

1-1 By: Whitmire S.B. No. 536
1-2 (In the Senate - Filed February 10, 2015;
1-3 February 18, 2015, read first time and referred to Committee on
1-4 Criminal Justice; March 19, 2015, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 6,
1-6 Nays 0; March 19, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Whitmire	X		
1-10	Huffman	X		
1-11	Burton	X		
1-12	Creighton	X		
1-13	Hinojosa	X		
1-14	Menéndez		X	
1-15	Perry	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 536 By: Whitmire

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the designation of certain prostitution prevention
1-20 programs as commercially sexually exploited persons court
1-21 programs.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Chapter 169A, Health and Safety Code, is
1-24 transferred to Subtitle K, Title 2, Government Code, as added by
1-25 Chapter 747 (S.B. 462), Acts of the 83rd Legislature, Regular
1-26 Session, 2013, redesignated as Chapter 126, Government Code, and
1-27 amended to read as follows:

1-28 CHAPTER 126. COMMERCIALLY SEXUALLY EXPLOITED PERSONS COURT [~~169A.~~
1-29 ~~PROSTITUTION PREVENTION~~] PROGRAM

1-30 Sec. 126.001 [~~169A.001~~]. COMMERCIALLY SEXUALLY EXPLOITED
1-31 PERSONS COURT [~~PROSTITUTION PREVENTION~~] PROGRAM; PROCEDURES FOR
1-32 CERTAIN DEFENDANTS. (a) In this chapter, "commercially sexually
1-33 exploited persons court" [~~"prostitution prevention" program~~] means
1-34 a program that has the following essential characteristics:

1-35 (1) the integration of services in the processing of
1-36 cases in the judicial system;

1-37 (2) the use of a nonadversarial approach involving
1-38 prosecutors and defense attorneys to promote public safety, to
1-39 reduce the demand for the commercial sex trade and trafficking of
1-40 persons by educating offenders, and to protect the due process
1-41 rights of program participants;

1-42 (3) early identification and prompt placement of
1-43 eligible participants in the program;

1-44 (4) access to information, counseling, and services
1-45 relating to sex addiction, sexually transmitted diseases, mental
1-46 health, and substance abuse;

1-47 (5) a coordinated strategy to govern program responses
1-48 to participant compliance;

1-49 (6) monitoring and evaluation of program goals and
1-50 effectiveness;

1-51 (7) continuing interdisciplinary education to promote
1-52 effective program planning, implementation, and operations; and

1-53 (8) development of partnerships with public agencies
1-54 and community organizations.

1-55 (b) If a defendant successfully completes a commercially
1-56 sexually exploited persons court [~~prostitution prevention~~]
1-57 program, regardless of whether the defendant was convicted of the
1-58 offense for which the defendant entered the program or whether the
1-59 court deferred further proceedings without entering an
1-60 adjudication of guilt, after notice to the state and a hearing on

whether the defendant is otherwise entitled to the petition, including whether the required time has elapsed, and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure under Section 411.081~~[Government Code]~~, as if the defendant had received a discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, with respect to all records and files related to the defendant's arrest for the offense for which the defendant entered the program.

Sec. 126.002 ~~[169A.002]~~. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY. (a) The commissioners court of a county or governing body of a municipality may establish a commercially sexually exploited persons court ~~[prostitution prevention]~~ program for defendants charged with an offense under Section 43.02(a)(1), Penal Code, in which the defendant offered or agreed to engage in or engaged in sexual conduct for a fee.

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

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

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

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

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

(2) allow any participant to withdraw from the program at any time before a trial on the merits has been initiated;

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

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

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

(1) a health care professional;

(2) a psychologist;

(3) a licensed social worker or counselor;

(4) a former prostitute;

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

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

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

(c) A program established under this chapter shall establish and publish local procedures to promote maximum participation of eligible defendants in programs established in the 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 court [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 court [prostitution prevention] program established under this chapter may collect from a participant in the program a nonrefundable program fee in a reasonable amount not to exceed \$1,000, from which the following must be paid:

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

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

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

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

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

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

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

(1) the county has a population of more than 200,000, and

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

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

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

(c) Notwithstanding Subsection (a), a county is required to establish a commercially sexually exploited persons court

[~~prostitution prevention~~] program under this section only if:

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

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

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

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

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

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

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

(1) a counseling and services fee in an amount necessary to cover the costs of counseling and services provided by 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 court [~~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 Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

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