

By: Whitmire

S.B. No. 536

A BILL TO BE ENTITLED

AN ACT

relating to the designation of certain prostitution prevention programs as commercially sexually exploited persons programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 169A, Health and Safety Code, is transferred to Subtitle K, Title 2, Government Code, as added by Chapter 747 (S.B. 462), Acts of the 83rd Legislature, Regular Session, 2013, redesignated as Chapter 126, Government Code, and amended to read as follows:

CHAPTER 126. COMMERCIALLY SEXUALLY EXPLOITED PERSONS [~~169A.~~

~~PROSTITUTION PREVENTION~~] PROGRAM

Sec. 126.001 [~~169A.001~~]. COMMERCIALLY SEXUALLY EXPLOITED PERSONS [~~PROSTITUTION PREVENTION~~] PROGRAM; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "commercially sexually exploited persons [~~"prostitution prevention"~~] program" means a program that has the following essential characteristics:

(1) the integration of services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety, to reduce the demand for the commercial sex trade and trafficking of persons by educating offenders, and to protect the due process rights of program participants;

(3) early identification and prompt placement of

1 eligible participants in the program;

2 (4) access to information, counseling, and services
3 relating to sex addiction, sexually transmitted diseases, mental
4 health, and substance abuse;

5 (5) a coordinated strategy to govern program responses
6 to participant compliance;

7 (6) monitoring and evaluation of program goals and
8 effectiveness;

9 (7) continuing interdisciplinary education to promote
10 effective program planning, implementation, and operations; and

11 (8) development of partnerships with public agencies
12 and community organizations.

13 (b) If a defendant successfully completes a commercially
14 sexually exploited persons [~~prostitution prevention~~] program,
15 regardless of whether the defendant was convicted of the offense
16 for which the defendant entered the program or whether the court
17 deferred further proceedings without entering an adjudication of
18 guilt, after notice to the state and a hearing on whether the
19 defendant is otherwise entitled to the petition, including whether
20 the required time has elapsed, and whether issuance of the order is
21 in the best interest of justice, the court shall enter an order of
22 nondisclosure under Section [411.081](#) [~~Government Code~~] as if the
23 defendant had received a discharge and dismissal under Section
24 5(c), Article [42.12](#), Code of Criminal Procedure, with respect to
25 all records and files related to the defendant's arrest for the
26 offense for which the defendant entered the program.

27 Sec. 126.002 [~~169A.002~~]. AUTHORITY TO ESTABLISH PROGRAM;

1 ELIGIBILITY. (a) The commissioners court of a county or governing
2 body of a municipality may establish a commercially sexually
3 exploited persons [~~prostitution prevention~~] program for defendants
4 charged with an offense under Section 43.02(a)(1), Penal Code, in
5 which the defendant offered or agreed to engage in or engaged in
6 sexual conduct for a fee.

7 (b) A defendant is eligible to participate in a commercially
8 sexually exploited persons [~~prostitution prevention~~] program
9 established under this chapter only if the attorney representing
10 the state consents to the defendant's participation in the program.

11 (c) The court in which the criminal case is pending shall
12 allow an eligible defendant to choose whether to participate in the
13 commercially sexually exploited persons [~~prostitution prevention~~]
14 program or otherwise proceed through the criminal justice system.

15 Sec. 126.003 [~~169A.0025~~]. ESTABLISHMENT OF REGIONAL
16 PROGRAM. The commissioners courts of two or more counties, or the
17 governing bodies of two or more municipalities, may elect to
18 establish a regional commercially sexually exploited persons
19 [~~prostitution prevention~~] program under this chapter for the
20 participating counties or municipalities.

21 Sec. 126.004 [~~169A.003~~]. PROGRAM POWERS AND DUTIES. (a) A
22 commercially sexually exploited persons [~~prostitution prevention~~]
23 program established under this chapter must:

24 (1) ensure that a person eligible for the program is
25 provided legal counsel before volunteering to proceed through the
26 program and while participating in the program;

27 (2) allow any participant to withdraw from the program

1 at any time before a trial on the merits has been initiated;

2 (3) provide each participant with information,
3 counseling, and services relating to sex addiction, sexually
4 transmitted diseases, mental health, and substance abuse; and

5 (4) provide each participant with instruction related
6 to the prevention of prostitution.

7 (b) To provide each program participant with information,
8 counseling, and services described by Subsection (a)(3), a program
9 established under this chapter may employ a person or solicit a
10 volunteer who is:

11 (1) a health care professional;

12 (2) a psychologist;

13 (3) a licensed social worker or counselor;

14 (4) a former prostitute;

15 (5) a family member of a person arrested for
16 soliciting prostitution;

17 (6) a member of a neighborhood association or
18 community that is adversely affected by the commercial sex trade or
19 trafficking of persons; or

20 (7) an employee of a nongovernmental organization
21 specializing in advocacy or laws related to sex trafficking or
22 human trafficking or in providing services to victims of those
23 offenses.

24 (c) A program established under this chapter shall
25 establish and publish local procedures to promote maximum
26 participation of eligible defendants in programs established in the
27 county or municipality in which the defendants reside.

Sec. 126.005 [~~169A.004~~]. DOCUMENTATION REGARDING
INSUFFICIENT FUNDING. [~~OVERSIGHT.~~ (a) ~~The lieutenant governor and~~
~~the speaker of the house of representatives may assign to~~
~~appropriate legislative committees duties relating to the~~
~~oversight of prostitution prevention programs established under~~
~~this chapter.~~

~~[(b) A legislative committee or the governor may request the state auditor to perform a management, operations, or financial or accounting audit of a prostitution prevention program established under this chapter.]~~

[~~(c)~~] A legislative committee may require a county that does not establish a commercially sexually exploited persons [~~prostitution prevention~~] program under this chapter due to a lack of sufficient funding, as provided by Section 126.007(c) [~~169A.0055(c)~~], to provide the committee with any documentation in the county's possession that concerns federal or state funding received by the county.

~~[(d) A prostitution prevention program established under this chapter shall:~~

~~[(1) notify the criminal justice division of the governor's office before or on implementation of the program; and~~

~~[(2) provide information regarding the performance of the program to the division on request.]~~

Sec. 126.006 [~~169A.005~~]. FEES. (a) A commercially sexually exploited persons [~~prostitution prevention~~] program established under this chapter may collect from a participant in the program a nonrefundable program fee in a reasonable amount not

1 to exceed \$1,000, from which the following must be paid:

2 (1) a counseling and services fee in an amount
3 necessary to cover the costs of the counseling and services
4 provided by the program;

5 (2) a victim services fee in an amount equal to 10
6 percent of the amount paid under Subdivision (1), to be deposited to
7 the credit of the general revenue fund to be appropriated only to
8 cover costs associated with the grant program described by Section
9 [531.383](#) [~~Government Code~~]; and

10 (3) a law enforcement training fee, in an amount equal
11 to five percent of the total amount paid under Subdivision (1), to
12 be deposited to the credit of the treasury of the county or
13 municipality that established the program to cover costs associated
14 with the provision of training to law enforcement personnel on
15 domestic violence, prostitution, and the trafficking of persons.

16 (b) Fees collected under this section may be paid on a
17 periodic basis or on a deferred payment schedule at the discretion
18 of the judge, magistrate, or coordinator [~~program director~~
19 ~~administering the prostitution prevention program~~]. The fees must
20 be based on the participant's ability to pay.

21 Sec. 126.007 [~~169A.0055~~]. PROGRAM IN CERTAIN COUNTIES
22 MANDATORY. (a) If a municipality in the county has not established
23 a commercially sexually exploited persons program, the [~~The~~
24 commissioners court of a county with a population of more than
25 200,000 shall:

26 (1) establish a commercially sexually exploited
27 persons [~~prostitution prevention~~] program under this chapter; and

1 (2) direct the judge, magistrate, or coordinator to
2 comply with Section 121.002(c)(1) [if:

3 ~~[(1) the county has a population of more than 200,000,~~
4 ~~and~~

5 ~~[(2) a municipality in the county has not established~~
6 ~~a prostitution prevention program].~~

7 (b) A county required under this section to establish a
8 commercially sexually exploited persons ~~[prostitution prevention]~~
9 program shall apply for federal and state funds available to pay the
10 costs of the program. The criminal justice division of the
11 governor's office may assist a county in applying for federal funds
12 as required by this subsection.

13 **(b-1) A county may apply to the criminal justice division of**
14 **the governor's office for a grant for the establishment or**
15 **operation of a commercially sexually exploited persons program.**

16 (c) Notwithstanding Subsection (a), a county is required to
17 establish a commercially sexually exploited persons ~~[prostitution~~
18 ~~prevention]~~ program under this section only if:

19 **(1) the county receives sufficient federal or state**
20 **funding specifically for that purpose; and**

21 **(2) the judge, magistrate, or coordinator receives the**
22 **verification described by Section 121.002(c)(2).**

23 (d) A county that does not establish a commercially sexually
24 exploited persons ~~[prostitution prevention]~~ program as required by
25 this section and maintain the program is ineligible to receive
26 ~~[from the state]~~ funds for a community supervision and corrections
27 department from the state.

1 Sec. 126.008 [~~169A.006~~]. SUSPENSION OR DISMISSAL OF
2 COMMUNITY SERVICE REQUIREMENT. (a) To encourage participation in
3 a commercially sexually exploited persons [~~prostitution~~
4 ~~prevention~~] program established under this chapter, the judge or
5 magistrate administering the program may suspend any requirement
6 that, as a condition of community supervision, a participant in the
7 program work a specified number of hours at a community service
8 project.

9 (b) On a participant's successful completion of a
10 commercially sexually exploited persons [~~prostitution prevention~~]
11 program, a judge or magistrate may excuse the participant from any
12 condition of community supervision previously suspended under
13 Subsection (a).

14 SECTION 2. Section 103.0292, Government Code, as added by
15 Chapter 1167 (S.B. 484), Acts of the 83rd Legislature, Regular
16 Session, 2013, is amended to read as follows:

17 Sec. 103.0292. ADDITIONAL MISCELLANEOUS FEES AND COSTS:
18 GOVERNMENT [~~HEALTH AND SAFETY~~] CODE. A nonrefundable program fee
19 for a commercially sexually exploited persons [~~prostitution~~
20 ~~prevention~~] program established under Chapter 126 [~~Section~~
21 ~~169A.002, Health and Safety Code,~~] shall be collected under Section
22 126.006 [~~169A.005, Health and Safety Code,~~] in a reasonable amount
23 based on the defendant's ability to pay and not to exceed \$1,000,
24 which includes:

25 (1) a counseling and services fee in an amount
26 necessary to cover the costs of counseling and services provided by
27 the program;

(2) a victim services fee in an amount equal to 10 percent of the total fee; and

(3) a law enforcement training fee in an amount equal to five percent of the total fee.

SECTION 3. Section 772.0061(a)(2), Government Code, as amended by Chapters 747 (S.B. 462) and 1167 (S.B. 484), Acts of the 83rd Legislature, Regular Session, 2013, is reenacted and amended to read as follows:

(2) "Specialty court" means:

(A) a commercially sexually exploited persons ~~[prostitution prevention]~~ program established under Chapter 126 or former law ~~[Chapter 169A, Health and Safety Code]~~;

(B) a family drug court program established under Chapter 122 or former law;

(C) ~~[(B)]~~ a drug court program established under Chapter 123 or former law;

(D) ~~[(C)]~~ a veterans court program established under Chapter 124 or former law; and

(E) ~~[(D)]~~ a mental health court program established under Chapter 125 or former law.

SECTION 4. To the extent of any conflict, this Act prevails over another Act of the 84th Legislature, Regular Session, 2015, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this
2 Act takes effect September 1, 2015.