

CONFERENCE COMMITTEE REPORT

SB 335

2018 Regular Session

Mizell

May 16, 2018

To the Honorable President and Members of the Senate and to the Honorable Speaker and Members of the House of Representatives.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning Senate Bill No. 335 by Senator Mizell, recommend the following concerning the Reengrossed bill:

1. That the House Floor Amendments Nos. 1 and 2 proposed by Representative Stokes and adopted by the House of Representatives on May 10, 2018 be adopted.
2. That the House Floor Amendment No. 3 proposed by Representative Stokes and adopted by the House of Representatives on May 10, 2018 be rejected.
3. That the following amendment to the reengrossed bill be adopted:

AMENDMENT NO. 1

On page 6, delete lines 9 and 10 in their entirety and insert the following:

"Notwithstanding the provisions of R.S. 15:571.11, when a fine is imposed pursuant to the provisions of R.S. 14:82.2(C) or 83(B)(1), (2), or (3), the sheriff or executive officer of the court shall distribute five hundred dollars or one-half of the fine, whichever is greater, pursuant to the provisions of R.S. 15:571.11 and the remainder of the fine shall be distributed as follows:"

Respectfully submitted,

Senators:

Representatives:

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Senator Beth Mizell

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Representative Julie Stokes

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Senator Dan Claitor

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Representative Sherman Mack

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Senator Regina Barrow

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Representative Valarie Hodges

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The legislative instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla Roberts.

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**CONFERENCE COMMITTEE REPORT DIGEST**

**SB 335**

**2018 Regular Session**

**Mizell**

**Keyword and summary of the bill as proposed by the Conference Committee**

CRIME/PUNISHMENT. Provides for penalties for persons convicted for soliciting prostitutes. (8/1/18)

**Report adopts House amendments to:**

1. Reduces the fine for a first offence violation from not less than \$1,000 to not less than \$750.

**Report rejects House amendments which would have:**

1. Provided that the fines be distributed 50% to the administration of the court and the other 50% to be divided between the district attorney and the sheriff or law enforcement agency that made the arrest.

**Report amends the bill to:**

1. Provides that the first \$500 or 50% of the fine, whichever is greater, shall be distributed by the sheriff or the executive officer of the court for the administration of the court and the remainder of the fine shall be distributed as follows:
  - (a) 25% to the sheriff or law enforcement agency that made the arrest to be used for training officers in recognizing and preventing human trafficking.
  - (b) 25% to the district attorney, in furtherance of the administration of justice in the district and to prevent future recidivism, to be paid to a program for victim services that counsels, treats, and helps victims of human trafficking or those who are charged or convicted of prostitution.

**Digest of the bill as proposed by the Conference Committee**

SB 335 Reengrossed

2018 Regular Session

Mizell

Present law prohibits the purchase of commercial sexual activity. Present law prohibits a person who knowingly gives, agrees to give, or offers to give anything of value to another in order to engage in sexual intercourse with a person who receives or agrees to receive anything of value as compensation for such activity. Present law defines "sexual intercourse" to mean anal, oral, or vaginal intercourse or any other sexual activity constituting a crime pursuant to the laws of this state.

Present law provides that whoever violates the provisions of present law will be fined not more than \$500 or be imprisoned for not more than six months, or both. Present law provides, on a second conviction, the offender shall be fined not less than \$250 nor more than \$2000, with or without hard labor, for not more than two years, or both. Present law provides, on a third and subsequent conviction, the offender shall be imprisoned, with or without hard labor, for not less than two nor more than four years and shall be fined not less than \$500 nor more than \$4,000. Present law provides that, if the victim is under the age of 18, or a victim of human trafficking, the offender will be fined not more than \$50,000, imprisoned at hard labor for not less than 15 years nor more than 50 years, or both.

Present law provides that, if the victim is under the age of 14, the offender will be fined not more than \$75,000, imprisoned at hard labor for not less than 25 years nor more than 50 years, or both.

Proposed law retains present law but increases the fines for the purchase of commercial sexual activity, as follows:

- (1) 1st offense - Increases the fine from a maximum of \$500 to \$750.
- (2) 2nd offense - Increases the minimum fine from not less than \$250 to not less than \$1,500.
- (3) 3rd offense - Increases the minimum fine from not less than \$500 to not less than \$2,500.
- (4) When the offender knows that the victim is under the age of 18 or known to be a victim of human trafficking, the minimum fine is set at \$3,000.
- (5) When the offender knows that the victim is under the age of 14, the minimum fine is set at \$5,000.

Proposed law provides that the first \$500 or 50% of the fine, whichever is greater, shall be distributed by the sheriff or the executive officer of the court for the administration of the court and the remainder of the fine shall be distributed as follows:

- (1) 25% to the sheriff or law enforcement agency that made the arrest to be used for training officers in recognizing and preventing human trafficking.
- (2) 25% to the district attorney, in furtherance of the administration of justice in the district and to prevent future recidivism, to be paid to a program for victim services that counsels, treats, and helps victims of human trafficking or those who are charged or convicted of prostitution.

Proposed law provides that, in addition to a fine or jail term, the court will order the offender to complete the Buyer Beware Program to educate offenders about the harms, exploitation, and negative effects of prostitution. In furtherance of the administration of justice in the judicial district and to prevent future recidivism, the court shall impose additional court costs in the amount of \$200 to defer the costs of the program, with the proceeds of the fine being paid to the operator of the Buyer Beware Program.

Present law prohibits soliciting for prostitutes. Present law defines soliciting for prostitutes as the soliciting, inviting, inducing, directing, or transporting a person to any place with the intention of promoting prostitution.

Present law provides that, whoever violates the provisions of present law will be fined not more than \$500, imprisoned for not more than six months, or both. Present law provides that whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of 18 years shall be fined not more than \$50,000, imprisoned at hard labor for not less than 15 years nor more than 50 years, or both. Present law provides that, whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of 14 shall be fined not more than \$75,000, imprisoned at hard labor for not less than 25 years nor more than 50 years, or both.

Proposed law retains present law but increases the fines for soliciting for prostitutes, as follows:

- (1) 1st offense - Increases the fine from a maximum of \$500 to \$750.
- (2) 2nd or subsequent offense - Adds an additional fine of not less than \$1,500 to not less than \$2,000.
- (3) When the offender is under the age of 18 or known to be a victim of human trafficking, the minimum fine is set at \$3,000.
- (5) When the victim is a minor under the age of 14, the minimum fine is set at \$5,000.

Proposed law provides that the first \$500 or 50% of the fine, whichever is greater, shall be distributed by the sheriff or the executive officer of the court for the administration of the

court and the remainder of the fine shall be distributed as follows:

- (1) 25% to the sheriff or law enforcement agency that made the arrest to be used for training officers in recognizing and preventing human trafficking.
- (2) 25% to the district attorney, in furtherance of the administration of justice in the district and to prevent future recidivism, to be paid to a program for victim services that counsels, treats, and helps victims of human trafficking or those who are charged or convicted of prostitution.

Present law provides that the district attorney for each judicial district, alone or in conjunction with the district attorney of an adjacent judicial district, may create and administer a diversion program for defendants charged with an offense in which the defendant engaged in the purchase of sexual activity unless the offense involves the purchase of sexual activity from a minor. Present law provides that, at the discretion of the district attorney, after any costs associated with the administration of the program are paid, a portion of all monies collected pursuant to the provisions of proposed law may be distributed to entities within their judicial district, or within the judicial districts participating in the program, that provide rehabilitative services and treatment to victims of offenses involving human trafficking and trafficking of children for sexual purposes.

Proposed law authorizes district attorneys, at their discretion, to be the operator of the program using his own office personnel or he may choose a vendor as the operator of the program.

Proposed law retains present law but names the program the Buyer Beware program and provides that the program will not only be for pre-trial diversion but shall also be a requirement for post conviction sentencing.

Proposed law retains present law but clarifies that the Buyer Beware program will be established to educate the defendant or the offenders about the harms, exploitation, and negative effects of prostitution.

Proposed law provides that, if the district attorney fails to develop a program alone or in conjunction with the district attorney of an adjacent judicial district, the court shall order that the offender, who is sentenced for the purchasing of commercial sexual activity or for soliciting for prostitutes, to attend a certain number of sexual addiction recovery meetings with a local recovery group.

Proposed law provides that, if the district attorney fails to develop a program alone or in conjunction with the district attorney of an adjacent judicial district and there is no local recovery group for sexual addiction within the judicial district or within a 50-mile radius of the offender's home, the court shall order that the offender, who is sentenced for the purchasing of commercial sexual activity or for soliciting for prostitutes, to complete an online course which educates defendants or offenders about the harms, exploitation, and negative effects of prostitution.

Effective August 1, 2018.

(Amends R.S. 14:82.2 and 83 and R.S. 15:243; adds R.S. 15:539.4)