

HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE H. PUBLIC HEALTH PROVISIONS

CHAPTER 169. FIRST OFFENDER SOLICITATION OF PROSTITUTION

PREVENTION PROGRAM

Sec. 169.001. FIRST OFFENDER SOLICITATION OF PROSTITUTION PREVENTION PROGRAM; PROCEDURES FOR CERTAIN DEFENDANTS. (a) In this chapter, "first offender solicitation of 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 eligible participants in the program;

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

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

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

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

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

(b) If a defendant successfully completes a first offender solicitation of prostitution prevention program, regardless of whether the defendant was convicted of the offense for which the defendant entered the program or whether the court deferred further proceedings without entering an 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 period has elapsed, and whether issuance of the order is in the best interest of justice, the court shall enter an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, Government Code, as if the defendant had received a discharge and dismissal under Article 42A.111, 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 if the defendant:

(1) has not been previously convicted of a felony offense; and

(2) is not convicted of any other felony offense before the second anniversary of the defendant's successful completion of the program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1289 (H.B. 1994), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.65, eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. 1902), Sec. 29, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 46, eff. September 1, 2021.

Sec. 169.002. AUTHORITY TO ESTABLISH PROGRAM; ELIGIBILITY.

(a) The commissioners court of a county or governing body of a municipality may establish a first offender solicitation of prostitution prevention program for defendants charged with an offense under Section 43.021, Penal Code.

(b) A defendant is eligible to participate in a first offender solicitation of prostitution prevention program established under this chapter only if:

(1) the attorney representing the state consents to the defendant's participation in the program; and

(2) the court in which the criminal case is pending finds that the defendant has not been previously convicted of:

(A) an offense under Section 20A.02, 43.02(b), as

that law existed before September 1, 2021, 43.021, 43.03, 43.031, 43.04, 43.041, or 43.05, Penal Code;

(B) an offense listed in Article [42A.054\(a\)](#), Code of Criminal Procedure; or

(C) an offense punishable as a felony under Chapter [481](#).

(c) For purposes of Subsection (b), a defendant has been previously convicted of an offense listed in that subsection if:

(1) the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision; or

(2) the defendant was convicted under the laws of another state for an offense containing elements that are substantially similar to the elements of an offense listed in Subsection (b).

(d) A defendant is not eligible to participate in the first offender solicitation of prostitution prevention program if the defendant offered or agreed to hire a person to engage in sexual conduct and the person was younger than 18 years of age at the time of the offense.

(e) The court in which the criminal case is pending shall allow an eligible defendant to choose whether to participate in the first offender solicitation of prostitution prevention program or otherwise proceed through the criminal justice system.

(f) If a defendant who chooses to participate in the first offender solicitation of prostitution prevention program fails to attend any portion of the program, the court in which the defendant's criminal case is pending shall issue a warrant for the defendant's arrest and proceed on the criminal case as if the defendant had chosen not to participate in the program.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1289 (H.B. [1994](#)), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.66,

eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 1273 (S.B. 825), Sec. 5, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 3.10, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 47, eff. September 1, 2021.

Sec. 169.003. PROGRAM POWERS AND DUTIES. (a) A first offender solicitation of 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 classroom instruction related to the prevention of the solicitation 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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1289 (H.B. 1994), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 48, eff. September 1, 2021.

Sec. 169.004. 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 first offender solicitation 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 first offender solicitation of prostitution prevention program established under this chapter.

(c) A first offender solicitation of 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.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1289 (H.B. 1994), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 49, eff. September 1, 2021.

Sec. 169.005. REIMBURSEMENT FEES. (a) A first offender solicitation of prostitution prevention program established under this chapter may collect from a participant in the program a nonrefundable reimbursement fee for the program in a reasonable

amount not to exceed \$1,000, from which the following must be paid:

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

(2) a law enforcement training reimbursement 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) Reimbursement 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 program director administering the first offender solicitation of prostitution prevention program. The fees must be based on the participant's ability to pay.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1289 (H.B. 1994), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1352 (S.B. 346), Sec. 2.51, eff. January 1, 2020.

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 49, eff. September 1, 2021.

Sec. 169.006. SUSPENSION OR DISMISSAL OF COMMUNITY SERVICE REQUIREMENT. (a) To encourage participation in a first offender solicitation of 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 first offender solicitation of prostitution prevention program, a judge or magistrate may excuse the participant from any condition of community supervision previously suspended under Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1289 (H.B. 1994), Sec. 1,

eff. June 17, 2011.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. [1540](#)), Sec. 49, eff.
September 1, 2021.