
DIGEST

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HB No. 1025

Abstract: Provides relative to human trafficking, trafficking of children for sexual purposes, and offenses involving commercial sexual exploitation, and provides relative to the victims of these offenses.

Present law provides for the crime of human trafficking, trafficking of children for sexual purposes, and other offenses involving commercial sexual exploitation, and provides for services, restitution, and reparations to victims of these offenses.

Relative to minor victims of trafficking of children for sexual purposes, present law provides for an affirmative defense to prosecution for any offense committed by the minor as a direct result of being trafficked.

Present law provides for the creation of the Exploited Children's Special Fund and provides for the purpose and administration of monies in the fund.

Present law provides relative to the admissibility of evidence regarding the past sexual behavior of victims in cases of sexual assault.

Present law provides for the confidentiality of the identity of victims of certain sex offenses and minor victims.

Present law authorizes the filing of a motion for new trial under certain conditions.

With regard to the crimes of human trafficking, trafficking of children for sexual purposes, and other offenses involving commercial sexual exploitation, and relative to the victims of these offenses, proposed law does all of the following:

- (1) Creates the crime of unlawful purchase of commercial sexual activity, provides penalties for commission of the offense, and requires certain persons convicted of the offense to register as a sex offender and provide notification pursuant to present law.
- (2) Expands present law crimes of human trafficking and trafficking of children for sexual purposes to include the act of receiving, isolating, and enticing another person in order to engage in the prohibited activity.
- (3) Clarifies the definition of "coercion" or "coerce" relative to the crimes of human

trafficking, pornography involving juveniles, and computer-aided solicitation of a minor.

- (4) Relative to victims of human trafficking involving services that include commercial sexual activity or any sexual contact which constitutes a crime in this state, provides for an affirmative defense to prosecution for certain offenses committed by the victim as a direct result of being trafficked and requires any person seeking to raise the defense to provide notice to the state at least 45 days prior to trial.

- (5) Provides that any person who raises the affirmative defense provided by present and proposed law, and who is determined to be a victim of human trafficking or trafficking of children for sexual purposes, shall be notified of any treatment or specialized services that are available for such victims.
- (6) Expands the crime to prohibit use of a computer to solicit a person to engage in commercial sexual activity.
- (7) Provides for the forfeiture of certain property used in the commission of certain offenses involving commercial sexual exploitation and provides for the deposit of monies realized from the sale of such property into the Exploited Children's Special Fund.
- (8) Amends the purpose for use of monies in the Exploited Children's Special Fund to include an appropriation, up to 50% of the fund, to the La. Commission on Law Enforcement and the Administration of Criminal Justice for the purpose of providing training to law enforcement on human trafficking and trafficking of children for sexual purposes.
- (9) Requires the Council on Peace Officer Standards and Training to provide a training course for these purposes.
- (10) Expands the list of crimes for which a person convicted of certain offenses is required to make mandatory restitution to the victim.
- (11) Authorizes the district attorney to establish a diversion program for defendants engaged in the purchase of sexual activity and provides relative to monies collected from such programs.
- (12) Authorizes the interception of wire, electronic, or oral communications in investigations of certain offenses involving commercial sexual exploitation.
- (13) For the purpose of victim's reparations, clarifies that the definition of "victim" includes any person who is a victim of human trafficking, trafficking of children for sexual purposes, or a victim of any offense involving commercial sexual exploitation.
- (14) Provides for the confidentiality of the identity of victims of human trafficking-related offenses.
- (15) Provides relative to the admissibility of evidence of the past sexual behavior of a victim of human trafficking or trafficking of children for sexual purposes and of statements made by these victims during the course of an investigation.
- (16) Authorizes the filing of a motion for new trial within three years of a verdict or judgment for certain offenses which were committed as a direct result of being a victim of human trafficking or trafficking of children for sexual purposes.

- (17) Amends the present law definition of "abuse" for purposes of classifying a child as a child in need of care pursuant to present law.
- (18) Adds victims of commercial sexual exploitation, human trafficking, or trafficking of children for sexual purposes perpetrated by any person regardless of their relationship to the child to the list of grounds for which a child may be declared to be a child in need of care. Provides that this provision shall not become effective until a child, who is a victim of commercial sexual exploitation, human trafficking, or trafficking of children for sexual purposes perpetrated by someone other than a parent or caretaker, becomes an eligible victim for which federal match funds are available through Title IV-E of 47 U.S.C. 672.
- (19) With regard to certain adult trafficking victims referred to DCFS, requires DCFS to refer the person to the appropriate department, agency, or entity to provide the person with certain services.
- (20) Provides that any private entity who provides services to adult or child victims of human trafficking or trafficking of children for sexual purposes pursuant to present law or proposed law shall report annually on their operations.
- (21) Expands the definition of "racketeering activity" to include pornography involving juveniles; computer-aided solicitation of a minor; prostitution, persons under eighteen; soliciting for prostitutes; inciting prostitution; promoting prostitution; letting premises for prostitution; enticing persons into prostitution; keeping a disorderly place; letting a disorderly place; and operation of places of prostitution.

(Amends R.S. 14:46.2(A)(1), (C)(2), and (D), 46.3(A)(1), (C)(3), and (E), 81.1(B)(3), (4), (5), (6), (7), and (8), 81.3(A)(3) and (D), 82(G), 83.3(D), 83.4(C), 86(C), 89(C), and 89.2(D)(1), R.S. 15:539.1(A) and (E)(intro. para.), 539.2(B), 539.3(A)(intro. para.), 541(2)(o), (12)(b), (24)(a), and (25)(c) - (n), and 1352(A)(intro. para.), R.S. 46:1802(10)(a), 1805(A), 1809(B)(4)(a), and 1844(W)(intro. para.), (1)(a) and (b), (2), and (3), C.E. Art. 412(A), (B), (C)(1), and (E)(1), C.Cr.P. Arts. 851 and 853, and Ch.C. Arts. 603(2)(b) and (c), and 725.2; Adds R.S. 14:46.2(C)(3) and (4) and (F), 81.1(B)(9), (10), and (11), 81.3(A)(4), 82.1(D)(4) and (F), 82.2, 83(B)(4), 83.1(B)(4), 83.2(B)(4), 84(B)(4), 85(B)(4), 89.2(D)(5), 104(B)(4), 105(B)(4), and 282(B)(4), R.S. 15:243, 541(2)(p) and (q), 1308(A)(2)(s), and 1352(A)(52), (53), (54), (55), (56), (57), (58), (59), (60), (61), and (62), R.S. 40:2405.7, R.S. 46:1805(B)(3), 2161(C), and 2161.1, C.E. Art. 412.3, C.Cr.P. Art. 855.1, and Ch.C. Art. 603(9.1) and 606(A)(7); Repeals R.S. 15:541(25)(o))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Amended the definition of "coerce" to provide that it shall include but not be limited to the list of examples provided in present and proposed law.

2. Amended the affirmative defense for adult victims of trafficking to provide that the defense only applies to certain offenses and that person must give notice to the state at least 45 days prior to trial of the intention to raise the defense.
3. Deleted the changes in proposed law to the elements of the crime of computer-aided solicitation of a minor.
4. Added as an element of the offense of purchase of commercial sexual activity that the offender engage in the activity with a person the offender knew to be under the age of 18 or knew to be a victim of human trafficking.
5. Added a provision to the offense of purchase of commercial sexual activity which states that it shall not be a defense to prosecution that the person whom the offender seeks to purchase the sexual activity from is actually a law enforcement officer or peace officer acting in the official scope of his duties.

6. Amended sex offender registration and notification provisions for commercial sexual exploitation offenses that require registration and notification pursuant to present law and places the proposed law crime of purchase of commercial sexual activity into the definition of "sex offense" and "aggravated offense" when the offense involves a person who is under the age of 18 or a victim of human trafficking.
7. Amended the proposed law provision regarding the admissibility of inculpatory statements made by victims of human trafficking.
8. Removed the proposed law motion to vacate provisions regarding a conviction for victims of trafficking, and amended the present law provisions regarding motion for new trial to add as a ground for such motion that the defendant was a victim of trafficking at the time of the offense and for that reason committed the offense.