

By: Hernandez

H.B. No. 761

A BILL TO BE ENTITLED

AN ACT

relating to protections under civil and criminal law for certain young victims of trafficking; increasing the penalty for trafficking of persons.

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

SECTION 1. Title 2, Family Code, is amended by adding Subtitle D to read as follows:

SUBTITLE D. SPECIAL DECLARATORY ACTIONS

CHAPTER 46. SPECIAL IMMIGRANT STATUS FOR CERTAIN VICTIMS OF

TRAFFICKING OF PERSONS

Sec. 46.001. DEFINITION. In this chapter, "young adult" means a person who is at least 18 years of age and younger than 21 years of age.

Sec. 46.002. PETITION FOR COURT DECLARATION. A young adult who is not a citizen or permanent resident of the United States and who has been a victim of conduct prohibited under Chapter 20A, Penal Code, may file a suit requesting the court to declare that the young adult has been abused, neglected, or abandoned and otherwise meets the requirements for special immigrant status as defined by 8 U.S.C. Section 1101(a)(27)(J). The suit may be filed in a court that has family law jurisdiction.

Sec. 46.003. COURT ORDER. The court, on presentation of proper evidence of a young adult's eligibility under this chapter, shall render an order declaring that:

1 (1) the young adult is court-dependent;

2 (2) reunification with one or both of the young adult's
3 parents is not viable due to abuse, neglect, or abandonment, as
4 defined by state or federal law; and

5 (3) it is not in the young adult's best interest to be
6 returned to the young adult's or the parent's previous country of
7 origin or country of last habitual residence.

8 Sec. 46.004. EXTENDED JURISDICTION. A court that renders
9 an order under this chapter may retain jurisdiction over the young
10 adult until the earliest of:

11 (1) the young adult's 21st birthday;

12 (2) the date the young adult is granted lawful
13 permanent resident status;

14 (3) the date an appeal of the denial of an application
15 for permanent residency based on a petition for special immigrant
16 status is denied; or

17 (4) if an appeal described by Subdivision (3) is not
18 filed, the day after the last day to file an appeal of the denial of
19 an application for permanent residency based on a petition for
20 special immigrant status.

21 SECTION 2. Chapter 51, Family Code, is amended by adding
22 Section 51.0414 to read as follows:

23 Sec. 51.0414. EXTENDED JURISDICTION. (a) This section
24 applies only to a person otherwise subject to the jurisdiction of
25 the court who:

26 (1) is not a citizen or permanent resident of the
27 United States; and

1 (2) has been a victim of conduct prohibited under
2 Chapter 20A, Penal Code.

3 (b) With respect to issues relating to the person's special
4 immigrant status, the court retains jurisdiction over a person to
5 whom this section applies if an application seeking special
6 immigrant status as defined by 8 U.S.C. Section 1101(a)(27)(J) has
7 been filed with the appropriate federal authority on behalf of the
8 person.

9 (c) The court retains jurisdiction under this section until
10 the earliest of:

11 (1) the person's 21st birthday;

12 (2) the date the person is granted lawful permanent
13 resident status;

14 (3) the date an appeal of the denial of an application
15 for permanent residency based on a petition for special immigrant
16 status is denied; or

17 (4) if an appeal described by Subdivision (3) is not
18 filed, the day after the last day to file an appeal of the denial of
19 an application for permanent residency based on a petition for
20 special immigrant status.

21 SECTION 3. Subchapter A, Chapter 155, Family Code, is
22 amended by adding Section 155.006 to read as follows:

23 Sec. 155.006. EXTENDED JURISDICTION. (a) If an
24 application seeking special immigrant status as defined by 8 U.S.C.
25 Section 1101(a)(27)(J) has been filed with the appropriate federal
26 authority on behalf of a child over whom the court has continuing,
27 exclusive jurisdiction, and if the child has been a victim of

1 conduct prohibited under Chapter 20A, Penal Code, the court may
2 extend the court's jurisdiction over the child after the child's
3 18th birthday until the earliest of:

4 (1) the child's 21st birthday;

5 (2) the date the child is granted lawful permanent
6 resident status;

7 (3) the date an appeal of the denial of an application
8 for permanent residency based on a petition for special immigrant
9 status is denied; or

10 (4) if an appeal described by Subdivision (3) is not
11 filed, the day after the last day to file an appeal of the denial of
12 an application for permanent residency based on a petition for
13 special immigrant status.

14 (b) The court's jurisdiction under this section is limited
15 to issues relating to the child's special immigrant status.

16 SECTION 4. Subchapter A, Chapter 262, Family Code, is
17 amended by adding Section 262.0021 to read as follows:

18 Sec. 262.0021. EXTENDED JURISDICTION. (a) If an
19 application seeking special immigrant status as defined by 8 U.S.C.
20 Section 1101(a)(27)(J) has been filed with the appropriate federal
21 authority on behalf of a child over whom the court has jurisdiction
22 under this subtitle, and if the child has been a victim of conduct
23 prohibited under Chapter 20A, Penal Code, the court may extend the
24 court's jurisdiction over the child after the child's 18th birthday
25 until the earliest of:

26 (1) the child's 21st birthday;

27 (2) the date the child is granted lawful permanent

1 resident status;

2 (3) the date an appeal of the denial of an application
3 for permanent residency based on a petition for special immigrant
4 status is denied; or

5 (4) if an appeal described by Subdivision (3) is not
6 filed, the day after the last day to file an appeal of the denial of
7 an application for permanent residency based on a petition for
8 special immigrant status.

9 (b) The court's jurisdiction under this section is limited
10 to issues relating to the child's special immigrant status.

11 SECTION 5. Section 20A.02, Penal Code, is amended by
12 amending Subsection (b) and adding Subsections (b-1) and (b-2) to
13 read as follows:

14 (b) ~~An [Except as otherwise provided by this subsection, an]~~
15 offense under Subsection (a)(1), (2), (3), or (4) ~~[this section]~~ is
16 a felony of the second degree. The minimum term of imprisonment
17 for that offense is increased to 10 years if the victim of the
18 offense is at least 18 years of age and younger than 21 years of age
19 at the time the offense is committed.

20 (b-1) Notwithstanding Subsection (b), an offense under
21 Subsection (a)(1), (2), (3), or (4) is a felony of the first degree
22 if the commission of the offense results in the death of the person
23 who is trafficked.

24 (b-2) An offense under ~~[this section is a felony of the~~
25 ~~first degree if:~~

26 ~~[(1) the applicable conduct constitutes an offense~~
27 ~~under]~~ Subsection (a)(5), (6), (7), or (8) is a felony of the first

1 degree, regardless of whether the actor knows the age of the child
2 at the time the actor commits the offense[~~; or~~
3 ~~[(2) the commission of the offense results in the~~
4 ~~death of the person who is trafficked]~~.

5 SECTION 6. Section 2(a), Article 38.37, Code of Criminal
6 Procedure, is amended to read as follows:

7 (a) Subsection (b) applies only to the trial of a defendant
8 for:

9 (1) an offense under any of the following provisions
10 of the Penal Code:

11 (A) Section 20A.02 (a)(7) or (8), if punishable as
12 a felony of the first degree under Section 20A.02(b-2)
13 [~~20A.02(b)(1)~~] (Sex Trafficking of a Child);

14 (B) Section 21.02 (Continuous Sexual Abuse of
15 Young Child or Children);

16 (C) Section 21.11 (Indecency With a Child);

17 (D) Section 22.011(a)(2) (Sexual Assault of a
18 Child);

19 (E) Sections 22.021(a)(1)(B) and (2) (Aggravated
20 Sexual Assault of a Child);

21 (F) Section 33.021 (Online Solicitation of a
22 Minor);

23 (G) Section 43.25 (Sexual Performance by a
24 Child); or

25 (H) Section 43.26 (Possession or Promotion of
26 Child Pornography) [~~Penal Code~~]; or

27 (2) an attempt or conspiracy to commit an offense

1 described by Subdivision (1).

2 SECTION 7. The change in law made by this Act applies only
3 to an offense committed on or after the effective date of this Act.
4 An offense committed before the effective date of this Act is
5 governed by the law in effect on the date the offense was committed,
6 and the former law is continued in effect for that purpose. For
7 purposes of this section, an offense was committed before the
8 effective date of this Act if any element of the offense occurred
9 before that date.

10 SECTION 8. This Act takes effect September 1, 2017.