

BILL ANALYSIS

Senate Research Center

H.B. 2761
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Turley v. The State of Texas (2024) highlighted significant gaps in the legal definitions of prostitution and trafficking, creating challenges in prosecution.

Andrew Turley was convicted of drugging his four-year-old daughter with a sleep aid and attempting to sell sexual contact with her. However, the Texas Court of Criminal Appeals overturned some of the charges, interpreting the law in a way that limited his sentencing. As a result, Turley was not convicted to the fullest extent under compelling prostitution laws for two key reasons.

First, the case involved a sting operation in which law enforcement intervened before the sexual act occurred to protect the child. The court of criminal appeals ruled that, under the current statute, compelling prostitution required evidence that the sexual act had actually taken place.

Second, because the child was drugged, the defense argued that she lacked the mental capacity to knowingly consent, meaning she was not actively "submitting" to prostitution under the legal definition.

This case underscored the urgent need to update Texas law to ensure perpetrators are held fully accountable. H.B. 2761 clarifies that children neither have the capacity to consent to nor are required to perform a sexual act for the state to prosecute and convict an offender under compelling prostitution or trafficking laws in the Penal Code.

H.B. 2761 amends Sections 20A.02 and 20A.03, Penal Code, to stipulate that a trafficked child or disabled individual not completing the act of prostitution and/or not being of the mental state to knowingly engage in the act of prostitution are not defenses to prosecution.

H.B. 2761 amends current law relating to the prosecution of the offenses of trafficking of persons, continuous trafficking of persons, and 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 Section 20A.02, Penal Code, by adding Subsection (e), as follows:

(e) Provides that this subsection applies only to a prosecution for an offense under certain provisions, in which the actor is alleged to have caused a trafficked child or disabled individual to engage in or become the victim of prostitution, as defined by Section 43.01 (Definitions). Provides that it is not a defense to a prosecution described by this subsection that the trafficked child or disabled individual lacks the culpable mental state to engage in the act of prostitution or did not complete the act of prostitution.

SECTION 2. Amends Section 20A.03, Penal Code, by adding Subsection (f), as follows:

(f) Provides that this subsection applies only to a prosecution for an offense under this section based on conduct constituting an offense under certain provisions, in which the actor is alleged to have caused for one or more times a trafficked child or disabled individual to engage in or become the victim of prostitution as defined by Section 43.01. Provides that it is not a defense to a prosecution described by this subsection that the trafficked child or disabled individual lacks the culpable mental state to engage in the act of prostitution or did not complete the act of prostitution.

SECTION 3. Amends Section 43.05, Penal Code, by adding Subsection (e), to provide that it is not a defense to prosecution under certain provisions that the child or disabled individual lacks the culpable mental state to engage in the act of prostitution or did not complete the act of prostitution.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2025.