

SUBJECT: Prohibiting prosecution of certain juveniles for the offense of prostitution

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 5 ayes — Neave, Ramos, Talarico, Vasut, Wu

2 nays — Swanson, Cook

2 absent — Frank, Leach

WITNESSES: For — James Caruthers, Children at Risk; Jennifer Hohman, Fight For Us; Jessica Anderson, Houston Police Department; Nissi Hamilton, Survivors Voice; Steven Phenix, The Refuge for DMST; Mira Boyda; Jaimie Keller; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; TJ Patterson, City of Fort Worth; M Paige Williams, for Dallas County Criminal District Attorney John Cruzot; Scott Henson, Just Liberty; Matthew Lovitt, National Alliance on Mental Illness Texas; Alison Mohr Boleware, National Association of Social Workers - Texas Chapter; Kristen Lenau, Texas Association Against Sexual Assault; Sarah Crockett, Texas CASA; Shea Place, Texas Criminal Defense Lawyers Association; Alycia Castillo, Texas Criminal Justice Coalition; Amelia Casas, Texas Fair Defense Project; Suzi Kennon, Texas PTA; Molly Weiner, United Ways of Texas)

Against — None

On — Andrea Sparks, Office of the Governor; (*Registered, but did not testify*: Sophia Karimjee, Department of Family and Protective Services)

BACKGROUND: Concerns have been raised about child victims of human sex trafficking being arrested and charged under the prostitution statute instead of being treated as victims in need of services. Interested parties have called for such child victims to be directed to service providers in order to receive statutorily prescribed assistance and services.

DIGEST: CSHB 162 would prohibit the prosecution of a person for a prostitution

offense in which the person knowingly offered or agreed to receive a fee from another to engage in sexual conduct if the offense was committed when the person was younger than 17 years of age.

The bill would specify that such an offense would not be delinquent conduct or conduct indicating a need for supervision under the juvenile justice system, and a child could not be referred to the juvenile court for such conduct.

A law enforcement officer who suspected that a child might be a victim of human trafficking or might have engaged in prostitution would be required to take possession of the child in accordance with certain statutory procedures. The officer would have to transfer possession of the child to the Department of Family and Protective Services (DFPS) as soon as possible.

On taking possession of the child, DFPS would be required to contact a local service provider or care coordinator who, in consultation with the child sex trafficking prevention unit and the governor's program for victims of child sex trafficking, would facilitate the assignment of a caseworker for the child to create a customized package of services to fit the child's immediate and long-term rehabilitation and treatment needs.

The bill would establish that it would not be a defense to prosecution for a human trafficking offense that the person trafficked by the actor was forced to engage in prostitution conduct for which the person could not be prosecuted under the bill. It also would not be a defense to prosecution for certain offenses related to promoting or compelling prostitution that the person who engaged in prostitution conduct could not be prosecuted because the conduct was committed when the person was younger than 17.

The bill would take effect September 1, 2021, and would apply only to an offense committed or conduct that occurred on or after the effective date.