

BILL ANALYSIS

C.S.H.B. 1004
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The human trafficking crisis in Texas ranks among the worst in the nation. Individuals with disabilities are particularly susceptible to human traffickers and there are concerns that these individuals are not well protected under the law. State law relating to trafficking and prostitution offenses does not provide for additional protections for individuals with disabilities who may be compelled into prostitution or other sexual activity as it does for children. C.S.H.B. 1004 seeks to ensure that individuals with disabilities are provided the same protections as children from human traffickers by making changes to trafficking of persons and compelling prostitution offenses and to change the statute of limitations periods for these offenses.

CRIMINAL JUSTICE IMPACT

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

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1004 amends the Penal Code to establish that a person commits a compelling prostitution offense if the person knowingly causes by any means a person with a disability to commit prostitution, regardless of whether the actor knows the person is disabled at the time of the offense. The bill expands the conduct that constitutes a first degree felony trafficking of persons offense to include the following conduct:

- knowingly trafficking a person with a disability with the intent that the trafficked person engage in forced labor or services;
- knowingly receiving a benefit from participating in a venture that involves trafficking a person with a disability with the intent that the trafficked person engage in forced labor or services, including receiving labor or services the person knows are forced labor or services;
- knowingly trafficking a person with a disability and by any means causing the trafficked person to engage in or become the victim of certain prohibited sexual or prostitution conduct; or
- knowingly receiving a benefit from participating in a venture that involves certain prohibited sexual or prostitution conduct against or engaging in sexual conduct with a person with a disability who is trafficked and causing the person to engage in or become the victim of that conduct.

The bill establishes that such conduct constitutes a trafficking of persons offense regardless of whether the actor knows the person is disabled at the time of the offense. The bill defines a "person with a disability" as a person who by reason of physical or mental disease, defect, or

injury is substantially unable to protect the person's self from harm or to provide food, shelter, or medical care for the person's self.

C.S.H.B. 1004 amends the Civil Practice and Remedies Code to set the limitations period for a personal injury claim arising from the offense of compelling prostitution by a person with a disability or certain trafficking of persons conduct involving a person with a disability who is trafficked and by any means caused to engage in or become the victim of certain prohibited sexual or prostitution conduct at 30 years after the day the cause of action accrues.

C.S.H.B. 1004 amends the Code of Criminal Procedure to establish that there is no statute of limitations for presenting a felony indictment for compelling prostitution by a person with a disability. The bill changes the limitations period for the conduct that constitutes a first degree felony trafficking of persons offense, as expanded under the bill, as follows:

- by extending from three years from the date of the commission of the offense to ten years from the date the offense was discovered for the following conduct:
 - knowingly trafficking a person with a disability with the intent that the trafficked person engage in forced labor or services; or
 - knowingly receiving a benefit from participating in a venture that involves trafficking a person with a disability with the intent that the trafficked person engage in forced labor or services, including receiving labor or services the person knows are forced labor or services; and
- by eliminating the statute of limitations for the following conduct:
 - knowingly trafficking a person with a disability and by any means causing the trafficked person to engage in or become the victim of certain prohibited sexual or prostitution conduct; or
 - knowingly receiving a benefit from participating in a venture that involves certain prohibited sexual or prostitution conduct against or engaging in sexual activity with a person with a disability who is trafficked and causing the person to engage in or become the victim of such conduct.

The bill establishes that the duty to register under the sex offender registration program for a person who has a reportable conviction or adjudication for such an offense ends when the person dies.

C.S.H.B. 1004 amends the Government Code to make conforming changes.

C.S.H.B. 1004 applies only to an offense committed on or after the bill's effective date. The bill provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1004 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute replaces the definition of "person with a disability" as a person who, as a result of mental disease or defect, is incapable of appraising the nature of prohibited conduct or to resist engaging in that conduct, as it appeared in the introduced, with a definition as a person who by reason of physical or mental disease, defect, or injury is substantially unable to protect the person's self from harm or to provide food, shelter, or medical care for the person's self.

Whereas the introduced established that an actor commits a second degree felony trafficking of persons offense if the actor knowingly traffics a person with a disability and by any means

causes the person to engage in certain prostitution conduct, the substitute does not include this provision. The substitute includes provisions absent from the introduced that expand the conduct constituting a first degree felony trafficking of persons offense to include the following conduct with respect to a person with a disability, regardless of whether the actor knows the person is disabled at the time of the offense:

- knowingly trafficking a person with a disability with the intent that the trafficked person engage in forced labor or services;
- knowingly receiving a benefit from participating in a venture that involves trafficking a person with a disability with the intent that the trafficked person engage in forced labor or services, including receiving labor or services the person knows are forced labor or services;
- knowingly trafficking a person with a disability and by any means causing the trafficked person to engage in, or become the victim of certain prohibited sexual or prostitution conduct; or
- knowingly participating in a venture that involves the certain prohibited sexual or prostitution conduct against or engaging in sexual conduct with a person who is disabled and trafficked and causing the person by any means to become the victim of such conduct.

The substitute does not include the provision from the introduced that specified that an actor who engages in the following conduct commits a trafficking of persons offense regardless of whether the actor knows that the person or child has been trafficked:

- knowingly receiving a benefit from participating in a venture that involves a trafficked person who is caused through force, fraud, or coercion to engage in certain prostitution conduct or engaging in sexual conduct with a person trafficked in that manner; or
- knowingly receiving a benefit from participating in a venture that involves a trafficked child who is caused by any means to engage in or become the victim of certain prohibited sexual or prostitution conduct or engaging in sexual conduct with a child trafficked in that manner.

The substitute includes a provision not in the introduced that sets the limitations period for a personal injury claim arising from certain trafficking of persons conduct involving a person with a disability who is trafficked and caused by any means to engage in or become the victim of certain prohibited sexual or prostitution conduct at 30 years after the day the cause of action accrues.

The substitute includes provisions not in the introduced that change the limitations period for conduct that constitutes a first degree felony trafficking of persons offense involving a person with a disability. Specifically, the substitute does the following:

- extends from three years from the date of the commission of the offense to ten years from the date the offense was discovered for the following conduct:
 - knowingly trafficking a person with a disability with the intent that the trafficked person engage in forced labor or services; or
 - knowingly receiving a benefit from participating in a venture that involves trafficking a person with a disability with the intent that the trafficked person engage in forced labor or services, including receiving labor or services the person knows are forced labor or services; and
- eliminates the statute of limitations for the following conduct:
 - knowingly trafficking a person with a disability and by any means causing the trafficked person to engage in or become the victim of certain prohibited sexual or prostitution conduct; or
 - knowingly receiving a benefit from participating in a venture that involves the commission of certain prohibited sexual or prostitution conduct against or engaging in sexual activity with a person with a disability who is trafficked and causing the person to engage in or become the victim of such conduct.