

## **BILL ANALYSIS**

H.B. 1121  
By: Weber  
Criminal Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Human trafficking has become the one of the largest crime industries in the world. Unlike guns or drugs, a human being is seen by human traffickers as a commodity that may be sold repeatedly, resulting in substantial financial gain. Current estimates suggest that approximately 30 million people are currently enslaved and are forced to provide labor or sexual services and that the industry's profits total over \$30 billion annually. Interested parties note that the federal government estimates that in the United States alone hundreds of thousands of children are annually sold into the commercial sex trade and that over 20 percent of the market for that activity is in Texas.

H.B. 1121 seeks to address this increasingly prevalent crime industry by creating the offense of continuous trafficking of persons and setting out provisions relating to the prosecution and punishment of the offense.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

#### **Article 1. Offenses Involving Trafficking of Persons; Eligibility for Community Supervision, Parole, or Mandatory Supervision**

H.B. 1121 amends the Penal Code to create the first degree felony offense of continuous trafficking of persons. The bill makes it an offense to engage two or more times in conduct that constitutes an offense of trafficking of persons during a period that is 30 or more days in duration. The bill makes the offense punishable by imprisonment in the Texas Department of Criminal Justice (TDCJ) for life or for any term of not more than 99 years or less than 25 years.

H.B. 1121 requires, for a conviction by a jury in the prosecution of a continuous trafficking of persons offense, the jury's unanimous agreement that the defendant, during a period that is 30 or more days in duration, engaged in conduct that constituted the trafficking of persons offense, regardless of whether the jury agrees unanimously on which specific conduct engaged in by the defendant constituted the trafficking of persons offense or on which exact date the defendant engaged in that conduct.

H.B. 1121 prohibits a defendant from being convicted of an offense of trafficking of persons in the same criminal action as an offense for continuous trafficking of persons if the victim of the continuous trafficking of persons offense is the same victim as a victim of the trafficking of persons offense unless the trafficking of persons offense is charged in the alternative, occurred outside the period in which the alleged continuous trafficking of persons offense was committed, or is considered by the trier of fact to be a lesser included offense of the alleged continuous trafficking of persons offense.

H.B. 1121 prohibits a defendant from being charged with more than one count of continuous trafficking of persons if all of the conduct that constitutes a trafficking of persons offense is alleged to have been committed against the same victim.

H.B. 1121 amends the Code of Criminal Procedure to make provisions of law relating to judge-ordered community supervision inapplicable to a defendant adjudged guilty of an offense of trafficking of persons and to make the defendant ineligible for jury recommended community supervision. The bill includes the offenses of trafficking of persons and continuous trafficking of persons among the offenses for which a judge is prohibited from granting deferred adjudication to a defendant.

H.B. 1121 amends the Government Code to make an inmate serving a sentence for a continuous trafficking of persons offense ineligible for parole. The bill prohibits an inmate serving a sentence for or who has been previously convicted of a trafficking of persons offense or a continuous trafficking of persons offense from being released to mandatory supervision.

## **Article 2. Additional Civil and Criminal Consequences of Trafficking**

H.B. 1121 amends the Civil Practice and Remedies Code to make provisions of law making each liable defendant in a case jointly and severally liable for the damages recoverable by a claimant applicable to a defendant who, with the specific intent to do harm to others, acted in concert with another person to engage in the offense of trafficking of persons or continuous trafficking of persons and in so doing proximately caused the damages legally recoverable by the claimant. The bill establishes that a person maintains a common nuisance if the person maintains a place to which persons habitually go for the purpose of trafficking of persons or continuous trafficking of persons and knowingly tolerates either of those activities and furthermore fails to make reasonable attempts to abate either of those activities.

H.B. 1121 amends the Code of Criminal Procedure to limit to the court before whom the case is pending the authorization to release on personal bond a defendant charged with a trafficking of persons offense or a continuous trafficking of persons offense. The bill includes in the definition of "violent offense," for purposes of provisions of law relating to the release of certain mentally ill defendants on personal bond, the offenses of trafficking of persons and continuous trafficking of persons. The bill makes provisions of law requiring notice of certain bail reductions applicable to the offense of trafficking of persons. The bill, for purposes of the offenses to which provisions of law relating to testimony of a child victim apply, adds the offenses of trafficking of persons and continuous trafficking of persons to the list of offenses about which a child younger than 13 years of age would be unavailable to testify in the presence of the defendant, as determined by a court.

H.B. 1121 amends the Government Code to add criminal actions involving the offenses of trafficking of persons and continuous trafficking of persons to the list of criminal actions the hearings and trials of which Texas trial courts are required to give preference over other criminal actions. The bill makes provisions of law requiring the collection of DNA specimens of certain defendants applicable to a defendant who is indicted or waives indictment for the offenses of trafficking of persons or continuous trafficking of persons.

H.B. 1121 amends the Penal Code to enhance the punishment for an individual adjudged guilty of a state jail felony to that of a third degree felony if it is shown on the trial of the offense that the individual has previously been finally convicted of an offense of continuous trafficking of persons. The bill includes the offense of continuous trafficking of persons as an offense a previous conviction of which results in imprisonment in TDCJ for life for a defendant convicted of certain specified felony offenses and includes the offense of continuous trafficking of persons as one of those specified offenses.

**Article 3. Conforming Amendments**

H.B. 1121 amends the Code of Criminal Procedure and the Government Code to make conforming changes in provisions of law requiring a court in a certain felony case to charge the jury with a specified statement regarding good conduct time and parole and in provisions of law relating to an inmate's eligibility for release to intensive supervision parole and the designation of a presumptive parole date for a certain inmate.

**Article 4. Transition; Effective Date**

H.B. 1121 sets out transition provisions and the effective date.

**EFFECTIVE DATE**

September 1, 2011.