

As one of the largest Border States, Texas has long been considered both a major destination and transit state for US human trafficking. According Texas Attorney General Greg Abbott, almost 20 percent of all trafficking victims in the U.S. travel through Texas, usually on the Interstate 10 corridor.¹ Fortunately, Texas has been proactive in criminalizing the trafficking of persons, increasing penalties and working towards eradicating modern day slavery. In 2003, Texas was the first of two states to pass legislation that criminalized human trafficking. Since then, Texas has continued to implement important legislation that seeks to end human trafficking. The following bills provide a comprehensive history of Texas' human trafficking legislation.

78th Texas State Legislature²

House Bill 2096: On September 1, 2003, Texas became one of the first of two states to prohibit the trafficking of persons. (Penal Code Ch. 20A.02) prohibits trafficking in persons. The offense is categorized as a second-degree felony, with an enhancement to a first degree felony for involving a child younger than 14 years of age, or any trafficking offense that results in the death of the trafficked person. Section 20A.01 established definitions for “forced labor or services” and “trafficking,” and § 20A.02 outlined offenses and penalties

80th Texas State Legislature³

House Bill 1121: revises Texas Penal Code Section 20A: One of the main obstacles in verifying that human trafficking has occurred under the original Section 20A provisions is due to the limited definition of “forced labor” and the required element of transportation. House Bill 1121 (HB 1121) expands the definition to include threatened actions and removes the requirement that the victim must be physically transported for the offense to be present. These provisions were incorporated from Senate Bill 1283/House Bill 3370. HB 1121 also enables judges to issue an official verification, or judicial finding, that a victim is truly a victim of trafficking, as defined by the federal law. With the passage of this law, more victims will be able to use this judicial finding in order to obtain a T-VISA and be eligible for services available to holders of T-VISAs.

Senate Bill 1287 and Senate Bill 1288: require posting of rescue hotline in certain establishments: Victims of human trafficking very rarely self-identify because of fear and lack of resources. Eighty-percent of human trafficking victims work in locations where alcohol is served. Senate Bill 1287 (SB 1287) was passed mandating that bars post a sign in both English and Spanish about forced labor and a toll-free referral number for victims of trafficking. The sign must be displayed in a clear and visible manner to the public and employees. Senate Bill 1288 (SB 1288) also requires a sign to be posted with a toll-free referral number for victims in hotels or motels pending the final disposition of common nuisance lawsuits.

House Bill 1751: establishes an account to fund grants to support programs for sexual assault victims, human trafficking victims, and human trafficking investigations: House Bill 1751 (HB 1751) imposes an entrance fee of \$5 for admission to certain sexually oriented businesses. The fees collected are to be sent to the Comptroller who shall deposit the first \$25 million received from this fee during a state fiscal biennium to the credit of the sexual assault program fund. The bill also provides that the attorney general may award grants out of this fund to support a variety of programs providing services to, or otherwise benefiting, sexual assault victims and human trafficking victims including grants to support sexual assault and human trafficking prosecution projects. HB 1751 does allow for grants to be allocated out of the sexual assault program fund for such projects. Effective Date: January 1, 2008. Legislation Filed But Not Adopted During 80th Legislature

Senate Bill 1285/House Bill 3372: This bill would have implemented mandatory training of law enforcement personnel regarding human trafficking and had wide support from interested stakeholders. It never came up for a vote in either the House or the Senate after a successful hearing in the House Criminal Jurisprudence Committee.

Senate Bill 1284/House Bill 3371: This bill would have amended the state's "compelling prostitution" statute (Texas Penal Code Section 43.05). The current law is that a person can be charged with this offense if he/she "causes by any means a person younger than 17 years to commit prostitution." The bill would have raised that age from "younger than 17 years" to "younger than 18 years". The bill also would have enhanced this offense to a felony of the first degree. While this bill was granted a hearing before the House Criminal Jurisprudence Committee, the Committee never referred the bill for further action.

81st Texas State Legislature⁴

House Bill 4009: establishes a victim assistance program for domestic human trafficking victims. It includes the maintenance of a searchable database of assistance programs for domestic victims, and establishes a program to award grants to public and nonprofit organizations that provide assistance to domestic victims, promote public awareness activities, conduct community outreach and training, help in victim identification, and/or offer legal services. HB 4009 also requires training programs and an outreach initiative for judges, prosecutors, and law enforcement personnel to increase awareness of the needs of domestic victims and the services available under the program. Finally, the bill requires the Health and Human Services Commission (HHSC) to conduct a study to identify additional revenue streams for the victim assistance program. HHSC must submit a report on the study to the 82nd Legislature no later than December 1, 2010. Amendments to HB 4009 include designation of a statewide human trafficking task force to improve data collection and align existing state resources to fight human trafficking and a mandated training of law enforcement officers to enable them to identify human trafficking victims. Additionally, the amendments revised the Compelling Prostitution statute to make it consistent with the Human Trafficking statute by raising the age of minors from under 17 to under 18 and created a defense to prostitution for victims of human trafficking. Lastly, it created liability for the trafficker regardless of whether he knew the victim was a minor and requires the executive director of the Texas Juvenile Probation Commission (TJPC) to establish a committee to evaluate certain alternatives to the juvenile justice system for children who are accused of engaging in acts of prostitution. Effective Date: September 1, 2009.

House Bill 533: creates civil liability for human traffickers by providing victims with an avenue to sue their traffickers. Traffickers cannot use as a defense to liability that they have been acquitted of or not prosecuted for human trafficking, or convicted of a different offense that is alleged to have given rise to liability. Plaintiffs who prevail may recover actual damages including mental anguish as well as exemplary damages, and any reasonable attorney fees.

House Bill 3094: creates liability for operating an illegitimate "massage parlor" in counties with a population of 3.3 million or more. A district or county attorney may bring a suit to enjoin the operation of the offending massage parlor. The offense is considered a Class A misdemeanor and civil penalties may also be brought in district court of up to \$1,000 per violation. Each day a violation continues is considered a separate violation. The penalties provided for in this bill are in addition to any other penalties that may be allowed under the law.

Senate Bill 707: requires sexually oriented businesses to maintain proper identification records for their employees or independent contractors. SB 707 specifies that proper identification includes: 1) Physical description and photograph; 2) Date of birth of the person; 3) Be issued by a government agency (driver's license, passport or another state issued ID). The record must be kept for up to two years after the last day of employment. The Texas Workforce Commission, the Attorney General, or local law enforcement shall be allowed to inspect the records maintained if there is good

reason to believe that a child does work or did work at the sexually oriented business within the previous two years. A business fails to comply if it fails to maintain a record or knowingly or intentionally hinders an authorized inspection. Effective Date: September 1, 2009

House Bill 960: gives a municipality or county the right to access National Crime Information Center criminal history record information for the purposes of obtaining information regarding persons applying for a license to operate a sexually oriented business in the municipality or county.

82nd Texas State Legislature⁵

Senate Bill 24: expands the definition of the offense of trafficking in the Penal Code to specifically address child trafficking and implements enhanced penalties when a child victim is involved; also adds language pertaining to prostitution; promotion of prostitution; and compelling prostitution. Eliminates the statute of limitations to bring a felony indictment for trafficking of persons or compelling prostitution when a child victim is involved, and extends the statute of limitations for adult victims to ten years. Lowers the prosecutorial burden for defendants of child trafficking or compelling prostitution by admittance of evidence of extraneous offenses. Prohibits eligibility for community supervision for persons convicted of human trafficking or compelling prostitution. Extends the civil statute of limitations for personal injury to 5 years (previously 2 years) for victims of trafficking and compelling prostitution. Requires involuntary termination of parental rights for parents who have been convicted or placed on community supervision for harming a child as a result of a trafficking or compelling prostitution offense. Requires life imprisonment for convicted child traffickers. Effective Date: September 1, 2011

House Bill 2014: Addresses TABC procedures – must refuse reissuance of license for one year if license previously cancelled in prior year for prostitution or trafficking. Denial of bail for violation of condition of bond if offense committed is against a child younger than 14 years of age (trafficking or prostitution). Mandatory restitution for child victims of prostitution or compelling prostitution under age 18 – court ordered in the amount necessary for rehabilitation. Includes property used in the commission of HT to be included on the list of contraband that can be forfeited. Requires defendants of trafficking and compelling prostitution to be included in the computerized criminal history system. Increases penalty to third degree felony for Johns if child solicited 14 or older but younger than 18. Effective Date: September 1, 2011

House Bill 3000⁶: Establishes “Continuous Trafficking of Persons” offense for persons who traffic two or more times during a period of 30 days or more. Introduced by Representative Thompson, this bill creates the first-degree felony offense of continuous trafficking of persons. This offense applies to offenders who commit human trafficking two or more times during a period that is thirty days or longer. The law gives preference for assigning continuous trafficking of persons cases to a court with juvenile jurisdiction, though the statute covers more than just juvenile cases. Under this law, a person convicted of continuous trafficking of persons is now eligible for an automatic life sentence without parole for subsequent convictions and is ineligible for many alternatives for inmates such as mandatory community supervision, early release on parole, or intensive supervision programs. The law makes parole and bail more difficult for offenders, including by requiring a two-thirds vote of the members of the Board of Pardons and Paroles for the release on parole of an inmate convicted of continuous trafficking of persons. Additionally, violators will have to provide one or more specimens for the purpose of a DNA record. Effective Date: September 1, 2011

Senate Bill 98⁷: Based on recommendations from the Texas Human Trafficking Prevention Task Force, this law increases the minimum jail time for offenders to 25 years in prison, makes it a felony to force children into prostitution and gives automatic life sentences to repeat offenders. It expands the definition of human trafficking to include both sex and

labor trafficking. The law will also provide a certain measure of legal protection for victims, giving children forced into prostitution provisions similar to sexual assault cases.

ENDNOTES

1. Buch, Jason (November 2010). "Bill Would Toughen Human Trafficking Law in Texas." The Houston Chronicle. Retrieved from: <http://www.chron.com/news/houston-texas/article/Bill-would-toughen-human-trafficking-law-in-Texas-1703056.php>
2. Summarized by the Houston Rescue and Restore Coalition. (2012). Texas Human Trafficking State Laws. Retrieved from: <http://www.houstonrr.org/human-trafficking/federal-state-laws/>
3. Ibid.
4. Ibid.
5. Summarized by Children At Risk. Retrieved from Houston Rescue and Restore Coalition (2012). Texas Human Trafficking State Laws. Retrieved from: <http://www.houstonrr.org/human-trafficking/federal-state-laws/>
6. Summarized by the Human Rights Initiative: <http://hrionline.wordpress.com/2011/06/02/texas-passes-two-human-trafficking-bills-texas-legislative-update/>
7. From change.org: <http://news.change.org/stories/victory-texas-passes-tough-anti-trafficking-law>