

H.B. No. 1121

AN ACT

relating to judicial findings, a criminal offense, and preventative actions regarding human trafficking or other similar abuse.

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

SECTION 1. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0191 to read as follows:

Art. 42.0191. FINDING REGARDING VICTIMS OF TRAFFICKING OR OTHER ABUSE. (a) In the trial of an offense, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and enter the affirmative finding in the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial:

(1) is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or

(2) has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii).

(b) That part of the papers in the case containing an affirmative finding under this article:

(1) must include specific information identifying the victim, as available;

(2) may not include information identifying the victim's location; and

(3) is confidential, unless written consent for the release of the affirmative finding is obtained from the victim or, if the victim is younger than 18 years of age, the victim's parent or guardian.

SECTION 2. Section 5, Article 42.12, Code of Criminal Procedure, is amended by adding Subsections (i) and (j) to read as follows:

(i) If a judge places on community supervision under this section a defendant charged with an offense, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and file a statement of that affirmative finding in the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial:

(1) is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or

(2) has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii).

(j) That part of the papers in the case containing an affirmative finding under Subsection (i):

(1) must include specific information identifying the victim, as available;

(2) may not include information identifying the victim's location; and

(3) is confidential, unless written consent for the release of the affirmative finding is obtained from the victim or, if the victim is younger than 18 years of age, the victim's parent or guardian.

SECTION 3. Section 54.04, Family Code, is amended by adding Subsections (v) and (w) to read as follows:

(v) If the judge orders a disposition under this section for delinquent conduct based on a violation of an offense, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and enter the affirmative finding in the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial:

(1) is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or

(2) has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii).

(w) That part of the papers in the case containing an affirmative finding under Subsection (v):

(1) must include specific information identifying the victim, as available;

(2) may not include information identifying the victim's location; and

(3) is confidential, unless written consent for the release of the affirmative finding is obtained from the victim or, if the victim is younger than 18 years of age, the victim's parent or guardian.

SECTION 4. Section 20A.01, Penal Code, is amended to read as follows:

Sec. 20A.01. DEFINITIONS. In this chapter:

(1) "Forced labor or services" means labor or services, including conduct that constitutes an offense under Section 43.02, that are performed or provided by another person and obtained through an actor's:

(A) causing or threatening to cause bodily injury to the person or another person or otherwise causing the person performing or providing labor or services to believe that the person or another person will suffer bodily injury;

(B) restraining or threatening to restrain the person or another person in a manner described by Section 20.01(1) or causing the person performing or providing labor or services to believe that the person or another person will be restrained; ~~or~~

(C) knowingly destroying, concealing, removing, confiscating, or withholding from the person or another person, or threatening to destroy, conceal, remove, confiscate, or withhold from the person or another person, the person's actual or purported:

(i) government records;

(ii) identifying information; or

(iii) personal property;

(D) threatening the person with abuse of the law or the legal process in relation to the person or another person;

(E) threatening to report the person or another person to immigration officials or other law enforcement officials or otherwise blackmailing or extorting the person or another person;

(F) exerting financial control over the person or another person by placing the person or another person under the actor's control as security for a debt to the extent that:

(i) the value of the services provided by the person or another person as reasonably assessed is not applied toward the liquidation of the debt;

(ii) the duration of the services provided by the person or another person is not limited and the nature of the services provided by the person or another person is not defined; or

(iii) the principal amount of the debt does not reasonably reflect the value of the items or services for which

the debt was incurred; or

(G) using any scheme, plan, or pattern intended to cause the person to believe that the person or another person will be subjected to serious harm or restraint if the person does not perform or provide the labor or services.

(2) "Traffic" means to transport, ~~[another person or to]~~ entice, recruit, harbor, provide, or otherwise obtain another person by any means ~~[for transport by deception, coercion, or force].~~

SECTION 5. Sections 20A.02(a) and (b), Penal Code, are amended to read as follows:

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

(1) knowingly traffics another person with the intent or knowledge that the trafficked person will engage in~~+~~
[~~1~~] forced labor or services; or

(2) intentionally or knowingly benefits 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 ~~[conduct that constitutes an offense under Chapter 43].~~

(b) Except as otherwise provided by this subsection, an offense under this section is a felony of the second degree. An offense under this section is a felony of the first degree if:

(1) the applicable conduct constitutes an offense under Section 43.02 ~~[offense is committed under Subsection (a)(2)]~~ and the person who is trafficked is younger than 18 ~~[14]~~ years of age at the time of the offense; or

(2) the commission of the offense results in the death of the person who is trafficked.

SECTION 6. Section 125.002, Civil Practice and Remedies Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) If the defendant required to execute the bond is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is under Section 125.0015(a)(6) or (7), the bond must also be conditioned that the defendant will, in each of the defendant's lodging units on the premises that are the subject of the suit, post in a conspicuous place near the room rate information required to be posted under Section 2155.001, Occupations Code, an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

SECTION 7. Section 125.045, Civil Practice and Remedies Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) If the defendant required to execute the bond is a hotel, motel, or similar establishment that rents overnight lodging to the public and the alleged common nuisance is under Section 125.0015(a)(6) or (7), the bond must also be conditioned that the defendant will, in each of the defendant's lodging units on the premises that are the subject of the suit, post in a conspicuous place near the room rate information required to be posted under Section 2155.001, Occupations Code, an operating toll-free telephone number of a nationally recognized information and referral hotline for victims of human trafficking.

SECTION 8. (a) Not later than September 1, 2008, the attorney general, in consultation with the Health and Human Services Commission, shall prepare and issue a report:

(1) outlining how existing laws and rules concerning victims and witnesses address or fail to address the needs of victims of human trafficking; and

(2) recommending areas of improvement and modifications in existing laws and rules.

(b) Not later than September 1, 2008, the Health and Human Services Commission, in consultation with the attorney general,

shall prepare and issue a report:

(1) outlining how existing social service programs address or fail to address the needs of victims of human trafficking;

(2) with respect to those needs, outlining the interplay of existing social service programs with federally funded victim service programs; and

(3) recommending areas of improvement and modifications in existing social service programs.

SECTION 9. Sections 20A.01 and 20A.02, Penal Code, as amended by this Act, apply 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 when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 10. Section 125.002(f-1) and Section 125.045(a-1), Civil Practice and Remedies Code, as added by this Act, apply only to a suit filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 11. The change in law made by this Act applies only to a judgment of conviction entered on or after the effective date of this Act, a grant of deferred adjudication made on or after the effective date of this Act, or a disposition of delinquent conduct made on or after the effective date of this Act.

SECTION 12. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 1121 was passed by the House on May 11, 2007, by the following vote: Yeas 137, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 1121 was passed by the Senate on May 23, 2007, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____
Date

Governor