

SUBJECT: Prohibiting the prosecution of children for certain prostitution offenses

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 6 ayes — Dutton, Bowers, Calanni, Dean, Lopez, Talarico

1 nay — Cyrier

2 absent — Murr, Shine

WITNESSES: For — Jamey Caruthers, Children at Risk; Jessica Anderson, Houston Police Department; Samantha Smothermon, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Traci Berry, Goodwill Central Texas; Alissa Sughrue, National Alliance on Mental Illness Texas; Will Francis, National Association of Social Workers-Texas Chapter; Mary Mergler, Texas Appleseed; Lori Henning, Texas Association of Goodwills; Bryan Mares, Texas CASA; Amy Bresnen and Steve Bresnen, Texas Family Law Foundation; Lauren Rose, Texas Network of Youth Services; Jennifer Lucy, TexProtects; Allison Franklin; Joseph Longhurst; Calvin Tillman)

Against — None

On — (*Registered, but did not testify*: Shannon Edmonds, Texas District and County Attorneys Association)

BACKGROUND: Penal Code sec. 43.02 governs prostitution offenses, which individuals commit if they knowingly offer or agree to receive fees from other individuals to engage in sexual conduct or pay fees to other individuals to engage in sexual conduct with those individuals or others. Offenses are generally class B misdemeanors (up to 180 days in jail and/or a maximum fine of \$2,000), with certain enhancements.

Government Code sec. 772.0062 governs the Child Sex Trafficking Prevention Unit, which is within the Criminal Justice Division of the

Office of the Governor. The unit facilitates efforts among a number of state agencies to prevent child sex trafficking and aids victims in receiving housing and other resources. The unit also collects and analyzes data related to child sex trafficking, provides support for child sex trafficking prosecutions, and performs certain other duties.

Government Code sec. 772.0063 requires the governor to establish and implement a program to provide comprehensive, individualized services to address the rehabilitation and treatment needs of child victims of sex trafficking.

Some have expressed concerns that children who are victims of sex trafficking can be prosecuted or referred to juvenile courts for certain prostitution offenses.

DIGEST:

CSHB 1771 would establish that individuals could not be prosecuted for knowingly offering or agreeing to receive fees from other individuals to engage in sexual conduct if they did so when they were younger than 17.

Additionally, this conduct would not be considered delinquent conduct or conduct indicating a need for supervision, and children could not be arrested or referred to juvenile courts for such conduct. A law enforcement officer who took possession of a child suspected of engaging in this conduct would be required to use the officer's best efforts to deliver the child to the child's parent or another individual entitled to take possession of the child.

If the parent or other individual was not immediately available, officers would be required to contact local service providers or care coordinators who would, in consultation with the Child Sex Trafficking Prevention Unit and the governor's program for victims of child sex trafficking, facilitate the assignment of the child to a caseworker. The caseworker would have to create a customized package of services to fit the child's immediate and long-term rehabilitation and treatment needs, including medical, psychiatric, psychological, safety, and housing needs.

If local service providers or care coordinators were not available, officers would need to transfer the child to the Department of Family and Protective Services.

The bill would take effect September 1, 2019, and would apply only to offenses committed or conduct that occurred on or after that date.