

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 court 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 COURT [~~169A. PROSTITUTION PREVENTION~~] PROGRAM

Sec. 126.001 [~~169A.001~~]. COMMERCIALLY SEXUALLY EXPLOITED PERSONS COURT [~~PROSTITUTION PREVENTION~~] PROGRAM; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "commercially sexually exploited persons court [~~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;

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

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

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

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

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

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

14 (b) If a defendant successfully completes a commercially
15 sexually exploited persons court [~~prostitution prevention~~]
16 program, regardless of whether the defendant was convicted of the
17 offense for which the defendant entered the program or whether the
18 court deferred further proceedings without entering an
19 adjudication of guilt, after notice to the state and a hearing on
20 whether the defendant is otherwise entitled to the petition,
21 including whether the required time has elapsed, and whether
22 issuance of the order is in the best interest of justice, the court
23 shall enter an order of nondisclosure under Section [411.081](#)[~~7~~
24 ~~Government Code~~], as if the defendant had received a discharge and
25 dismissal under Section 5(c), Article [42.12](#), Code of Criminal
26 Procedure, with respect to all records and files related to the
27 defendant's arrest for the offense for which the defendant entered

1 the program.

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

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

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

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

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

27 (1) ensure that a person eligible for the program is

1 provided legal counsel before volunteering to proceed through the
2 program and while participating in the program;

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

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

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

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

14 (1) a health care professional;

15 (2) a psychologist;

16 (3) a licensed social worker or counselor;

17 (4) a former prostitute;

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

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

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

27 (c) A program established under this chapter shall

1 establish and publish local procedures to promote maximum
2 participation of eligible defendants in programs established in the
3 county or municipality in which the defendants reside.

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

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

14 [~~(c)~~] A legislative committee may require a county that does
15 not establish a commercially sexually exploited persons court
16 [~~prostitution prevention~~] program under this chapter due to a lack
17 of sufficient funding, as provided by Section 126.007(c)
18 [~~169A.0055(c)~~], to provide the committee with any documentation in
19 the county's possession that concerns federal or state funding
20 received by the county.

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

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

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

27 Sec. 126.006 [~~169A.005~~]. FEES. (a) A commercially

1 sexually exploited persons court [~~prostitution prevention~~] program
2 established under this chapter may collect from a participant in
3 the program a nonrefundable program fee in a reasonable amount not
4 to exceed \$1,000, from which the following must be paid:

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

8 (2) a victim services fee in an amount equal to 10
9 percent of the amount paid under Subdivision (1), to be deposited to
10 the credit of the general revenue fund to be appropriated only to
11 cover costs associated with the grant program described by Section
12 531.383 [~~Government Code~~]; and

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

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

24 Sec. 126.007 [~~169A.0055~~]. PROGRAM IN CERTAIN COUNTIES
25 MANDATORY. (a) If a municipality in the county has not
26 established a commercially sexually exploited persons court
27 program, the [~~The~~] commissioners court of a county with a

1 population of more than 200,000 shall:

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

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

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

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

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

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

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

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

26 (2) the judge, magistrate, or coordinator receives the
27 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

1 based on the defendant's ability to pay and not to exceed \$1,000,
2 which includes:

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

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

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

10 SECTION 3. Section 772.0061(a)(2), Government Code, as
11 amended by Chapters 747 (S.B. 462) and 1167 (S.B. 484), Acts of the
12 83rd Legislature, Regular Session, 2013, is reenacted and amended
13 to read as follows:

14 (2) "Specialty court" means:

15 (A) a commercially sexually exploited persons
16 court [~~prostitution prevention~~] program established under Chapter
17 126 or former law [~~Chapter 169A, Health and Safety Code~~];

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

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

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

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

26 SECTION 4. To the extent of any conflict, this Act prevails
27 over another Act of the 84th Legislature, Regular Session, 2015,

1 relating to nonsubstantive additions to and corrections in enacted
2 codes.

3 SECTION 5. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2015.