17 21.08, 21.11, 21.12, 21.15, 21.16, as added by Chapter 852 (S.B.
18 1135), Acts of the 84th Legislature, Regular Session, 2015, 21.16,
19 as added by Chapter 676 (H.B. 207), Acts of the 84th Legislature,
20 Regular Session, 2015, 22.011, or 22.021 to obtain, in return for
21 not committing the threatened offense or in connection with the
22 threatened offense, any of the following benefits:

23 (1) intimate visual material;

24 (2) an act involving sexual conduct causing arousal or
25 gratification; or

26 (3) a monetary benefit or other benefit of value.

27 (c) A person commits an offense if the person intentionally

1 threatens, including by coercion or extortion, to commit an offense
2 under Chapter 19 or 20 or Section 20A.02(a)(1), (2), (5), or (6) to
3 obtain, in return for not committing the threatened offense or in
4 connection with the threatened offense, either of the following
5 benefits:

6 (1) intimate visual material; or

7 (2) an act involving sexual conduct causing arousal or
8 gratification.

9 (d) This section applies to a threat regardless of how that
10 threat is communicated, including a threat transmitted through
11 e-mail or an Internet website, social media account, or chat room
12 and a threat made by other electronic or technological means.

13 (e) An offense under this section is a state jail felony,
14 except that the offense is a felony of the third degree if it is
15 shown on the trial of the offense that the defendant has previously
16 been convicted of an offense under this section.

17 SECTION 17. Sections 22.01(b) and (c), Penal Code, are
18 amended to read as follows:

19 (b) An offense under Subsection (a)(1) is a Class A
20 misdemeanor, except that the offense is a felony of the third degree
21 if the offense is committed against:

22 (1) a person the actor knows is a public servant while
23 the public servant is lawfully discharging an official duty, or in
24 retaliation or on account of an exercise of official power or
25 performance of an official duty as a public servant;

26 (2) a person whose relationship to or association with
27 the defendant is described by Section 71.0021(b), 71.003, or

1 71.005, Family Code, if:

2 (A) it is shown on the trial of the offense that
3 the defendant has been previously convicted of an offense under
4 this chapter, Chapter 19, or Section 20.03, 20.04, 21.11, or 25.11
5 against a person whose relationship to or association with the
6 defendant is described by Section 71.0021(b), 71.003, or 71.005,
7 Family Code; or

8 (B) the offense is committed by intentionally,
9 knowingly, or recklessly impeding the normal breathing or
10 circulation of the blood of the person by applying pressure to the
11 person's throat or neck or by blocking the person's nose or mouth;

12 (3) a person who contracts with government to perform
13 a service in a facility as defined by Section 1.07(a)(14), Penal
14 Code, or Section 51.02(13) or (14), Family Code, or an employee of
15 that person:

16 (A) while the person or employee is engaged in
17 performing a service within the scope of the contract, if the actor
18 knows the person or employee is authorized by government to provide
19 the service; or

20 (B) in retaliation for or on account of the
21 person's or employee's performance of a service within the scope of
22 the contract;

23 (4) a person the actor knows is a security officer
24 while the officer is performing a duty as a security officer; ~~[or]~~

25 (5) a person the actor knows is emergency services
26 personnel while the person is providing emergency services; or

27 (6) a pregnant individual to force the individual to

1 have an abortion.

2 (c) An offense under Subsection (a)(2) or (3) is a Class C
3 misdemeanor, except that the offense is:

4 (1) a Class A misdemeanor if the offense is committed
5 under Subsection (a)(3) against an elderly individual or disabled
6 individual, as those terms are defined by Section 22.04; ~~[or]~~

7 (2) a Class B misdemeanor if the offense is committed
8 by a person who is not a sports participant against a person the
9 actor knows is a sports participant either:

10 (A) while the participant is performing duties or
11 responsibilities in the participant's capacity as a sports
12 participant; or

13 (B) in retaliation for or on account of the
14 participant's performance of a duty or responsibility within the
15 participant's capacity as a sports participant; or

16 (3) a Class A misdemeanor if the offense is committed
17 against a pregnant individual to force the individual to have an
18 abortion.

19 SECTION 18. Section 43.03, Penal Code, is amended to read as
20 follows:

21 Sec. 43.03. PROMOTION OF PROSTITUTION. (a) A person
22 commits an offense if, acting other than as a prostitute receiving
23 compensation for personally rendered prostitution services, the
24 actor ~~[he or she]~~ knowingly:

25 (1) receives money or other property pursuant to an
26 agreement to participate in the proceeds of prostitution; ~~[or]~~

27 (2) solicits another to engage in sexual conduct with

1 another person for compensation;

2 (3) provides a person or premises for prostitution
3 purposes; or

4 (4) publishes or distributes on an Internet website
5 that is owned or operated by the actor an advertisement that
6 contains an offer to engage in sexual conduct in return for receipt
7 of a fee.

8 (b) An offense under this section is a Class A misdemeanor,
9 except that the offense is:

10 (1) a state jail felony if the actor has been
11 previously convicted of an offense under this section; or

12 (2) a felony of the second degree if the actor engages
13 in conduct described by Subsection (a) [~~(a)(1) or (2)~~] involving a
14 person younger than 18 years of age engaging in prostitution,
15 regardless of whether the actor knows the age of the person at the
16 time the actor commits the offense.

17 SECTION 19. Chapter 93, Property Code, is amended by adding
18 Section 93.013 to read as follows:

19 Sec. 93.013. CERTAIN UNLAWFUL USES OF PREMISES; TERMINATION
20 OF TENANT'S RIGHT OF POSSESSION. (a) Notwithstanding a provision
21 in a lease to the contrary, a tenant's right of possession
22 terminates and the landlord has a right to recover possession of the
23 leased premises if the tenant is using the premises or allowing the
24 premises to be used for the purposes of prostitution, promotion of
25 prostitution, aggravated promotion of prostitution, or compelling
26 prostitution, as prohibited by the Penal Code, or trafficking of
27 persons as described by Section 20A.02, Penal Code.

1 (b) A landlord who reasonably believes a tenant is using the
2 leased premises or allowing the leased premises to be used for a
3 purpose described by Subsection (a) may file a forcible detainer
4 suit under Chapter 24 seeking possession of the premises and unpaid
5 rent, including rent for any period of occupancy after the tenant's
6 right of possession terminates.

7 (c) Notwithstanding Section 24.005 or 91.001 or any other
8 law or a provision in the lease to the contrary, the landlord is not
9 required for purposes of a forcible detainer suit authorized by
10 this section:

11 (1) to give a notice of proposed eviction or a notice
12 of termination before giving notice to vacate; or

13 (2) to give the tenant more than three days' notice to
14 vacate before filing the suit.

15 (d) A pending suit brought by the attorney general or a
16 district, county, or city attorney under Chapter 125, Civil
17 Practice and Remedies Code, alleging that a common nuisance is
18 being maintained on the leased premises with respect to an activity
19 described by Subsection (a) is prima facie evidence that the
20 tenant's right of possession has terminated and the landlord has a
21 right to recover possession of the premises under Subsection (a).

22 (e) A final, nonappealable determination by a court under
23 Chapter 125, Civil Practice and Remedies Code, that a common
24 nuisance is being maintained on the leased premises with respect to
25 an activity described by Subsection (a) creates an irrebuttable
26 presumption that the tenant's right of possession has terminated
27 and the landlord has a right to recover possession of the premises

1 under Subsection (a).

2 SECTION 20. Section 17.46(b), Business & Commerce Code, as
3 amended by this Act, applies only to a cause of action that accrues
4 on or after the effective date of this Act. A cause of action that
5 accrued before the effective date of this Act is governed by the law
6 in effect immediately before the effective date of this Act, and
7 that law is continued in effect for that purpose.

8 SECTION 21. (a) Not later than December 1, 2017, the
9 executive commissioner of the Health and Human Services Commission
10 shall adopt the rules necessary to implement Sections 241.011 and
11 245.025, Health and Safety Code, as added by this Act.

12 (b) A hospital or an abortion facility is not required to
13 comply with Section 241.011 or 245.025, Health and Safety Code, as
14 added by this Act, before January 1, 2018.

15 SECTION 22. (a) Not later than March 1, 2018, the Texas
16 Commission of Licensing and Regulation shall adopt rules as
17 necessary to comply with Section 1602.354, Occupations Code, as
18 amended by this Act.

19 (b) Section 1602.354(c), Occupations Code, as added by this
20 Act, and the rules adopted under Subsection (a) of this section
21 apply only to a continuing education program provided on or after
22 September 1, 2018.

23 SECTION 23. (a) Not later than January 1, 2018, the Texas
24 Commission of Licensing and Regulation shall adopt rules as
25 necessary to implement Section 1602.408, Occupations Code, as added
26 by this Act.

27 (b) A licensed facility as defined by Section 1602.408(a),

1 Occupations Code, as added by this Act, shall comply with Section
2 1602.408, Occupations Code, as added by this Act, not later than
3 February 1, 2018.

4 SECTION 24. Sections 20A.02 and 22.01, Penal Code, as
5 amended by this Act, apply only to an offense committed on or after
6 the effective date of this Act. An offense committed before the
7 effective date of this Act is governed by the law in effect on the
8 date the offense was committed, and that law is continued in effect
9 for that purpose. For purposes of this section, an offense was
10 committed before the effective date of this Act if any element of
11 the offense was committed before that date.

12 SECTION 25. Section 43.03, Penal Code, as amended by this
13 Act, applies only to an offense committed on or after the effective
14 date of this Act. An offense committed before the effective date of
15 this Act is governed by the law in effect on the date the offense was
16 committed, and the former law is continued in effect for that
17 purpose. For purposes of this section, an offense was committed
18 before the effective date of this Act if any element of the offense
19 occurred before that date.

20 SECTION 26. Section 93.013, Property Code, as added by this
21 Act, applies only to a lease entered into or renewed on or after the
22 effective date of this Act. A lease entered into or renewed before
23 the effective date of this Act is governed by the law applicable to
24 the lease immediately before the effective date of this Act, and
25 that law is continued in effect for that purpose.

26 SECTION 27. To the extent of any conflict, this Act prevails
27 over another Act of the 85th Legislature, Regular Session, 2017,

H.B. No. 2552

1 relating to nonsubstantive additions to and corrections in enacted
2 codes.

3 SECTION 28. This Act takes effect September 1, 2017.

ADOPTED

V V
MAY 22 2017

FLOOR AMENDMENT NO. 1

Lately Spaul
Secretary of the Senate

BY: *Joan Huffman*

1 Amend H.B. No. 2552 (senate committee report) by striking
2 SECTION 18 of the bill (page 10, lines 15 through 39) and
3 SECTION 25 of the bill (page 11, lines 47 through 54) and
4 renumbering the SECTIONS of the bill accordingly.

ADOPTED

MAY 22 2017

FLOOR AMENDMENT NO. 2

BY: Jean Huffman
Secretary of the Senate

1 Amend H.B. No. 2552 (senate committee printing) as follows:

2 (1) Add the following appropriately numbered SECTIONS to
3 the bill:

4 SECTION __. Subchapter A, Chapter 125, Civil Practice and
5 Remedies Code, is amended by adding Section 125.0017 to read as
6 follows:

7 Sec. 125.0017. NOTICE OF ARREST FOR CERTAIN ACTIVITIES.

8 If a law enforcement agency makes an arrest related to an
9 activity described by Section 125.0015(a)(6), (7), or (18) that
10 occurs at property leased to a person operating a massage
11 establishment as defined by Section 455.001, Occupations Code,
12 not later than the seventh day after the date of the arrest, the
13 law enforcement agency shall provide written notice by certified
14 mail to each person maintaining the property of the arrest.

15 SECTION __. Section 125.004, Civil Practice and Remedies
16 Code, as amended by this Act, applies only to a cause of action
17 that accrues on or after the effective date of this Act. A
18 cause of action that accrues before the effective date of this
19 Act is governed by the law applicable to the cause of action
20 immediately before the effective date of this Act, and that law
21 is continued in effect for that purpose.

22 (2) In the recital to SECTION 7 of the bill amending
23 Section 125.004, Civil Practice and Remedies Code (page 5, line
24 30), between the comma and "and", insert "(a-3),".

25 (3) In the recital to SECTION 7 of the bill amending
26 Section 125.004, Civil Practice and Remedies Code (page 5, line
27 30), between "(e)" and "to", insert "and amending Subsection
28 (d)".

29 (4) In SECTION 7 of the bill, in added Section 125.004(a-

1 1), Civil Practice and Remedies Code (page 5, line 36), between
2 "services" and "is", insert "after notice of an arrest was
3 provided to the defendant in accordance with Section 125.0017".

4 (5) In SECTION 7 of the bill, in added Section 125.004(a-
5 2), Civil Practice and Remedies Code (page 5, lines 39-40),
6 between "defendant" and "is", insert "after notice of an arrest
7 was provided to the defendant in accordance with Section
8 125.0017".

9 (6) In SECTION 7 of the bill, between added Sections
10 125.004(a-2) and (e), Civil Practice and Remedies Code (page 5,
11 between lines 43 and 44), insert the following:

12 (a-3) For purposes of Subsections (a-1) and (a-2), notice
13 is considered to be provided to the defendant seven days after
14 the postmark date of the notice provided under Section 125.0017.

15 (d) Notwithstanding Subsections [~~Subsection~~] (a), (a-1),
16 or (a-2), evidence that the defendant, the defendant's
17 authorized representative, or another person acting at the
18 direction of the defendant or the defendant's authorized
19 representative requested law enforcement or emergency assistance
20 with respect to an activity at the place where the common
21 nuisance is allegedly maintained is not admissible for the
22 purpose of showing the defendant tolerated the activity or
23 failed to make reasonable attempts to abate the activity alleged
24 to constitute the nuisance but may be admitted for other
25 purposes, such as showing that a crime listed in Section
26 125.0015 occurred. Evidence that the defendant refused to
27 cooperate with law enforcement or emergency services with
28 respect to the activity is admissible. The posting of a sign
29 prohibiting the activity alleged is not conclusive evidence that
30 the owner did not tolerate the activity.

31 (7) Renumber SECTIONS of the bill appropriately.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 23, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB2552** by Thompson, Senfronia (Relating to measures to address and deter certain criminal or other unlawful activity, including trafficking of persons, sexual offenses, prostitution, and activity that may constitute a public nuisance; increasing criminal penalties; creating a criminal offense.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated except for an indeterminate impact associated with amending certain sections of the Penal Code, as described below.</p>

The bill would amend the Business and Commerce Code to add to the list of false, misleading, or deceptive acts or practices the operation of a massage establishment that is unlicensed, not in compliance with licensing requirements, or in violation of applicable local ordinances.

The bill would amend the Civil Practice and Remedies Code to allow certain arrest records, law enforcement testimony, or lawsuit history to serve as prima facie evidence that the defendant knowingly tolerated prostitution-related activity and did not make a reasonable attempt to abate the activity. The bill would include websites and computer networks connected with certain prohibited activities as common nuisances and would enable individuals, the attorney general, or government bodies to bring suit to declare that a person is operating a web address or computer network that is a common nuisance.

The bill would amend the Education Code to prohibit a person to serve as a member of the board of trustees of a school district if the person has been convicted of certain prostitution related offenses.

The bill would amend the Government Code to require the bureau of identification and records at the Department of Public Safety to compile certain statistics regarding prostitution-related criminal offenses.

The bill would amend the Health and Safety Code to require certain facilities display signs related to human trafficking, following certain criteria.

The bill would amend the Occupations Code relating to notice and continuing education requirements regarding human trafficking for certain licensed occupations and establishments.

The bill would amend the Penal Code related to human trafficking and classify an offense that results in the death of an unborn child of the person who is trafficked as a felony of the first degree.

The bill would amend the Penal Code related to assaults to classify the offense of causing bodily harm against a pregnant person to force that person to have an abortion as a felony of the third degree. Additionally, the bill would amend the Penal Code related to assaults to classify the offenses of threatening or physical contact against a pregnant person to force the person to have an abortion as a Class A misdemeanor.

The bill would amend the Penal Code as it relates to the offenses of unlawful disclosure or promotion of intimate visual material and sexual coercion. Under the provisions of the bill, the punishment for the offense of unlawful disclosure or promotion of intimate visual material would be increased from a Class A misdemeanor to a state jail felony. The bill would also make the offense of sexual coercion punishable by a state jail felony or a third degree felony depending on the circumstances of the offense.

The bill would amend the Property Code to terminate a tenant's right to possession if the tenant is using the property for prostitution related activities or human trafficking.

Except as noted below, this analysis assumes the provisions of the bill addressing felony sanctions for would not result in a significant impact on state correctional agencies.

The probable impact of implementing the bill's provisions which amend the Penal Code relating to assault cannot be determined because data collected at the statewide level do not contain the necessary detail related to the specific circumstances of an assault specified in the bill, information necessary to determine the impact associated with the bill's enhancement provision. To the extent that the number of assaults committed that involve intentional, knowing, or reckless causation of bodily harm against a pregnant person to force that person to have an abortion is significant, costs would increase commensurately. The probable impact of the bill as it relates to human trafficking punishments under the Penal Code also cannot be determined, because data collected at the statewide level do not contain the necessary detail related to the specific circumstances of human trafficking that result in the death of an unborn child.

Based on the analysis of the Department of Public Safety, Office of Court Administration, Office of the Attorney General, Department of State Health Services, Department of Criminal Justice, Health and Human Services Commission, and Department of Licensing and Regulation, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 405 Department of Public Safety, 452 Department of Licensing and Regulation, 529 Health and Human Services Commission, 537 State Health Services, Department of, 696 Department of Criminal

Justice

LBB Staff: UP, JSm, AG, RGU, JAW, AKU, JGA, JQ, LBO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 18, 2017

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2552 by Thompson, Senfronia (Relating to measures to address and deter certain criminal or other unlawful activity, including trafficking of persons, sexual offenses, prostitution, and activity that may constitute a public nuisance; increasing criminal penalties; creating a criminal offense.), **As Engrossed**

<p>No significant fiscal implication to the State is anticipated except for an indeterminate impact associated with amending certain sections of the Penal Code, as described below.</p>

The bill would amend the Business and Commerce Code to add to the list of false, misleading, or deceptive acts or practices the operation of a massage establishment that is unlicensed, not in compliance with licensing requirements, or in violation of applicable local ordinances.

The bill would amend the Civil Practice and Remedies Code to allow certain arrest records, law enforcement testimony, or lawsuit history to serve as prima facie evidence that the defendant knowingly tolerated prostitution-related activity and did not make a reasonable attempt to abate the activity. The bill would include websites and computer networks connected with certain prohibited activities as common nuisances and would enable individuals, the attorney general, or government bodies to bring suit to declare that a person is operating a web address or computer network that is a common nuisance.

The bill would amend the Education Code to prohibit a person to serve as a member of the board of trustees of a school district if the person has been convicted of certain prostitution related offenses.

The bill would amend the Government Code to require the bureau of identification and records at the Department of Public Safety to compile certain statistics regarding prostitution-related criminal offenses.

The bill would amend the Health and Safety Code to require certain facilities display signs related to human trafficking, following certain criteria.

The bill would amend the Occupations Code relating to notice and continuing education requirements regarding human trafficking for certain licensed occupations and establishments.

The bill would amend the Penal Code to expand the definition of promotion of prostitution.

The bill would amend the Penal Code related to human trafficking and classify an offense that results in the death of an unborn child of the person who is trafficked as a felony of the first

degree.

The bill would amend the Penal Code related to assaults to classify the offense of causing bodily harm against a pregnant person to force that person to have an abortion as a felony of the third degree. Additionally, the bill would amend the Penal Code related to assaults to classify the offenses of threatening or physical contact against a pregnant person to force the person to have an abortion as a Class A misdemeanor.

The bill would amend the Penal Code as it relates to the offenses of unlawful disclosure or promotion of intimate visual material and sexual coercion. Under the provisions of the bill, the punishment for the offense of unlawful disclosure or promotion of intimate visual material would be increased from a Class A misdemeanor to a state jail felony. The bill would also make the offense of sexual coercion punishable by a state jail felony or a third degree felony depending on the circumstances of the offense.

The bill would amend the Property Code to terminate a tenant's right to possession if the tenant is using the property for prostitution related activities or human trafficking.

Except as noted below, this analysis assumes the provisions of the bill addressing felony sanctions for would not result in a significant impact on state correctional agencies.

The probable impact of implementing the bill's provisions which amend the Penal Code relating to assault cannot be determined because data collected at the statewide level do not contain the necessary detail related to the specific circumstances of an assault specified in the bill, information necessary to determine the impact associated with the bill's enhancement provision. To the extent that the number of assaults committed that involve intentional, knowing, or reckless causation of bodily harm against a pregnant person to force that person to have an abortion is significant, costs would increase commensurately. The probable impact of the bill as it relates to human trafficking punishments under the Penal Code also cannot be determined, because data collected at the statewide level do not contain the necessary detail related to the specific circumstances of human trafficking that result in the death of an unborn child.

Based on the analysis of the Department of Public Safety, Office of Court Administration, Office of the Attorney General, Department of State Health Services, Department of Criminal Justice, Health and Human Services Commission, and Department of Licensing and Regulation, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 405 Department of Public Safety, 452 Department of

Licensing and Regulation, 529 Health and Human Services Commission,
537 State Health Services, Department of, 696 Department of Criminal
Justice

LBB Staff: UP, AG, JSm, RGU, JAW, AKU, JGA, JQ, LBO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 1, 2017

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2552 by Thompson, Senfronia (Relating to prostitution and trafficking of persons and to certain criminal and civil consequences of that conduct.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Business and Commerce Code to add to the list of false, misleading, or deceptive acts or practices the operation of a massage establishment that is unlicensed, not in compliance with licensing requirements, or in violation of applicable local ordinances.

The bill would amend the Civil Practice and Remedies Code to allow certain arrest records, law enforcement testimony, or lawsuit history to serve as prima facie evidence that the defendant knowingly tolerated prostitution-related activity and did not make a reasonable attempt to abate the activity.

The bill would amend the Government Code to require the bureau of information and records to compile certain statistics regarding prostitution-related criminal offenses.

The bill would amend the Penal Code to expand the definition of promotion of prostitution.

The bill would amend the Property Code terminate tenant's right to possession if the tenant is using the property for prostitution related activities or human trafficking.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Based on the analysis of the Department of Public Safety, Office of Court Administration, Office of the Attorney General, and Department of Licensing and Regulation, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 405 Department of Public Safety, 452 Department of Licensing and Regulation

LBB Staff: UP, JQ, LBO, JSm

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 18, 2017

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2552 by Thompson, Senfronia (Relating to prostitution and trafficking of persons and to certain criminal and civil consequences of that conduct.), **As Introduced**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Business and Commerce Code to add to the list of false, misleading, or deceptive acts or practices the operation of a massage establishment that is unlicensed, not in compliance with licensing requirements, or in violation of applicable local ordinances.

The bill would amend the Civil Practice and Remedies Code to allow certain arrest records, law enforcement testimony, or lawsuit history to serve as prima facie evidence that the defendant knowingly tolerated prostitution-related activity and did not make a reasonable attempt to abate the activity.

The bill would amend the Government Code to require the bureau of information and records to compile certain statistics regarding prostitution-related criminal offenses.

The bill would amend the Health and Safety Code to add reporting requirements to first offender prostitution prevention programs.

The bill would amend the Penal Code to expand the definition of promotion of prostitution.

The bill would amend the Property Code terminate tenant's right to possession if the tenant is using the property for prostitution related activities or human trafficking.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Based on the analysis of the Department of Public Safety, Office of Court Administration, Office of the Attorney General, and Department of Licensing and Regulation, duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

The bill would take effect September 1, 2017.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 405 Department of Public Safety, 452 Department of Licensing and Regulation

LBB Staff: UP, LBO, JSm

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 18, 2017

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2552 by Thompson, Senfronia (Relating to measures to address and deter certain criminal or other unlawful activity, including trafficking of persons, sexual offenses, prostitution, and activity that may constitute a public nuisance; increasing criminal penalties; creating a criminal offense.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to the offenses of trafficking of persons, unlawful disclosure or promotion of intimate visual material, sexual coercion, assault, and promotion of prostitution. Under the provisions of the bill, the offenses of human trafficking and unlawful disclosure or promotion of intimate visual material would be enhanced under certain circumstances. The bill would also expand the offenses of assault, and promotion of prostitution and create the offense of sexual coercion. The criminal penalties associated with the modified provisions are punishable as felonies and range from a state jail felony to first degree felony.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years; a second degree felony for a term from 2 to 20 years; a third degree felony for a term from 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are also subject to an optional fine not to exceed \$10,000.

Enhancing, expanding, or creating penalties are expected to result in an increase in the demand for the correctional resources of the counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. The bill may have a negative population impact by increasing the number of individuals under supervision in the community or incarcerated within state correctional institutions. Whether the bill would result in a significant population impact as it relates to the offense of trafficking of persons is indeterminate due to lack of statewide data related to specific circumstances of trafficking of persons that result in the death of an unborn child of the person who is trafficked or assaults in which the pregnant individual is forced to have an abortion as specified by the bill. Data collected at the statewide level do not contain the detail necessary to isolate those individuals arrested, placed under felony community supervision, or incarcerated within correctional institutions for committing certain offenses under the circumstances in which the offenses would be enhanced. In fiscal year 2016, 71 individuals were arrested, fewer than 10 were placed under felony community supervision, and 16 were admitted into state correctional institutions for trafficking of persons. In fiscal year 2016, 52,566 individuals were arrested and 8,591 were placed under misdemeanor community supervision for

the offense of assault. The enhancements and penalty increases addressed by the bill could result in a significant impact on state correctional agencies, though the impact cannot be determined.

In fiscal year 2016, 88 individuals were arrested and fewer than 10 were placed under misdemeanor community supervision for the offense of unlawful disclosure or promotion of intimate visual material under existing statute. In fiscal year 2016, fewer than 10 individuals were arrested, fewer than 10 were placed under felony community supervision, and fewer than 10 were admitted into state correctional institutions for the offense of promotion of prostitution under existing statute. This analysis assumes the provisions of the bill addressing felony sanctions related to the offenses of unlawful disclosure or promotion of intimate visual material, sexual coercion, assault, and promotion of prostitution would not result in a significant impact on the demand for state correctional resources.

Source Agencies:

LBB Staff: UP, LM, KJo

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

May 1, 2017

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2552 by Thompson, Senfronia (Relating to prostitution and trafficking of persons and to certain criminal and civil consequences of that conduct.), **Committee Report 1st House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to the offense of promotion of prostitution. Under the provisions of the bill, a person commits an offense if under certain circumstances the actor knowingly provides a person or premises for prostitution purposes. The punishment for promotion of prostitution ranges from a Class A misdemeanor to a second degree felony based on the specific circumstances of the offense.

A second degree felony is punishable by confinement in prison for a term from 2 to 20 years and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are also subject to an optional fine not to exceed \$10,000.

Expanding the list of behaviors for which a criminal penalty is applied is expected to result in an increase in the demand for the correctional resources of the counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. In fiscal year 2016, fewer than 10 individuals were arrested, fewer than 10 were placed under felony community supervision, and fewer than 10 were admitted into state correctional institutions for the offense of promotion of prostitution under existing statute.

Source Agencies:

LBB Staff: UP, LM, KJo

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

85TH LEGISLATIVE REGULAR SESSION

April 18, 2017

TO: Honorable John T. Smithee, Chair, House Committee on Judiciary & Civil Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2552 by Thompson, Senfronia (Relating to prostitution and trafficking of persons and to certain criminal and civil consequences of that conduct.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to the offense of promotion of prostitution. Under the provisions of the bill, a person commits an offense if under certain circumstances the actor knowingly provides a person or premises for prostitution purposes. The punishment for promotion of prostitution ranges from a Class A misdemeanor to a second degree felony based on the specific circumstances of the offense.

A second degree felony is punishable by confinement in prison for a term from 2 to 20 years and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony offenses are also subject to an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in a county jail for a term not to exceed one year, an optional fine not to exceed \$4,000, or both.

Expanding the list of behaviors for which a criminal penalty is applied is expected to result in an increase in the demand for the correctional resources of the counties or of the State due to a potential increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. In fiscal year 2016, fewer than 10 individuals were arrested, fewer than 10 were placed under felony community supervision, and fewer than 10 were admitted into state correctional institutions for the offense of promotion of prostitution under existing statute.

Source Agencies:

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