

BILL ANALYSIS

C.S.H.B. 3718
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Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Texas Human Trafficking Prevention Task Force highlights prevention as a key pillar in the strategic plan to end human trafficking in Texas. Posting signs with information regarding human trafficking in certain businesses may provide victims with resources to escape traffickers and educate the public on how to help if they suspect someone is being trafficked. While many entities across the state have unique specifications for posting signs relating to human trafficking, it has been suggested that streamlining sign posting requirements under a centralized enforcement authority would help the state communicate a clear and common message across all platforms. C.S.H.B. 3718 seeks to implement this strategy by revising requirements for informational signs relating to human trafficking and providing for rulemaking and enforcement authority of the Office of the Attorney General in consultation with the human trafficking prevention coordinating council.

CRIMINAL JUSTICE IMPACT

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

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the attorney general and to an applicable state agency in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 3718 amends the Government Code to revise requirements for signs containing information regarding human trafficking, the design and content of which is prescribed by attorney general rule. The bill requires a person who operates any of the following business entities to post the sign or, if applicable, a similar sign or notice as prescribed by other state law, at the entity:

- specified entities permitted or licensed under the Alcoholic Beverage Code, other than an entity holding a food and beverage certificate;
- a cosmetology facility;
- a hospital;
- a hotel;
- a massage establishment;
- a massage school;
- a sexually oriented business; or
- a transportation hub.

The bill requires the Parks and Wildlife Department (TPWD) to post the sign, or a substantially similar sign, in the manner prescribed by attorney general rule at each state park and other recreational site under TPWD jurisdiction.

C.S.H.B. 3718 revises the required contents of the signs, including by requiring the signs to be in any language other than English and Spanish determined appropriate by the attorney general in consultation with the human trafficking prevention coordinating council, and by changing the telephone number and website required to be included from the telephone number and website of the National Human Trafficking Resource Center to a toll-free telephone number and website for accessing human trafficking resources. The bill requires the attorney general to develop the compliant sign and make the sign available on the attorney general's website. The bill requires the attorney general by rule to prescribe the best practices for the manner in which the sign must be displayed and sets out the following with respect to the rules:

- a requirement for the rules to require the sign to be posted, at a minimum, in each public restroom of the entity or in a conspicuous place that is either near the entity's public entrance or in clear view of the public and employees and near the location similar notices are customarily posted;
- an authorization for the rules to require that the sign be a certain size and that the notice be displayed in a certain font and type size;
- a requirement for the attorney general to consult with the council in adopting the rules; and
- penalties for a violation of the posting requirement, ranging from a warning issued by the attorney general for a first violation of a rule adopted under the bill's provisions to a civil penalty in the amount of \$200 for each subsequent violation, with each day a violation continues constituting a separate violation.

The bill authorizes a state agency that enforces another state law that requires a person to post a sign or notice relating to human trafficking by rule to authorize the person to use the sign prescribed by the attorney general in lieu of the sign or notice required by the other law. The bill authorizes the attorney general to notify the appropriate state agency if the attorney general becomes aware that a person is or may be in violation of such a law enforced by the agency.

C.S.H.B. 3718 requires the attorney general, in consultation with the human trafficking prevention coordinating council and not later than January 1, 2022, to adopt the rules necessary to implement the bill's provisions, including rules prescribing the content and design of the sign, and to make the sign available on the attorney general's website.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3718 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute changes from the Health and Human Services Commission (HHSC), as in the original, to the human trafficking prevention coordinating council the entity with which the attorney general is required to consult in implementing the bill's provisions, including provisions relating to the adoption of various rules relating to the human trafficking-related signs and determining the appropriate languages for the content displayed on the signs.

The substitute includes the following provisions, which were absent from the original:

- an authorization for a state agency that enforces another state law requiring certain entities to post a human trafficking-related sign or notice to authorize by rule the use of the sign prescribed by the attorney general;
- an authorization for the attorney general to notify a state agency of a violation or potential violation of such a law enforced by the agency; and
- a provision clarifying that each day a violation of an adopted rule continues is a separate violation for the purposes of subjecting a violating person to a civil penalty.

The original required that the attorney general produce the signs, make them available at no cost to those required to post them, including by providing the requisite number of signs on request and sharing the associated costs with HHSC, and prescribe the manner in which the signs must be displayed. The substitute requires that the attorney general instead develop the sign, make it available on the attorney general's website, and prescribe the best practices for the manner in which the sign must be displayed. Additionally, the substitute changes the telephone number and website required to be included on the sign from that of the National Human Trafficking Resource Center to a toll-free number and website for accessing human trafficking resources, whereas the original retained that hotline contact information and only specified that the number is toll-free. The substitute requires the rules prescribing best practices for displaying the sign to require the sign to be posted in either each public restroom of the entity or a certain conspicuous place, whereas the original required the rules prescribing the manner for displaying the signs to require the sign to be posted in each such restroom, such a conspicuous place, and, for a sign posted in a hospital, such a restroom and conspicuous place in relation to the hospital's emergency room.

The substitute does not include the following provisions that appeared in the original:

- a requirement that the content of the notice contained in the sign be agreed to by both the attorney general and HHSC; and
- a provision repealing statutory provisions relating to human trafficking-related notice requirements for applicable entities.