

- SUBJECT:** Creating the offense of solicitation of prostitution
- COMMITTEE:** Criminal Jurisprudence — favorable, without amendment
- VOTE:** 9 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson, Murr, Vasut
- 0 nays
- WITNESSES:** For — Jamey Caruthers, Children at Risk; Joseph Scaramucci, McLennan County Sheriff's Office; Bekah Charleston; Linda Foos; Allison Franklin; (*Registered, but did not testify*: Krista Piferrer, BCFS Health and Human Services; Chara McMichael, BCFS Health and Human Services Human Trafficking Interdiction; Justin Wood, Children's Advocacy Centers of Texas; Frederick Frazier, Dallas Police Association and FOP716 State FOP Director; James Parnell, Dallas Police Association; Jessica Anderson, Houston Police Department; Laura Nodolf, Midland County District Attorney's Office; Jimmy Rodriguez, San Antonio Police Officers Association; Katherine Strandberg, Texas Association Against Sexual Assault; John Wilkerson, Texas Municipal Police Association;)
- Against — None
- On — Cara Pierce, Office of the Attorney General; Kyle Matheson, Texas Department of Public Safety; (*Registered, but did not testify*: Thomas Parkinson)
- BACKGROUND:** Under Penal Code sec. 43.02(a), a person commits the offense of prostitution if the person knowingly offers or agrees to receive a fee from another to engage in sexual conduct. Such conduct is categorized as a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000), unless certain circumstances exist increasing the penalty to a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000) or to a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).

A person also commits the offense of prostitution under sec. 43.02(b) if the person knowingly offers or agrees to pay a fee to another person for the purpose of engaging in sexual conduct with that person or another. Such conduct is categorized as a class A misdemeanor, except that the offense is:

- a state-jail felony if the actor has previously been convicted of an offense under sec. 43.02(b); or
- a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the person with whom the actor agrees to engage in sexual conduct is younger than 18, represented to the actor as being younger than 18, or believed by the actor to be younger than 18.

DIGEST:

HB 2795 would create the offense of solicitation of prostitution by specifying that certain conduct currently constituting the offense of prostitution would constitute the new offense, which would be subject to an increased penalty. The offense of prostitution would be narrowed to a person knowingly offering or agreeing to receive a fee from another to engage in sexual conduct and would be subject to existing penalties.

Solicitation of prostitution. A person would commit solicitation of prostitution if the person knowingly offered or agreed to pay a fee to another person for engaging in sexual conduct with that person or another.

Penalties. Such conduct under the created offense would be increased from a class A misdemeanor to a state-jail felony, except that the conduct would be:

- increased from a state-jail felony to a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the actor had previously been convicted of the offense; or
- a second-degree felony if the person with whom the actor agreed to engage in sexual conduct was younger than 18, represented to the actor as being younger than 18, or believed by the actor to be younger than 18.

Enhanced penalties. A conviction of solicitation of prostitution could be used to enhance penalties under the bill's provisions or under Penal Code provisions governing exceptional sentences, but not under both.

For enhancement purposes, a defendant would be considered to have been previously convicted of solicitation of prostitution or prostitution under Penal Code sec. 43.02(b) as it existed before the effective date of this bill if the defendant was found guilty of the offense or entered a plea of guilty or no contest in return for a grant of deferred adjudication. Such a consideration would apply regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision.

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