

BILL ANALYSIS

Senate Research Center
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S.B. 11
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, in the State of Texas, survivors of human trafficking are often convicted of crimes their traffickers force them to commit. Traffickers do so as a form of control: once they have forced their victim to commit a crime, they hold that crime over their head to dissuade seeking help from law enforcement.

The current definition of duress in Texas is limited to immediate risk of death or serious bodily injury. While this is the correct standard in the vast majority of cases, existing law ignores the complicated and elongated context of the coercion that victims of human trafficking face.

Traffickers exert psychological, financial, and emotional control over their victims, often making escape seem impossible. Coercion can take many forms, including manipulation of intoxication, withholding ID documents, or the deliberate creation of financial dependence. Fraud, including false promises of safety, jobs, or legal protection, further entraps victims in cycles of abuse. Because these tactics do not always involve immediate physical violence, many victims are unfairly denied the ability to argue duress when charged with crimes they were forced to commit.

Creating a specific duress defense for the complicated context of trafficking would align the law with the lived experiences of survivors and the well-documented tactics of traffickers. Without such reforms, survivors face wrongful criminalization for actions they were compelled to take, perpetuating their victimization rather than offering them a path to justice. By modernizing duress laws, we acknowledge the true nature of exploitation and ensure that survivors receive the legal protections they deserve.

S.B. 11 amends Chapter 8 of the Penal Code to establish an affirmative defense to prosecution for criminal offenses if the survivor can demonstrate that his or her conduct was caused by force, fraud, or coercion as a victim of Trafficking of Persons (Section 20A.02) or Compelling Prostitution (Section 43.05). The defendant does not have to prove their trafficker was charged or convicted, but they must establish that the alleged offense occurred as a direct result of the force, fraud, or coercion. Further, S.B. 11 does not cover 3g offenses, as the severity of those offenses necessitates the defendant claim the traditional duress of risk of death or serious bodily injury to themselves or another.

As proposed, S.B. 11 amends current law relating to an affirmative defense to prosecution for certain victims of trafficking of persons or compelling prostitution.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 8, Penal Code, by adding Section 8.09, as follows:

Sec. 8.09. VICTIM OF TRAFFICKING OR COMPELLING PROSTITUTION. (a) Provides that, except as provided by Subsection (b), it is an affirmative defense to prosecution that the actor:

(1) was a victim of an offense under Section 20A.02 (Trafficking of Persons) or 43.05 (Compelling Prostitution); and

(2) engaged in the conduct that is the subject of the prosecution as a direct result of being caused, through means of force, fraud, or coercion as described by Subsection (c), to engage in that specific conduct.

(b) Provides that Subsection (a) applies only if the actor would not have engaged in the conduct that is the subject of the prosecution but for the use of force, fraud, or coercion; the use of force, fraud, or coercion would have compelled a reasonable person in the actor's circumstances to engage in the conduct; the actor was not merely afforded an opportunity to engage in the conduct without the use of force, fraud, or coercion; and the conduct does not constitute an offense listed in Article 42A.054(a) (relating to providing that Article 42A.053 (Judge-Ordered Community Supervision) does not apply to a defendant adjudged guilty of an offense under certain provisions), Code of Criminal Procedure, unless the actor is charged only as a party to that offense under Section 7.01 (Parties to Offenses).

(c) Defines "force, fraud, or coercion."

(d) Authorizes information relevant to the identification of a defendant's status as a victim of an offense described by Subsection (a)(1) to be offered to establish an affirmative defense under this section.

(e) Provides that, for purposes of this section, the actor is not required to prove that the person using force, fraud, or coercion to cause the actor to engage in the conduct that is the subject of the prosecution was charged with or convicted of an offense under Section 20A.02 or 43.05.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: the 91st day after the last day of the legislative session.