

PROTECT SURVIVORS

THE CURRENT TEXAS DURESS DEFENSE DOES NOT ALLOW JURIES TO CONSIDER THE COERCION THAT VICTIMS OF TRAFFICKING AND DOMESTIC VIOLENCE FACE.

The **affirmative defense of duress** is intended to **absolve victims** who are **forced to commit a crime**. However, the current Texas duress statute only provides an affirmative defense to prosecution if the force or threat of force would render **a person of reasonable firmness** incapable of resisting the pressure.

--A "person of reasonable firmness" may not include someone who has become **more susceptible to coercion** because of a traumatic event like **sex trafficking** or **intimate partner violence**.

--This **narrow definition** of compulsion prevents courts from considering the complete picture of a duress-inducing threat.

--Currently, **a victim of sex trafficking** on trial for committing a crime that she was coerced into committing by her trafficker **may not introduce evidence of the history of victimization**.

This limited definition of duress is criminalizing victims and producing unjust consequences.



Texas taxpayers pay

\$ 3,283,213,997

to fund Texas prisons.

Since 1980, the number of **women incarcerated** in Texas has **increased** by

986%

Current Penal Code

8.05(c): Compulsion within the meaning of this section exists only if the force or threat of force would render a person of reasonable firmness incapable of resisting the pressure.

Proposed Penal Code

8.05(c): Compulsion within the meaning of this section exists only if the force or threat of force would render a reasonable person **in the situation** of **the defendant** incapable of resisting the pressure.



SMU

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LONE STAR
JUSTICE ALLIANCE

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The current Texas duress statute betrays the fundamental purpose of the criminal justice system.

Purposes of Criminal Punishment

1. **Deterrence:** Punishment deters persons from committing crime for fear of the punishment.
2. **Retribution:** Punishment prevents persons sense of outrage and need for revenge.
3. **Incapacitation:** Imprisonment prevents a criminal from harming society.

How the Texas Statute Falls Short

1. The fundamental purpose of duress is that the victim was not able to exercise their free will.
2. Punishing duress victims is cruel. Targeting a victim who acted against their own will is targeting the wrong actor.
3. Duress victims are not a danger to society. In contrast to their culpable counterparts, duress victims do not plot criminal activity.

