

SENATE BILL NO. 335

BY SENATORS MIZELL, ALARIO, BARROW, ERDEY, GATTI, HEWITT, JOHNS, LAMBERT, LONG, MARTINY, MILKOVICH, MILLS, PRICE, RISER, JOHN SMITH, TARVER, THOMPSON, WALSWORTH, WARD AND WHITE AND REPRESENTATIVES AMEDEE, BACALA, BAGLEY, BARRAS, TERRY BROWN, ROBBY CARTER, CHANEY, EDMONDS, GAROFALO, HAZEL, HODGES, HOFFMANN, HORTON, HOWARD, IVEY, MCFARLAND, STOKES, THOMAS AND WHITE

1 AN ACT

2 To amend and reenact R.S. 14:82.2 and 83 and R.S. 15:243 and to enact R.S. 15:539.4,
3 relative to prostitution; to provide for the crime of solicitation of prostitution; to
4 provide for the crime of purchase of commercial sexual activity; to provide for fines;
5 to provide for the distribution of fines; to provide for court costs; to provide for a
6 program to educate defendants and offenders; to provide for the Buyer Beware
7 Program to educate relative to the negative effects of prostitution; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 14:82.2 and 83 are hereby amended and reenacted to read as follows:

11 §82.2. Purchase of commercial sexual activity; penalties

12 A. It shall be unlawful for any person to knowingly give, agree to give, or
13 offer to give anything of value to another in order to engage in sexual intercourse
14 with a person who receives or agrees to receive anything of value as compensation
15 for such activity.

16 B. For purposes of this Section, "sexual intercourse" means anal, oral, or
17 vaginal intercourse or any other sexual activity constituting a crime pursuant to the
18 laws of this state.

19 C.(1) Whoever violates the provisions of this Section shall be fined not more
20 than ~~five~~ **seven** hundred ~~fifty~~ dollars or be imprisoned for not more than six months,
21 or both, **and one-half of the fines collected shall be distributed in accordance**
22 **with R.S. 15:539.4.**

23 (2) On a second conviction, the offender shall be fined not less than ~~two~~

1 ~~hundred fifty~~ **one thousand five hundred** dollars nor more than two thousand
2 dollars or be imprisoned, with or without hard labor, for not more than two years, or
3 both, **and one-half of the fines collected shall be distributed in accordance with**
4 **R.S. 15:539.4.**

5 (3) On a third and subsequent conviction, the offender shall be imprisoned,
6 with or without hard labor, for not less than two nor more than four years and shall
7 be fined not less than **two thousand** five hundred dollars nor more than four
8 thousand dollars **and one-half of the fines collected shall be distributed in**
9 **accordance with R.S. 15:539.4.**

10 (4) Whoever violates the provisions of this Section with a person the offender
11 knows to be under the age of eighteen years, or with a person the offender knows to
12 be a victim of human trafficking as defined by R.S. 14:46.2 or trafficking of children
13 for sexual purposes as defined by R.S. 14:46.3, shall be fined not **less than three**
14 **thousand nor** more than fifty thousand dollars, imprisoned at hard labor for not less
15 than fifteen years nor more than fifty years, or both, **and one-half of the fines**
16 **collected shall be distributed in accordance with R.S. 15:539.4.**

17 (5) Whoever violates the provisions of this Section with a person the offender
18 knows to be under the age of fourteen years shall be fined **not less than five**
19 **thousand and** not more than seventy-five thousand dollars, imprisoned at hard labor
20 for not less than twenty-five years nor more than fifty years, or both, **and one-half**
21 **of the fines collected shall be distributed in accordance with R.S. 15:539.4.**

22 D. **In addition to the penalties provided for in Subsection C of this**
23 **Section, the court shall order the offender to complete the Buyer Beware**
24 **Program, as provided for in R.S. 15:243, to educate the offender about the**
25 **harms, exploitation, and negative effects of prostitution. The court shall impose**
26 **additional court costs in the amount of two hundred dollars to defer the costs**
27 **of the program.**

28 **E.**(1) Any child under the age of eighteen determined to be a victim of this
29 offense shall be eligible for specialized services for sexually exploited children.

30 (2) Any person, eighteen years of age or older, determined to be a victim of

1 this offense shall be notified of any treatment or specialized services for sexually
2 exploited persons to the extent that such services are available.

3 ~~E.F.~~ It shall not be a defense to prosecution for a violation of this Section that
4 the person who receives or agrees to receive anything of value is actually a law
5 enforcement officer or peace officer acting within the official scope of his duties.

6 §83. Soliciting for prostitutes

7 A. Soliciting for prostitutes is the soliciting, inviting, inducing, directing, or
8 transporting a person to any place with the intention of promoting prostitution.

9 B.(1)(a) Whoever commits the crime of soliciting for prostitutes shall be
10 fined not more than ~~five~~ **seven** hundred ~~fifty~~ dollars, imprisoned for not more than
11 six months, or both, **and one-half of the fines collected shall be distributed in**
12 **accordance with R.S. 15:539.4.**

13 **(b) Whoever commits a second or subsequent offense for the crime of**
14 **soliciting for prostitutes shall be fined not less than one thousand five hundred**
15 **dollars nor more than two thousand dollars, imprisoned for not more than one**
16 **year, or both, and one-half of the fines collected shall be distributed in**
17 **accordance with R.S. 15:539.4.**

18 (2) Whoever commits the crime of soliciting for prostitutes when the person
19 being solicited is under the age of eighteen years shall be fined not **less than three**
20 **thousand dollars nor** more than fifty thousand dollars, imprisoned at hard labor for
21 not less than fifteen years nor more than fifty years, or both, **and one-half of the**
22 **fines collected shall be distributed in accordance with R.S. 15:539.4.**

23 (3) Whoever commits the crime of soliciting for prostitutes when the person
24 being solicited is under the age of fourteen years shall be fined not **less than five**
25 **thousand dollars nor** more than seventy-five thousand dollars, imprisoned at hard
26 labor for not less than twenty-five years nor more than fifty years, or both, **and**
27 **one-half of the fines collected shall be distributed in accordance with R.S.**
28 **15:539.4.**

29 (4) **In addition to the penalties provided for in Subsection B of this**
30 **Section, the court shall order the offender to complete the Buyer Beware**

1 Program, as provided for in R.S. 15:243, to educate the offender about the
2 harms, exploitation, and negative effects of prostitution. In furtherance of the
3 administration of justice in the judicial district and to prevent future recidivism,
4 the court shall impose additional court costs in the amount of two hundred
5 dollars to defer the costs of the program, with the proceeds of the fine being
6 paid to the operator of the Buyer Beware Program as provided for in R.S.
7 15:243.

8 (5)(a) In addition, the court shall order that the personal property used in the
9 commission of the offense, or the proceeds of any such conduct, shall be seized and
10 impounded, and after conviction, sold at public sale or public auction by the district
11 attorney, or otherwise distributed or disposed of, in accordance with R.S. 15:539.1.

12 (b) The personal property made subject to seizure and sale pursuant to
13 Subparagraph (a) of this Paragraph may include, but shall not be limited to,
14 electronic communication devices, computers, computer related equipment, motor
15 vehicles, photographic equipment used to record or create still or moving visual
16 images of the victim that are recorded on paper, film, video tape, disc, or any other
17 type of digital recording media, and currency, instruments, or securities.

18 Section 2. R.S. 15:243 is hereby amended and reenacted and R.S. 15:539.4 is hereby
19 enacted to read as follows:

20 §243. ~~Diversion~~ **Buyer Beware Program; post-conviction program for**
21 **offenders; pre-trial diversion** program for defendants; **individuals**
22 engaged in the purchase of sexual activity **and solicitation of**
23 **prostitutes**

24 A.(1) The district attorney for each judicial district, alone or in conjunction
25 with the district attorney of an adjacent judicial district, may create and administer
26 a ~~diversion~~ program for defendants charged, **or offenders convicted,** with an offense
27 in which the defendant engaged in the purchase of sexual activity, **including those**
28 **charged or convicted pursuant to R.S. 14:82.2 or R.S. 14:83. The program shall**
29 **educate the defendants or offenders about the harms, exploitation, and negative**
30 **effects of prostitution. The district attorney, at his discretion, may choose to be**

1 the operator of the program using his own office personnel or may choose a
 2 vendor as the operator of the program.

3 (2) The program may be offered, at the discretion of the district attorney,
 4 to an offender as part of a pre-trial diversion program unless the offense involves
 5 the purchase of sexual activity from a minor.

6 B. At the discretion of the district attorney, after any costs associated with the
 7 administration of the program are paid, a portion of all monies collected pursuant to
 8 the provisions of this Section may be distributed to entities within their judicial
 9 district, or within the judicial districts participating in the program, that provide
 10 rehabilitative services and treatment to victims of offenses involving human
 11 trafficking and trafficking of children for sexual purposes.

12 C. If the district attorney fails to develop a program, alone or in
 13 conjunction with the district attorney of an adjacent judicial district, the court
 14 shall order that the offender, who is sentenced pursuant to the provisions of R.S.
 15 14:82.2 or R.S. 14:83, attend a certain number of meetings for sexual addiction
 16 recovery with a local recovery group.

17 D. If the district attorney fails to develop a program, alone or in
 18 conjunction with the district attorney of an adjacent judicial district and there
 19 is no local recovery group for sexual addiction within the judicial district or
 20 within a fifty-mile radius of the offender's home, the court shall order the
 21 offender, who is sentenced pursuant to the provisions of R.S. 14:82.2 or R.S.
 22 14:83, to complete an online course which educates the offenders about the
 23 harms, exploitation, and negative effects of prostitution.

24 E. The program provided for in this Section shall be known as the
 25 "Buyer Beware Program".

26 * * *

27 §539.4. Fines related to solicitation of prostitutes and purchase of commercial
 28 sexual activity

29 Notwithstanding the provisions of R.S. 15:571.11, when a fine is imposed
 30 pursuant to the provisions of R.S. 14:82.2(C) or 83(B)(1), (2), or (3), the sheriff

1 or executive officer of the court shall distribute five hundred dollars or one-half
 2 of the fine, whichever is greater, pursuant to the provisions of R.S. 15:571.11
 3 and the remainder of the fine shall be distributed as follows:

4 (1) Fifty percent of the proceeds from the imposition of the fine to the
 5 sheriff or law enforcement agency that made the arrest to be used for training
 6 officers in recognizing and the preventing of human trafficking.

7 (2) Fifty percent of the proceeds from the imposition of the fine to the
 8 district attorney, in furtherance of the administration of justice in the judicial
 9 district and to prevent future recidivism, to be paid to a program for victim
 10 services that counsels, treats, and helps victims of human trafficking or those
 11 who are charged or convicted of prostitution.

 PRESIDENT OF THE SENATE

 SPEAKER OF THE HOUSE OF REPRESENTATIVES

 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____