

SB 249 STAFF MEASURE SUMMARY

House Committee On Judiciary

Prepared By: Josh Nasbe, Counsel

Meeting Dates: 5/3

WHAT THE MEASURE DOES:

Requires court to vacate conviction for prostitution if court finds, by clear and convincing evidence, that person was victim of sex trafficking at or around time of conduct underlying prostitution conviction. Defines "sex trafficking" as use of force, intimidation, fraud or coercion that causes person to engage, or attempt to engage in, commercial sex act. Allows motion to be filed at least 21 days after judgment of conviction entered and requires service on district attorney. Prescribes contents of motion and identifies nonexclusive list of evidence court may consider.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

A person commits the crime of prostitution if the person engages in, or offers or agrees to engage in, sexual conduct or sexual contact in return for a fee. During a trial for prostitution, the defense of duress may be available, if the defendant can demonstrate that the crime was committed because the defendant was coerced to do so through the use or threatened use of physical force sufficient to overcome earnest resistance.

Senate Bill 249-A applies to prostitution in a similar fashion after the criminal case is completed. The defendant may file a motion under the bill at least 21 days after the judgment of conviction is entered and the court is required to vacate the conviction if the court finds, by clear and convincing evidence, that the use of force, intimidation, fraud or coercion caused the person to engage in, or attempt to engage in, a commercial sex act, at or around the time of the conduct underlying the prostitution conviction.