86R35131 JSC-D

By:  Huffman, et al. S.B. No. 20

(Thompson of Harris, Krause, Collier, White,

Davis of Dallas, et al.)

Substitute the following for S.B. No. 20:

By:  Zedler C.S.S.B. No. 20

A BILL TO BE ENTITLED

AN ACT

relating to the reporting regarding, investigation of, prosecution of, criminal and civil penalties for, and other consequences of prostitution, trafficking of persons, and related criminal offenses, to services and compensation available to victims of those offenses, and to orders of nondisclosure for persons who committed certain of those offenses.

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

ARTICLE 1. TRAFFICKING OF PERSONS AND CONTINUOUS TRAFFICKING OF PERSONS

SECTION 1.01.  Section 20A.01, Penal Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a)  "Coercion" as defined by Section 1.07 includes destroying, concealing, confiscating, or withholding from a person, or threatening to destroy, conceal, confiscate, or withhold from a person, the person's actual or purported:

(A)  government records; or

(B)  identifying information or documents.

SECTION 1.02.  Section 3.03(b), Penal Code, is amended to read as follows:

(b)  If the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of:

(1)  an offense:

(A)  under Section 49.07 or 49.08, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B)  for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;

(2)  an offense:

(A)  under Section 33.021 or an offense under Section 21.02, 21.11, 22.011, 22.021, 25.02, or 43.25 committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B)  for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section;

(3)  an offense:

(A)  under Section 21.15 or 43.26, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B)  for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;

(4)  an offense for which the judgment in the case contains an affirmative finding under Article 42.0197, Code of Criminal Procedure;

(5)  an offense:

(A)  under Section 20A.02, 20A.03, or 43.05, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section [~~both sections~~]; or

(B)  for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section [~~both sections~~]; or

(6)  an offense:

(A)  under Section 22.04(a)(1) or (2) or Section 22.04(a-1)(1) or (2) that is punishable as a felony of the first degree, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B)  for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) and punishable as described by that paragraph, regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section.

SECTION 1.03.  The following provisions are repealed:

(1)  Section 402.035(h), Government Code, as amended by Chapter 762 (S.B. 2039), Acts of the 85th Legislature, Regular Session, 2017, and repealed by Chapter 685 (H.B. 29), Acts of the 85th Legislature, Regular Session, 2017; and

(2)  Section 20A.02(a-1), Penal Code.

SECTION 1.04.  The change in law made by this article 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 was committed before that date.

ARTICLE 2. COMMUNITY SUPERVISION FOR CERTAIN PROSTITUTION OFFENSES

SECTION 2.01.  Subchapter K, Chapter 42A, Code of Criminal Procedure, is amended by adding Article 42A.515 to read as follows:

Art. 42A.515.  COMMUNITY SUPERVISION FOR CERTAIN PROSTITUTION OFFENSES. (a)  Except as provided by Subsection (e), on a defendant's conviction of a Class B misdemeanor under Section 43.02(a), Penal Code, the judge shall suspend imposition of the sentence and place the defendant on community supervision.

(b)  Except as provided by Subsection (e), on a defendant's conviction of a state jail felony under Section 43.02(c)(2), Penal Code, that is punished under Section 12.35(a), Penal Code, the judge shall suspend the imposition of the sentence and place the defendant on community supervision. This subsection does not apply to a defendant who has previously been convicted of any other state jail felony under Section 43.02(c)(2), Penal Code, that is punished under Section 12.35, Penal Code.

(c)  A judge who places a defendant on community supervision under Subsection (a) or (b) shall require as a condition of community supervision that the defendant participate in a commercially sexually exploited persons court program established under Chapter 126, Government Code, if a program has been established for the county or municipality where the defendant resides. Sections 126.002(b) and (c), Government Code, do not apply with respect to a defendant required to participate in the court program under this subsection.

(d)  A judge who requires a defendant to participate in a commercially sexually exploited persons court program under Subsection (c) may suspend in whole or in part the imposition of the program fee described by Section 126.006, Government Code.

(e)  In any case in which the jury assesses punishment, the judge must follow the recommendations of the jury in suspending the imposition of a sentence or ordering a sentence to be executed.  If a jury assessing punishment does not recommend community supervision, the judge must order the sentence to be executed in whole.

(f)  The judge may suspend in whole or in part the imposition of any fine imposed on conviction.

SECTION 2.02.  Article 42A.551(d), Code of Criminal Procedure, is amended to read as follows:

(d)  On conviction of a state jail felony punished under Section 12.35(a), Penal Code, other than a state jail felony listed in Subsection (a) or to which Article 42A.515 applies, subject to Subsection (e), the judge may:

(1)  suspend the imposition of the sentence and place the defendant on community supervision; or

(2)  order the sentence to be executed:

(A)  in whole; or

(B)  in part, with a period of community supervision to begin immediately on release of the defendant from confinement.

SECTION 2.03.  Section 402.035, Government Code, is amended by adding Subsection (f-3) to read as follows:

(f-3)  The attorney general may enter into a contract with an institution of higher education or private or independent institution of higher education, as those terms are defined by Section 61.003, Education Code, for the institution's assistance in the collection and analysis of information received under this section. The attorney general may adopt rules to administer the submission and collection of information under this section.

SECTION 2.04.  The change in law made by this article 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.

ARTICLE 3. ONLINE PROMOTION OF PROSTITUTION

SECTION 3.01.  Section 43.01, Penal Code, is amended by amending Subdivisions (1) and (1-a) and adding Subdivisions (1-b), (1-c), (1-d), and (1-e) to read as follows:

(1)  "Access software provider" means a provider of software, including client or server software, or enabling tools that perform one or more of the following functions:

(A)  filter, screen, allow, or disallow content;

(B)  select, analyze, or digest content; or

(C)  transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(1-a) [~~(1)~~]  "Deviate sexual intercourse" means any contact between the genitals of one person and the mouth or anus of another person.

(1-b) [~~(1-a)~~]  "Fee" means the payment or offer of payment in the form of money, goods, services, or other benefit.

(1-c)  "Information content provider" means any person or entity that is wholly or partly responsible for the creation or development of information provided through the Internet or any other interactive computer service.

(1-d)  "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access to a computer server by multiple users, including a service or system that provides access to the Internet or a system operated or service offered by a library or educational institution.

(1-e)  "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks.

SECTION 3.02.  Subchapter A, Chapter 43, Penal Code, is amended by adding Sections 43.031 and 43.041 to read as follows:

Sec. 43.031.  ONLINE PROMOTION OF PROSTITUTION. (a)  A person commits an offense if the person owns, manages, or operates an interactive computer service or information content provider, or operates as an information content provider, with the intent to promote the prostitution of another person or facilitate another person to engage in prostitution.

(b)  An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor:

(1)  has been previously convicted of an offense under this section or Section 43.041; or

(2)  engages in conduct described by Subsection (a) involving a person younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the person at the time of the offense.

Sec. 43.041.  AGGRAVATED ONLINE PROMOTION OF PROSTITUTION. (a)  A person commits an offense if the person owns, manages, or operates an interactive computer service or information content provider, or operates as an information content provider, with the intent to promote the prostitution of five or more persons or facilitate five or more persons to engage in prostitution.

(b)  An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if the actor:

(1)  has been previously convicted of an offense under this section; or

(2)  engages in conduct described by Subsection (a) involving two or more persons younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the persons at the time of the offense.

SECTION 3.03.  Section 98A.001, Civil Practice and Remedies Code, is amended by adding Subdivisions (1-a) and (4-a) to read as follows:

(1-a)  "Aggravated online promotion of prostitution" means conduct that constitutes an offense under Section 43.041, Penal Code.

(4-a)  "Online promotion of prostitution" means conduct that constitutes an offense under Section 43.031, Penal Code.

SECTION 3.04.  Section 98A.002(a), Civil Practice and Remedies Code, is amended to read as follows:

(a)  A defendant is liable to a victim of compelled prostitution, as provided by this chapter, for damages arising from the compelled prostitution if the defendant:

(1)  engages in compelling prostitution with respect to the victim;

(2)  knowingly or intentionally engages in promotion of prostitution, online promotion of prostitution, aggravated promotion of prostitution, or aggravated online promotion of prostitution that results in compelling prostitution with respect to the victim; or

(3)  purchases an advertisement that the defendant knows or reasonably should know constitutes promotion of prostitution or aggravated promotion of prostitution, and the publication of the advertisement results in compelling prostitution with respect to the victim.

SECTION 3.05.  Article 18A.101, Code of Criminal Procedure, is amended to read as follows:

Art. 18A.101.  OFFENSES FOR WHICH INTERCEPTION ORDER MAY BE ISSUED. A judge of competent jurisdiction may issue an interception order only if the prosecutor applying for the order shows probable cause to believe that the interception will provide evidence of the commission of:

(1)  a felony under any of the following provisions of the Health and Safety Code:

(A)  Chapter 481, other than felony possession of marihuana;

(B)  Chapter 483; or

(C)  Section 485.032;

(2)  an offense under any of the following provisions of the Penal Code:

(A)  Section 19.02;

(B)  Section 19.03;

(C)  Section 20.03;

(D)  Section 20.04;

(E)  Chapter 20A;

(F)  Chapter 34, if the criminal activity giving rise to the proceeds involves the commission of an offense under Title 5, Penal Code, or an offense under federal law or the laws of another state containing elements that are substantially similar to the elements of an offense under Title 5;

(G)  Section 38.11;

(H)  Section 43.04;

(I)  Section 43.041;

(J)  Section 43.05; or

(K) [~~(J)~~]  Section 43.26; or

(3)  an attempt, conspiracy, or solicitation to commit an offense listed in Subdivision (1) or (2).

SECTION 3.06.  Article 56.32(a)(14), Code of Criminal Procedure, is amended to read as follows:

(14)  "Trafficking of persons" means any offense that results in a person engaging in forced labor or services, including sexual conduct, and that may be prosecuted under Section 20A.02, 20A.03, 43.03, 43.031, 43.04, 43.041, 43.05, 43.25, 43.251, or 43.26, Penal Code.

SECTION 3.07.  Article 56.81(7), Code of Criminal Procedure, is amended to read as follows:

(7)  "Trafficking of persons" means any conduct that constitutes an offense under Section 20A.02, 20A.03, 43.03, 43.031, 43.04, 43.041, 43.05, 43.25, 43.251, or 43.26, Penal Code, and that results in a person:

(A)  engaging in forced labor or services; or

(B)  otherwise becoming a victim of the offense.

SECTION 3.08.  Section 411.042(b), Government Code, is amended to read as follows:

(b)  The bureau of identification and records shall:

(1)  procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons arrested for or charged with a criminal offense or convicted of a criminal offense, regardless of whether the conviction is probated;

(2)  collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including information that enables the bureau to create a statistical breakdown of:

(A)  offenses in which family violence was involved;

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

(C)  offenses under Sections 20A.02, 43.02(a), 43.02(b), 43.03, 43.031, 43.04, 43.041, and 43.05, Penal Code;

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

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

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

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

(A)  the name, sex, race, date of birth, personal descriptors, address, and county of residence of the person to whom the order is directed;

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

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

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

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

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

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

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

(I)  the date the order expires;

(7)  grant access to criminal history record information in the manner authorized under Subchapter F;

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

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

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

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

SECTION 3.09.  Section 499.027(b), Government Code, is amended to read as follows:

(b)  An inmate is not eligible under this subchapter to be considered for release to intensive supervision parole if:

(1)  the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure;

(2)  the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense listed in one of the following sections of the Penal Code:

(A)  Section 19.02 (murder);

(B)  Section 19.03 (capital murder);

(C)  Section 19.04 (manslaughter);

(D)  Section 20.03 (kidnapping);

(E)  Section 20.04 (aggravated kidnapping);

(F)  Section 21.11 (indecency with a child);

(G)  Section 22.011 (sexual assault);

(H)  Section 22.02 (aggravated assault);

(I)  Section 22.021 (aggravated sexual assault);

(J)  Section 22.04 (injury to a child, elderly individual, or disabled individual);

(K)  Section 25.02 (prohibited sexual conduct);

(L)  Section 25.08 (sale or purchase of a child);

(M)  Section 28.02 (arson);

(N)  Section 29.02 (robbery);

(O)  Section 29.03 (aggravated robbery);

(P)  Section 30.02 (burglary), if the offense is punished as a first-degree felony under that section;

(Q)  Section 43.04 (aggravated promotion of prostitution);

(R)  Section 43.05 (compelling prostitution);

(S)  Section 43.24 (sale, distribution, or display of harmful material to minor);

(T)  Section 43.25 (sexual performance by a child);

(U)  Section 46.10 (deadly weapon in penal institution);

(V)  Section 15.01 (criminal attempt), if the offense attempted is listed in this subsection;

(W)  Section 15.02 (criminal conspiracy), if the offense that is the subject of the conspiracy is listed in this subsection;

(X)  Section 15.03 (criminal solicitation), if the offense solicited is listed in this subsection;

(Y)  Section 21.02 (continuous sexual abuse of young child or children);

(Z)  Section 20A.02 (trafficking of persons); [~~or~~]

(AA)  Section 20A.03 (continuous trafficking of persons); or

(BB)  Section 43.041 (aggravated online promotion of prostitution); or

(3)  the inmate is awaiting transfer to the institutional division, or serving a sentence, for an offense under Chapter 481, Health and Safety Code, punishable by a minimum term of imprisonment or a maximum fine that is greater than the minimum term of imprisonment or the maximum fine for a first degree felony.

SECTION 3.10.  Section 169.002(b), Health and Safety Code, is amended to read as follows:

(b)  A defendant is eligible to participate in a first offender prostitution prevention program established under this chapter only if:

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

(2)  the court in which the criminal case is pending finds that the defendant has not been previously convicted of:

(A)  an offense under Section 20A.02, 43.02, 43.03, 43.031, 43.04, 43.041, or 43.05, Penal Code;

(B)  an offense listed in Article 42A.054(a), Code of Criminal Procedure; or

(C)  an offense punishable as a felony under Chapter 481.

SECTION 3.11.  Section 20A.02(a), Penal Code, is amended to read as follows:

(a)  A person commits an offense if the person knowingly:

(1)  traffics another person with the intent that the trafficked person engage in forced labor or services;

(2)  receives a benefit from participating in a venture that involves an activity described by Subdivision (1), including by receiving labor or services the person knows are forced labor or services;

(3)  traffics another person and, through force, fraud, or coercion, causes the trafficked person to engage in conduct prohibited by:

(A)  Section 43.02 (Prostitution);

(B)  Section 43.03 (Promotion of Prostitution);

(B-1)  Section 43.031 (Online Promotion of Prostitution);

(C)  Section 43.04 (Aggravated Promotion of Prostitution);

(C-1)  Section 43.041 (Aggravated Online Promotion of Prostitution); or

(D)  Section 43.05 (Compelling Prostitution);

(4)  receives a benefit from participating in a venture that involves an activity described by Subdivision (3) or engages in sexual conduct with a person trafficked in the manner described in Subdivision (3);

(5)  traffics a child with the intent that the trafficked child engage in forced labor or services;

(6)  receives a benefit from participating in a venture that involves an activity described by Subdivision (5), including by receiving labor or services the person knows are forced labor or services;

(7)  traffics a child and by any means causes the trafficked child to engage in, or become the victim of, conduct prohibited by:

(A)  Section 21.02 (Continuous Sexual Abuse of Young Child or Children);

(B)  Section 21.11 (Indecency with a Child);

(C)  Section 22.011 (Sexual Assault);

(D)  Section 22.021 (Aggravated Sexual Assault);

(E)  Section 43.02 (Prostitution);

(F)  Section 43.03 (Promotion of Prostitution);

(F-1)  Section 43.031 (Online Promotion of Prostitution);

(G)  Section 43.04 (Aggravated Promotion of Prostitution);

(G-1)  Section 43.041 (Aggravated Online Promotion of Prostitution);

(H)  Section 43.05 (Compelling Prostitution);

(I)  Section 43.25 (Sexual Performance by a Child);

(J)  Section 43.251 (Employment Harmful to Children); or

(K)  Section 43.26 (Possession or Promotion of Child Pornography); or

(8)  receives a benefit from participating in a venture that involves an activity described by Subdivision (7) or engages in sexual conduct with a child trafficked in the manner described in Subdivision (7).

ARTICLE 4. ORDERS OF NONDISCLOSURE FOR CERTAIN VICTIMS OF TRAFFICKING OF PERSONS OR COMPELLING PROSTITUTION

SECTION 4.01.  Section 411.0728, Government Code, is amended to read as follows:

Sec. 411.0728.  PROCEDURE FOR CERTAIN VICTIMS OF TRAFFICKING OF PERSONS OR COMPELLING PROSTITUTION. (a) This section applies only to a person[~~:~~

[~~(1)~~]  who is convicted of or placed on deferred adjudication community supervision [~~under Chapter 42A, Code of Criminal Procedure, after conviction~~] for an offense under:

(1) [~~(A)~~]  Section 481.120, Health and Safety Code, if the offense is punishable under Subsection (b)(1) of that code;

(2) [~~(B)~~]  Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) of that code;

(3) [~~(C)~~]  Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(1) or (2) of that code; or

(4) [~~(D)~~]  Section 43.02, Penal Code[~~; or~~

[~~(E)  Section 43.03(a)(2), Penal Code, if the offense is punishable as a Class A misdemeanor; and~~

[~~(2)  with respect to whom the conviction is subsequently set aside by the court under Article 42A.701, Code of Criminal Procedure~~].

(b)  Notwithstanding any other provision of this subchapter or Subchapter F, a person described by Subsection (a) who satisfies the requirements of Section 411.074(b) [~~411.074~~] may petition the court that convicted the person or placed the person on deferred adjudication community supervision for an order of nondisclosure of criminal history record information under this section on the grounds that the person committed the offense solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code [~~trafficking of persons~~].

(b-1)  A petition under Subsection (b) must:

(1)  be in writing;

(2)  allege specific facts that, if proved, would establish that the petitioner committed the offense described by Subsection (a) solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code; and

(3)  assert that if the person has previously submitted a petition for [~~seeking~~] an order of nondisclosure under this section, the person has not committed an offense described by Subsection (a) on or after the date on which the person's first petition [~~previously received an order of nondisclosure~~] under this section was submitted.

(b-2)  On the filing of the petition under Subsection (b), the clerk of the court shall promptly serve a copy of the petition and any supporting document on the appropriate office of the attorney representing the state. Any response to the petition by the attorney representing the state must be filed not later than the 20th business day after the date of service under this subsection.

(b-3)  A person convicted of or placed on deferred adjudication community supervision for more than one offense described by Subsection (a) that the person committed solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, may file a petition for an order of nondisclosure of criminal history record information under this section with respect to each offense, and may request consolidation of those petitions, in a district court in the county where the person was most recently convicted or placed on deferred adjudication community supervision as described by this subsection. On receipt of a request for consolidation, the court shall consolidate the petitions and exercise jurisdiction over the petitions, regardless of the county in which the offenses described by Subsection (a) occurred. For each offense that is the subject of a consolidated petition and that occurred in a county other than the county in which the court consolidating the petitions is located, the clerk of the court, in addition to the clerk's duties under Subsection (b-2), shall promptly serve a copy of the consolidated petition and any supporting document related to the applicable offense on the appropriate office of the attorney representing the state on behalf of the other county. Each attorney representing the state who receives a copy of a consolidated petition under this subsection may file a response to the petition in accordance with Subsection (b-2).

(b-4)  A district court that consolidates petitions under Subsection (b-3) shall allow an attorney representing the state who receives a petition involving an offense that was committed outside the county in which the court is located to appear at any hearing regarding the consolidated petition by telephone or video conference call.

(c)  After notice to the state and[~~,~~] an opportunity for a hearing, [~~a determination by the court that the person has not previously received an order of nondisclosure under this section, and a determination by the court that the person committed the offense solely as a victim of trafficking of persons and that issuance of the order is in the best interest of justice,~~] the court having jurisdiction over the petition shall issue an order prohibiting criminal justice agencies from disclosing to the public criminal history record information related to the offense if the court determines that:

(1)  the person committed the offense described by Subsection (a) solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code;

(2)  if applicable, the person did not commit another offense described by Subsection (a) on or after the date on which the person's first petition for an order of nondisclosure under this section was submitted; and

(3)  issuance of the order is in the best interest of justice [~~for which the defendant was placed on community supervision as described by Subsection (a)~~].

(c-1)  In determining whether a person committed an offense described by Subsection (a) solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, the court may consider any order of nondisclosure previously granted to the person under this section.

(d)  A person may petition the applicable court [~~that placed the person on community supervision~~] for an order of nondisclosure of criminal history record information under this section only on or after the first anniversary of the date the person:

(1)  completed the sentence, including any term of confinement imposed and payment of all fines, costs, and restitution imposed; or

(2)  received a dismissal and discharge under Article 42A.111, Code of Criminal Procedure, if the person was placed on deferred adjudication community supervision [~~person's conviction is set aside as described by Subsection (a)~~].

SECTION 4.02.  Article 56.021, Code of Criminal Procedure, is amended by adding Subsection (e) to read as follows:

(e)  A victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code, is entitled to be informed that the victim may petition for an order of nondisclosure of criminal history record information under Section 411.0728, Government Code, if the victim:

(1)  has been convicted of or placed on deferred adjudication community supervision for an offense described by Subsection (a) of that section; and

(2)  committed that offense solely as a victim of an offense under Section 20A.02, 20A.03, or 43.05, Penal Code.

SECTION 4.03.  Section 126.004, Government Code, is amended by adding Subsection (d) to read as follows:

(d)  A program established under this chapter shall provide each program participant with information related to the right to petition for an order of nondisclosure of criminal history record information under Section 411.0728.

ARTICLE 5. EFFECTIVE DATE

SECTION 5.01.  This Act takes effect September 1, 2019.