

Regular Session, 2014

HOUSE BILL NO. 1025

BY REPRESENTATIVES ABRAMSON, HODGES, AND STOKES AND SENATOR LONG

CRIMINAL/VICTIMS: Provides relative to human trafficking, trafficking of children for sexual purposes, and commercial sexual exploitation

1 AN ACT

2 To amend and reenact R.S. 14:46.2(A)(1), (C)(2), and (D), 46.3(A)(1), (C)(3), and (E),

3 81.1(B)(3), (4), (5), (6), (7), and (8), 81.3(A), (B)(1)(a) and (c), and (D), 82(G),

4 83.3(D), 83.4(C), 86(C), 89(C), and 89.2(D)(1), R.S. 15:539.1(A) and

5 (E)(introductory paragraph), 539.2(B), 539.3(A)(introductory paragraph), 541(12)(b)

6 and (25)(o), and 1352(A)(introductory paragraph), R.S. 46:1802(10)(a), 1805(A),

7 1809(B)(4)(a), and 1844(W)(introductory paragraph), (1)(a) and (b), (2), and (3),

8 Code of Evidence Article 412(A), (B), (C)(1), and (E)(1), and Children's Code

9 Articles 603(2)(b) and (c), and 725.2 and to enact R.S. 14:46.2(C)(3) and (4) and (F),

10 81.1(B)(9), (10), and (11), 82.1(D)(4) and (F), 82.2, 83(B)(4), 83.1(B)(4), 83.2(B)(4),

11 84(B)(4), 85(B)(4), 89.2(D)(5), 104(B)(4), 105(B)(4), and 282(B)(4), R.S. 15:243,

12 541(25)(p), 1308(A)(2)(s), and 1352(A)(52), (53), (54), (55), (56), (57), (58), (59),

13 (60), (61), and (62), R.S. 40:2405.7, R.S. 46:1805(B)(3), 2161(C), and 2161.1, Code

14 of Evidence Article 412.3, Code of Criminal Procedure Article 930.10, and

15 Children's Code Article 603(9.1) and 606(A)(7), relative to human trafficking,

16 trafficking of children for sexual purposes, and commercial sexual exploitation; to

17 provide relative to the crimes of human trafficking and trafficking of children for

18 sexual purposes; to provide relative to crimes involving the commercial sexual

19 exploitation of persons; to create the crime of unlawful purchase of commercial

1 sexual activity; to provide penalties for the offense; to require certain persons
2 convicted of the offense to register and provide notification as a sex offender; to
3 clarify the definition of "coercion" relative to human trafficking, pornography
4 involving juveniles, and computer-aided solicitation of a minor; to expand the
5 definition of human trafficking and trafficking of children for sexual purposes; to
6 provide relative to the confidentiality of victims of human trafficking-related
7 offense; to provide relative to the admissibility of evidence of the past sexual
8 behavior of a victim of human trafficking or trafficking of children for sexual
9 purposes; to provide relative to statements made by a victim of human trafficking or
10 trafficking of children for sexual purposes during the course of an investigation; to
11 provide for a motion to vacate certain convictions for certain prostitution-related
12 offenses; to provide relative to a victim's access to and eligibility for services; to
13 expand eligibility for services to certain child victims; to provide for a special
14 effective date for such expansion; to require private service providers who contract
15 with the state to provide annual reports on their operations; to provide relative to
16 victims of trafficking referred to the Department of Children and Family Services;
17 to expand the definition of "racketeering activity" to include certain offenses
18 involving commercial sexual exploitation; to provide for an affirmative defense to
19 prosecution for victims of human trafficking; to provide that such victims are eligible
20 for services; to expand the class of possible victims of crime of computer-aided
21 solicitation of a minor to include seventeen-year-olds; to expand the crime of
22 computer-aided solicitation of a minor to include soliciting the person to engage in
23 commercial sexual activity; to clarify the definition of "victim" for purposes of
24 victim's reparations; to authorize the interception of wire, electronic, or oral
25 communications in investigations of offenses involving commercial sexual
26 exploitation; to provide relative to the forfeiture of assets used in the commission of
27 certain trafficking-related offenses; to provide relative to the uses of monies
28 deposited into the Exploited Children's Special Fund; to provide for law enforcement
29 training; to require mandatory restitution for persons convicted of certain offenses

1 involving commercial sexual exploitation; to authorize the establishment of certain
2 diversion programs; to provide relative to the monies collected from such programs;
3 and to provide for related matters.

4 Be it enacted by the Legislature of Louisiana:

5 Section 1. R.S. 14:46.2(A)(1), (C)(2), and (D), 46.3(A)(1), (C)(3), and (E),
6 81.1(B)(3), (4), (5), (6), (7), and (8), 81.3(A), (B)(1)(a) and (c), and (D), 82(G), 83.3(D),
7 83.4(C), 86(C), 89(C), and 89.2(D)(1) are hereby amended and reenacted and R.S.
8 14:46.2(C)(3) and (4) and (F), 81.1(B)(9), (10), and (11), 82.1(D)(4) and (F), 82.2, 83(B)(4),
9 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)
10 are hereby enacted to read as follows:

11 §46.2. Human trafficking

12 A. It shall be unlawful:

13 (1) For any person to knowingly recruit, harbor, transport, provide, solicit,
14 receive, isolate, entice, obtain, or maintain the use of another person through fraud,
15 force, or coercion to provide services or labor.

16 * * *

17 C. For purposes of this Section:

18 * * *

19 (2) "Debt bondage" means inducing an individual to provide any of the
20 following:

21 (a) Commercial sexual activity in payment toward or satisfaction of a real
22 or purported debt.

23 (b) Labor or services in payment toward or satisfaction of a real or purported
24 debt if either of the following occur:

25 (i) The reasonable value of the labor or services provided is not applied
26 toward the liquidation of the debt.

27 (ii) The length of the labor or services is not limited and the nature of the
28 labor or services is not defined.

29 ~~(2)~~(3) "Fraud, force, or coercion" means any of the following:

1 (a) Causing or threatening to cause serious bodily injury;

2 (b) Physically restraining or threatening to physically restrain another
3 person;

4 (c) Abduction or threatened abduction of an individual.

5 (d) The use of a plan, pattern, or statement with intent to cause an individual
6 to believe that failure to perform an act will result in the use of force against,
7 abduction of, serious harm to, or physical restraint of an individual.

8 (e) The abuse or threatened abuse of law or legal process.

9 ~~(e)(f) Intentionally destroying, concealing, removing, confiscating, or~~
10 ~~possessing~~ The actual or threatened destruction, concealment, removal, confiscation,
11 or possession of any actual or purported passport or other immigration document, or
12 any other actual or purported government identification document, of another person;
13 or.

14 (g) Controlling or threatening to control an individual's access to a controlled
15 dangerous substance as set forth in R.S. 40:961 et seq.

16 (h) The use of an individual's physical or mental impairment, where such
17 impairment has substantial adverse effects on the individual's cognitive or volitional
18 functions.

19 (i) The use of debt bondage or civil or criminal fraud.

20 ~~(d)(j)~~ Extortion as defined in R.S. 14:66.

21 (4) "Labor or services" means activity having an economic value.

22 D. It shall not be a defense to prosecution for a violation of this Section that
23 the person being recruited, harbored, transported, provided, solicited, received,
24 isolated, enticed, obtained, or maintained is actually a law enforcement officer or
25 peace officer acting within the official scope of his duties.

26 * * *

27 F. A victim of trafficking involving services that include commercial sexual
28 activity or any sexual contact which constitutes a crime pursuant to the laws of this
29 state shall have an affirmative defense to prosecution for any unlawful acts

1 committed as a direct result of being trafficked. Any person determined to be a
2 victim pursuant to the provisions of this Paragraph shall be notified of any treatment
3 or specialized services for sexually exploited persons to the extent that such services
4 are available.

5 §46.3. Trafficking of children for sexual purposes

6 A. It shall be unlawful:

7 (1) For any person to knowingly recruit, harbor, transport, provide, sell,
8 purchase, receive, isolate, entice, obtain, or maintain the use of a person under the
9 age of eighteen years for the purpose of engaging in commercial sexual activity.

10 * * *

11 C.

12 * * *

13 (3) It shall not be a defense to prosecution for a violation of this Section that
14 the person being recruited, harbored, transported, provided, sold, purchased,
15 received, isolated, enticed, obtained, or maintained is actually a law enforcement
16 officer or peace officer acting within the official scope of his duties.

17 * * *

18 E. No victim of trafficking as defined by the provisions of this Section shall
19 be prosecuted for unlawful acts committed as a direct result of being trafficked. Any
20 child determined to be a victim pursuant to the provisions of this Subsection shall be
21 eligible for specialized services for sexually exploited children.

22 * * *

23 §81.1. Pornography involving juveniles

24 * * *

25 B. For purposes of this Section, the following definitions shall apply:

26 * * *

27 (3) "Coerce" means any of the following:

28 (a) Causing or threatening to cause serious bodily injury.

1 **(b) Physically restraining or threatening to physically restrain another**
2 **person.**

3 **(c) Abduction or threatened abduction of an individual.**

4 **(d) The use of a plan, pattern, or statement with intent to cause an individual**
5 **to believe that failure to perform an act will result in the use of force against,**
6 **abduction of, serious harm to, or physical restraint of an individual.**

7 **(e) The abuse or threatened abuse of law or legal process.**

8 **(f) The actual or threatened destruction, concealment, removal, confiscation,**
9 **or possession of any actual or purported passport or other immigration document, or**
10 **any other actual or purported government identification document, of another person.**

11 **(g) Controlling or threatening to control an individual's access to a controlled**
12 **dangerous substance as set forth in R.S. 40:961 et seq.**

13 **(h) The use of an individual's physical or mental impairment, where such**
14 **impairment has substantial adverse effects on the individual's cognitive or volitional**
15 **functions.**

16 **(i) The use of debt bondage or civil or criminal fraud.**

17 **(j) Extortion as defined in R.S. 14:66.**

18 **(4) "Debt bondage" means inducing an individual to provide any of the**
19 **following:**

20 **(a) Commercial sexual activity in payment toward or satisfaction of a real**
21 **or purported debt.**

22 **(b) Labor or services in payment toward or satisfaction of a real or purported**
23 **debt if either of the following occur:**

24 **(i) The reasonable value of the labor or services provided is not applied**
25 **toward the liquidation of the debt.**

26 **(ii) The length of the labor or services is not limited and the nature of the**
27 **labor or services is not defined.**

28 **(~~3~~)⁽⁵⁾ "Distribute" means to issue, sell, give, provide, lend, mail, deliver,**
29 **transfer, transmute, distribute, circulate, or disseminate by any means.**

1 sexual conduct in the presence of the person who has not yet attained the age of
2 ~~seventeen~~ eighteen, or person reasonably believed to have not yet attained the age
3 of ~~seventeen~~ eighteen.

4 (2) It shall also be a violation of the provisions of this Section when a person
5 seventeen years of age or older knowingly contacts or communicates, through the
6 use of electronic textual communication, with a person who has not yet attained the
7 age of ~~seventeen~~ eighteen where there is an age difference of greater than two years,
8 or a person reasonably believed to have not yet attained the age of ~~seventeen~~
9 eighteen and reasonably believed to be at least two years younger, for the purpose
10 of or with the intent to arrange for any third party to engage in any of the conduct
11 proscribed by the provisions of Paragraph (1) of this Subsection.

12 (3) It shall also be a violation of the provisions of this Section when a person
13 seventeen years of age or older knowingly contacts or communicates, through the
14 use of electronic textual communication, with a person who has not yet attained the
15 age of eighteen, or a person reasonably believed to have not yet attained the age of
16 eighteen, for the purpose of recruiting, enticing, or coercing the person to engage in
17 commercial sexual activity.

18 ~~(3)~~(4) It shall also be a violation of the provisions of this Section when the
19 contact or communication is initially made through the use of electronic textual
20 communication and subsequent communication is made through the use of any other
21 form of communication.

22 B.(1)(a) Whoever violates the provisions of this Section when the victim is
23 thirteen years of age or more but has not attained the age of ~~seventeen~~ eighteen shall
24 be fined not more than ten thousand dollars and shall be imprisoned at hard labor for
25 not less than five years nor more than ten years, without benefit of parole, probation,
26 or suspension of sentence.

27 * * *

28 (c) Whoever violates the provisions of this Section, when the victim is a
29 person reasonably believed to have not yet attained the age of ~~seventeen~~ eighteen,

1 shall be fined not more than ten thousand dollars and shall be imprisoned at hard
2 labor for not less than two years nor more than ten years, without benefit of parole,
3 probation, or suspension of sentence.

4 * * *

5 D. For purposes of this Section, the following words have the following
6 meanings:

7 (1) "Coerce" means any of the following:

8 (a) Causing or threatening to cause serious bodily injury.

9 (b) Physically restraining or threatening to physically restrain another
10 person.

11 (c) Abduction or threatened abduction of an individual.

12 (d) The use of a plan, pattern, or statement with intent to cause an individual
13 to believe that failure to perform an act will result in the use of force against,
14 abduction of, serious harm to, or physical restraint of an individual.

15 (e) The abuse or threatened abuse of law or legal process.

16 (f) The actual or threatened destruction, concealment, removal, confiscation,
17 or possession of any actual or purported passport or other immigration document, or
18 any other actual or purported government identification document, of another person.

19 (g) Controlling or threatening to control an individual's access to a controlled
20 dangerous substance as set forth in R.S. 40:961 et seq.

21 (h) The use of an individual's physical or mental impairment, where such
22 impairment has substantial adverse effects on the individual's cognitive or volitional
23 functions.

24 (i) The use of debt bondage or civil or criminal fraud.

25 (j) Extortion as defined in R.S. 14:66.

26 (2) "Debt bondage" means inducing an individual to provide any of the
27 following:

28 (a) Commercial sexual activity in payment toward or satisfaction of a real
29 or purported debt.

1 §82.1. Prostitution; persons under eighteen; additional offenses

2 * * *

3 D.

4 * * *

5 (4)(a) In addition, the court shall order that the personal property used in the
6 commission of the offense shall be seized and impounded, and after conviction, sold
7 at public sale or public auction by the district attorney in accordance with R.S.
8 15:539.1.

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

15 * * *

16 F. Any person determined to be a victim of this offense shall be eligible for
17 specialized services for sexually exploited children.

18 §82.2. Purchase of commercial sexual activity; penalties

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

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

26 C.(1) Whoever violates the provisions of this Section shall be fined not more
27 than five hundred dollars or be imprisoned for not more than six months, or both.

1 determined to be a victim pursuant to the provisions of this Paragraph shall be
2 notified of any treatment or specialized services for sexually exploited persons to the
3 extent that such services are available.

4 §84. Pandering

5 * * *

6 B.

7 * * *

8 (4)(a) In addition, the court shall order that the personal property used in the
9 commission of the offense shall be seized and impounded, and after conviction, sold
10 at public sale or public auction by the district attorney in accordance with R.S.
11 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 electronic
14 communication devices, computers, computer-related equipment, motor vehicles,
15 photographic equipment used to record or create still or moving visual images of the
16 victim that are recorded on paper, film, video tape, disc, or any other type of digital
17 recording media.

18 §85. Letting premises for prostitution

19 * * *

20 B.

21 * * *

22 (4)(a) In addition, the court shall order that the personal property used in the
23 commission of the offense shall be seized and impounded, and after conviction, sold
24 at public sale or public auction by the district attorney in accordance with R.S.
25 15:539.1.

26 (b) The personal property made subject to seizure and sale pursuant to
27 Subparagraph (a) of this Paragraph may include but shall not be limited to electronic
28 communication devices, computers, computer-related equipment, motor vehicles,
29 photographic equipment used to record or create still or moving visual images of the

1 victim that are recorded on paper, film, video tape, disc, or any other type of digital
2 recording media.

3 §86. Enticing persons into prostitution

4 * * *

5 C.(1) It shall not be a defense to prosecution for a violation of this Section
6 that the person being enticed is actually a law enforcement officer or peace officer
7 acting in his official capacity.

8 (2) It shall not be a defense to prosecution for a violation of this Section that
9 the person being enticed consented to the activity.

10 * * *

11 §89. Crime against nature

12 * * *

13 C.(1) It shall be an affirmative defense to prosecution for a violation of this
14 Section that, during the time of the alleged commission of the offense, the defendant
15 was a victim of trafficking of children for sexual purposes as provided in R.S.
16 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this
17 Paragraph shall be eligible for specialized services for sexually exploited children.

18 (2) It shall be an affirmative defense to prosecution for a violation of this
19 Section that, during the time of the alleged commission of the offense, the defendant
20 was a victim of human trafficking as provided in R.S. 14:46.2(F). Any person
21 determined to be a victim pursuant to the provisions of this Paragraph shall be
22 notified of any treatment or specialized services for sexually exploited persons to the
23 extent that such services are available.

24 * * *

25 §89.2. Crime against nature by solicitation

26 * * *

27 D.(1) It shall be an affirmative defense to prosecution for a violation of this
28 Section that, during the time of the alleged commission of the offense, the defendant
29 was a victim of trafficking of children for sexual purposes as provided in R.S.

1 and 1352(A)(52), (53), (54), (55), (56), (57), (58), (59), (60), (61), and (62) are hereby
2 enacted to read as follows:

3 §243. Diversion program for defendants engaged in the purchase of sexual activity

4 A. The district attorney for each judicial district, alone or in conjunction with
5 the district attorney of an adjacent judicial district, may create and administer a
6 diversion program for defendants charged with an offense in which the defendant
7 engaged in the purchase of sexual activity unless the offense involves the purchase
8 of sexual activity from a minor.

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

15 * * *

16 §539.1. Forfeited property related to certain sex crimes; exempt property; allocation
17 of forfeited property

18 A. When personal property is forfeited under the provisions of R.S. 14:40.3
19 (cyberstalking), R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of
20 children for sexual purposes), R.S. 14:80 (felony carnal knowledge of a juvenile),
21 R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (pornography involving
22 juveniles), R.S. 14:81.2 (molestation of a juvenile or a person with a physical or
23 mental disability), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S.
24 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83
25 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2
26 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for
27 prostitution), and R.S. 14:86 (enticing persons into prostitution), R.S. 14:104
28 (keeping a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282
29 (operation of places of prostitution; prohibited; penalty), the district attorney shall

1 authorize a public sale or a public auction conducted by a licensed auctioneer,
2 without appraisal, of that which is not required by law to be destroyed and which is
3 not harmful to the public.

4 * * *

5 E. Notwithstanding Subsection D of this Section, when the property ~~to be~~ is
6 forfeited ~~is related to human trafficking under~~ pursuant to the provisions of R.S.
7 14:46.2 ~~or trafficking of children for sexual purposes under~~ (human trafficking), R.S.
8 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography
9 involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S.
10 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83
11 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2
12 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for
13 prostitution), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping
14 a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282
15 (operation of places of prostitution), the proceeds of the public sale or public auction
16 shall be applied first to any restitution granted to the victim, after the costs of the
17 public sale or auction, court costs, and fees related to seizure and storage have been
18 satisfied. Any remaining proceeds shall be distributed in the following manner:

19 * * *

20 §539.2. Exploited Children's Special Fund

21 * * *

22 B.(1) There is established in the state treasury the Exploited Children's
23 Special Fund, hereinafter referred to as the "fund". Appropriations by the legislature
24 and all monetary assessments paid and interest accrued on funds collected pursuant
25 to Subsection A of this Section shall be deposited into the Bond Security and
26 Redemption Fund, and after a sufficient amount is allocated from the Bond Security
27 and Redemption Fund to pay all the obligations secured by the full faith and credit
28 of the state which become due and payable within any fiscal year, the treasurer shall
29 pay the remainder of such monies into the fund.

1 §541. Definitions

2 For the purposes of this Chapter, the definitions of terms in this Section shall
3 apply:

4 * * *

5 (12) "Criminal offense against a victim who is a minor" for the purposes of
6 this Chapter means conviction for the perpetration or attempted perpetration of or
7 conspiracy to commit any of the following offenses:

8 * * *

9 (b) A violation of any of the following provisions when the victim is under
10 eighteen years of age: R.S. 14:82.1, 82.2, 84(1), (3), (5), or (6), or 86, or R.S.
11 23:251(A)(4).

12 * * *

13 (25) "Sexual offense against a victim who is a minor" means a conviction for
14 the perpetration or attempted perpetration of, or conspiracy to commit, any of the
15 following:

16 * * *

17 (o) Purchase of commercial sexual activity with a person under the age of
18 eighteen years (R.S. 14:82.2).

19 ~~(p)~~(p) Any conviction for an offense under the laws of another state, or
20 military, territorial, foreign, tribal, or federal law which is equivalent to the offenses
21 listed in Subparagraphs (a) through ~~(n)~~ (o) of this Paragraph.

22 * * *

23 §1308. Authorization for interception of wire, electronic, or oral communications

24 A. The attorney general, or the deputy or any assistant attorney general
25 acting pursuant to the authorization of the attorney general, with the approval of the
26 district attorney or any assistant district attorney acting pursuant to the written
27 authorization of the district attorney in whose district the interception of wire,
28 electronic, or oral communications shall take place, and the district attorney or
29 authorized assistant district attorney, with the approval of the attorney general or

1 authorized deputy or assistant attorney general may authorize an application to a
2 judge in whose district the interception of wire, electronic, or oral communications
3 shall take place, and such judge may grant in conformity with R.S. 15:1310 an order
4 authorizing or approving the interception of wire, electronic, or oral communications
5 by an investigative or law enforcement officer having responsibility for the
6 investigation of the offense as to which the application is made, when such
7 interception may provide or has provided evidence of:

8 * * *

9 (2) The commission, attempted commission, or conspiracy to commit a
10 crime involving any of the following offenses:

11 * * *

12 (s) Commercial sexual exploitation of children including R.S. 14:81.1, 81.3,
13 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 292.

14 * * *

15 §1352. Definitions

16 ~~As used in this Chapter:~~

17 A. ~~"Racketeering~~ As used in this Chapter, "racketeering activity" means
18 committing, attempting to commit, conspiring to commit, or soliciting, coercing, or
19 intimidating another person to commit any crime that is punishable under the
20 following provisions of Title 14 of the Louisiana Revised Statutes of 1950, the
21 Uniform Controlled Dangerous Substances Law, or the Louisiana Securities Law:

22 * * *

23 (52) R.S. 14:81.1 (Pornography involving juveniles)

24 (53) R.S. 14:81.3 (Computer-aided solicitation of a minor)

25 (54) R.S. 14:82.1 (Prostitution; persons under eighteen; additional offenses)

26 (55) R.S. 14:83 (Soliciting for prostitutes)

27 (56) R.S. 14:83.1 (Inciting prostitution)

28 (57) R.S. 14:83.2 (Promoting prostitution)

29 (58) R.S. 14:85 (Letting premises for prostitution)

- 1 (59) R.S. 14:86 (Enticing persons into prostitution)
- 2 (60) R.S. 14:104 (Keeping a disorderly place)
- 3 (61) R.S. 14:105 (Letting a disorderly place)
- 4 (62) R.S. 14:282 (Operation of places of prostitution; prohibited; penalty)

5 * * *

6 Section 3. R.S. 40:2405.7 is hereby enacted to read as follows:

7 §2405.7. Human trafficking training

8 A. The council shall provide training for law enforcement agencies in
9 addressing human trafficking.

10 B. Such training shall focus on all of the following:

11 (1) Investigating human trafficking under R.S. 14:46.2.

12 (2) Investigating trafficking of children for sexual purposes under R.S.
13 14:46.3 and the special needs of sexually exploited children.

14 (3) Methods used in identifying United States citizen and foreign national
15 victims of human trafficking, including preliminary interview techniques and
16 appropriate questioning methods.

17 (4) Methods of increasing effective collaboration with non-governmental
18 organizations and other relevant social service organizations in the course of
19 investigating and prosecuting a human trafficking case.

20 (5) Methods for protecting the rights of victims of human trafficking, taking
21 into account the need to consider human rights and the special needs of female and
22 child victims.

23 (6) The necessity of treating victims of human trafficking as crime victims
24 rather than criminals.

25 (7) Methods for promoting the safety of victims of human trafficking.

26 C. The council shall seek input and participation of appropriate
27 non-governmental organizations and other relevant organizations in the preparation
28 and presentation of training called for in this Section.

1 Section 4. R.S. 46:1802(10)(a), 1805(A), 1809(B)(4)(a), and 1844(W)(introductory
2 paragraph), (1)(a) and (b), (2), and (3) are hereby amended and reenacted and R.S.
3 46:1805(B)(3), 2161(C), and 2161.1 are hereby enacted to read as follows:

4 §1802. Definitions

5 As used in this Chapter:

6 * * *

7 (10) "Victim" means:

8 (a) Any person who suffers personal injury, death, or catastrophic property
9 loss as a result of a crime committed in this state and covered by this Chapter. This
10 includes any person who is a victim of human trafficking as defined by R.S. 14:46.2,
11 a victim of trafficking of children for sexual purposes as defined by R.S. 14:46.3, or
12 a victim of any offense involving commercial sexual exploitation including but not
13 limited to R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86,
14 89.2, 104, 105, and 292.

15 * * *

16 §1805. Crimes to which Chapter applies

17 A. The board may make an award and order the payment of reparations for
18 pecuniary loss in accordance with the provisions of this Chapter for personal injury,
19 death, or catastrophic property loss resulting from any act or omission to act that is
20 defined as a misdemeanor under any local ordinance or as a crime under state or
21 federal law and involves the use of force or the threat of the use of force or any
22 human trafficking-related offense.

23 B.

24 * * *

25 (3) "Human trafficking-related offense" shall include the perpetration or
26 attempted perpetration of R.S. 14:46.2 or 46.3 or any other crime involving
27 commercial exploitation including R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2,
28 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 292.

29 * * *

1 §1809. Criteria for making awards; prohibitions; authority to deny or reduce awards

2 * * *

3 B. In making its determination, the following provisions shall apply:

4 * * *

5 (4) The board may deny or reduce an award:

6 (a) If it finds that the behavior of the victim at the time of the crime giving
7 rise to the claim was such that the victim bears some measure of responsibility for
8 the crime that caused the physical injury, death, or catastrophic property loss or for
9 the physical injury, death, or catastrophic property loss. However, such ineligibility
10 shall not apply if the claimant is a victim of ~~human trafficking or trafficking of~~
11 ~~children for sexual purposes~~ a human trafficking-related offense as defined by R.S.
12 46:1805.

13 * * *

14 §1844. Basic rights for victim and witness

15 * * *

16 W. Confidentiality of crime victims who are minors, ~~and~~ victims of sex
17 ~~offenses, and victims of human trafficking-related offenses.~~

18 (1)(a) In order to protect the identity and provide for the safety and welfare
19 of crime victims who are minors under the age of eighteen years and of victims of
20 sex offenses or human trafficking-related offenses, notwithstanding any provision
21 of law to the contrary, all public officials and officers and public agencies, including
22 but not limited to all law enforcement agencies, sheriffs, district attorneys, judicial
23 officers, clerks of court, the Crime Victims Reparations Board, and the Department
24 of Children and Family Services or any division thereof, shall not publicly disclose
25 the name, address, or identity of crime victims who at the time of the commission of
26 the offense are minors under eighteen years of age or of victims of sex offenses or
27 human trafficking-related offenses, regardless of the date of commission of the
28 offense. The confidentiality of the identity of the victim who at the time of the
29 commission of the offense is a minor under eighteen years of age or the victim of a

1 sex offense or human trafficking-related offense may be waived by the victim. The
2 public disclosure of the name of the juvenile crime victim by any public official or
3 officer or public agency is not prohibited by this Subsection when the crime resulted
4 in the death of the victim.

5 (b) In order to protect the identity and provide for the safety and welfare of
6 crime victims who are minors under the age of eighteen years and of victims of sex
7 offenses or human trafficking-related offenses, notwithstanding any provision of law
8 to the contrary, an attorney for any party shall be prohibited from publicly disclosing,
9 except during trial, the name, address, or identity of crime victims who at the time
10 of the commission of the offense are under eighteen years of age or are victims of
11 sex offenses or human trafficking-related offenses, regardless of the date of
12 commission of the offense. An attorney may lawfully utilize initials, abbreviations,
13 or other forms of indefinite descriptions on documents used in the performance of
14 their duties to prevent the public disclosure of the name, address, or identity of such
15 crime victims. If the name, address, or identity of such a crime victim must be
16 disclosed in a motion or pleading, that motion or pleading shall be filed with the
17 court requesting that it be kept under seal. Failure to comply with the provisions of
18 this Subparagraph shall be punishable as contempt of court.

19 * * *

20 (2) For purposes of this ~~Section~~, "sex Section:

21 (a) "Human trafficking-related offense" shall include the perpetration or
22 attempted perpetration of R.S. 14:46.2 or 46.3 or any other crime involving
23 commercial sexual exploitation including R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1,
24 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

25 (b) "Sex offense" shall include the perpetration or attempted perpetration of
26 stalking (R.S. 14:40.2), misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1),
27 obscenity (R.S. 14:106), or any offense listed in R.S. 15:541(24).

28 (3) Notwithstanding any other provision of law to the contrary, all public
29 officials, officers, and public agencies, including but not limited to all law

1 enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court,
 2 the Crime Victims Reparations Board, and the Department of Children and Family
 3 Services or any division thereof, charged with the responsibility of knowing the
 4 name, address, and identity of crime victims who are minors or of crime victims of
 5 a sex offense or a human trafficking-related offense as a necessary part of their
 6 duties shall have full and complete access to this information regarding a crime
 7 victim who is a minor or a victim of a sex offense or a human trafficking-related
 8 offense. Either prior to or at the time of a request for information, the public official
 9 or officer or public agency shall take measures to prevent the public disclosure of the
 10 name, address, or identity of such a crime victim who is a minor or a victim of a sex
 11 offense or human trafficking-related offense, which may include the use of initials,
 12 abbreviations, or any other form of concealing the identity of the victim on all public
 13 documents.

14 * * *

15 §2161. Human trafficking victims services plan

16 * * *

17 C. Each private entity that provides services to victims pursuant to the
 18 provisions of this Section shall submit to the Department of Children and Family
 19 Services an annual report on their operations including information on the services
 20 offered, geographic areas served, the number of persons served, and individual status
 21 updates on each person served. This information shall not include the name, address,
 22 or other identifying information of the person served. The Department of Children
 23 and Family Services shall compile the data from all the reports submitted pursuant
 24 to the provisions of this Subsection and shall provide this information to the
 25 legislature on or before the first day of February each year.

26 §2161.1 Human trafficking victims services plan; adults

27 A. With respect to persons referred to the Department of Children and
 28 Family Services who are eighteen years of age or older and who are found to be
 29 victims of human trafficking in which the services include commercial sexual

1 activity or any sexual conduct constituting a crime under the laws of this state, the
2 department shall refer the person to the appropriate department, agency, or entity to
3 provide the person with the following:

4 (1) Assist the victim in applying for federal and state benefits and services
5 to which the victim may be entitled.

6 (2) Coordinate the delivery of health, mental health, housing, education, job
7 training, child care, victims' compensation, legal, and other services available to
8 victims of human or sex trafficking.

9 (3) Refer victims to the appropriate community-based services to the extent
10 that such services are available.

11 (4) Assist the victim with family reunification or returning to the victim's
12 place of origin, if the victims so desire.

13 B. In coordinating these services for the victim, the department shall work
14 together with such other state and federal agencies, public and private entities, and
15 other stakeholders as they deem appropriate.

16 C. Each private entity that provides services to victims pursuant to the
17 provisions of this Section shall submit to the Department of Children and Family
18 Services an annual report on their operations including information on the services
19 offered, geographic areas served, the number of persons served, and individual status
20 updates on each person served. This information shall not include the name, address,
21 or other identifying information of the person served. The Department of Children
22 and Family Services shall compile the data from all the reports submitted pursuant
23 to the provisions of this Subsection and shall provide this information to the
24 legislature on or before the first day of February each year.

1 Section 5. Code of Evidence Article 412(A), (B), (C)(1), and (E)(1) are hereby
2 amended and reenacted and Code of Evidence Article 412.3 is hereby enacted to read as
3 follows:

4 Art. 412. Victim's past sexual behavior in sexual assault cases; trafficking offenses

5 A.(1) Opinion and reputation evidence; sexual assault cases. When an
6 accused is charged with a crime involving sexually assaultive behavior, reputation
7 or opinion evidence of the past sexual behavior of the victim is not admissible.

8 ~~B.(2)~~ Other evidence; exceptions. When an accused is charged with a crime
9 involving sexually assaultive behavior, evidence of specific instances of the victim's
10 past sexual behavior is also not admissible except for:

11 ~~(1)(a)~~ Evidence of past sexual behavior with persons other than the accused,
12 upon the issue of whether or not the accused was the source of semen or injury;
13 provided that such evidence is limited to a period not to exceed seventy-two hours
14 prior to the time of the offense, and further provided that the jury be instructed at the
15 time and in its final charge regarding the limited purpose for which the evidence is
16 admitted; or

17 ~~(2)(b)~~ Evidence of past sexual behavior with the accused offered by the
18 accused upon the issue of whether or not the victim consented to the sexually
19 assaultive behavior.

20 B.(1) Opinion and reputation evidence; trafficking. When an accused is
21 charged with a crime involving human trafficking or trafficking of children for
22 sexual purposes, reputation or opinion evidence of the past sexual behavior of the
23 victim is not admissible.

24 (2) Evidence of specific instances of the victim's past sexual behavior is not
25 admissible unless the evidence is offered by the prosecution in a criminal case to
26 prove a pattern of trafficking activity by the defendant.

27 C. Motion. (1) Before the person, accused of committing a crime that
28 involves sexually assaultive behavior, human trafficking, or trafficking of children
29 for sexual purposes, may offer under Paragraph B (A)(2) or (B)(2) of this Article

1 evidence of specific instances of the victim's past sexual behavior, the accused shall
2 make a written motion in camera to offer such evidence. The motion shall be
3 accompanied by a written statement of evidence setting forth the names and
4 addresses of persons to be called as witnesses.

5 * * *

6 E. Hearing. (1) If the court determines that the statement of evidence
7 contains evidence described in Paragraph ~~B~~ (A)(2) or (B)(2), the court shall order a
8 hearing which shall be closed to determine if such evidence is admissible. At such
9 hearing the parties may call witnesses.

10 * * *

11 Art. 412.3. Statements made by victims of trafficking during investigations

12 A. Any statement made by a victim of human trafficking or trafficking of
13 children for sexual purposes during the course of an investigation of such offense
14 shall not be admissible against the victim in a prosecution for any unlawful acts
15 committed by the victim as a direct result of being trafficked.

16 B. The provisions of this Article shall only apply to a victim who has agreed
17 to provide assistance in furtherance of the investigation or prosecution of the
18 defendant charged with human trafficking or trafficking of children for sexual
19 purposes and who has agreed to receive services or participate in any program that
20 provides services to victims of human trafficking or trafficking of children for sexual
21 purposes if such services are available.

22 Section 6. Code of Criminal Procedure Article 930.10 is hereby enacted to read as
23 follows:

24 Art. 930.10. Motion to vacate prior conviction; victims of trafficking-related
25 offenses

26 A. A person previously convicted of any of the following offenses,
27 regardless of the age of the person at the time of the commission of the offense,
28 which was committed as a direct result of being a victim of human trafficking or
29 trafficking of children for sexual purposes, or a victim of an offense which would

1 constitute human trafficking or trafficking of children for sexual purposes regardless
2 of the date of conviction, may apply to the court where the person was previously
3 convicted of the offense to vacate the person's record of conviction for the offense:

4 (1) R.S. 14:82 (Prostitution; definition; penalties; enhancement)

5 (2) R.S. 14:83.3 (Prostitution by massage)

6 (3) R.S. 14:83.4 (Massage; sexual conduct prohibited)

7 (4) R.S. 14:89 (Crime against nature)

8 (5) R.S. 14:89.2 (Crime against nature by solicitation)

9 B. The court may grant the motion upon a showing, by clear and convincing
10 evidence, by the applicant that the applicant's participation in the offense was a direct
11 result of being a victim of human trafficking or trafficking of children for sexual
12 purposes.

13 C. Any motion authorized by the provisions of this Subsection, any hearing
14 conducted on the motion, and any relief granted pursuant to the motion shall be
15 subjected to the procedures set forth in this Title.

16 D. The provisions of this Section shall not apply to any person who is
17 arrested for R.S. 14:82.2 (Purchase of commercial sexual activity; penalties).

18 Section 7. Children's Code Articles 603(2)(b) and (c) and 725.2 are hereby amended
19 and reenacted and Children's Code Article 603(9.1) is hereby enacted to read as follows:

20 Art. 603. Definitions

21 As used in this Title:

22 * * *

23 (2) "Abuse" means any one of the following acts which seriously endanger
24 the physical, mental, or emotional health and safety of the child:

25 * * *

26 (b) The exploitation or overwork of a child by a parent or any other person,
27 including but not limited to commercial sexual exploitation of the child.

1 (c) The involvement of the child in any sexual act with a parent or any other
2 person, or the aiding or toleration by the parent, ~~or the caretaker, or any other person~~
3 of the child's ~~sexual~~ involvement in any of the following:

4 (i) Any sexual act with any other person, ~~or of the child's involvement in~~
5 ~~pornographic~~

6 (ii) Pornographic displays, ~~or any other involvement of a child in,~~

7 (iii) Any sexual activity constituting a crime under the laws of this state.

8 * * *

9 (9.1) "Commercial sexual exploitation" means involvement of the child
10 activity prohibited by the following statutes: R.S. 14:46.2, 46.3, 81.1, 81.3, 82, 82.1,
11 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

12 * * *

13 Art. 725.2. Safe house for sexually exploited children

14 A. The department may, to the extent funds are available, operate or contract
15 with an appropriate nongovernmental agency with experience working with sexually
16 exploited children to operate one or more safe houses in a geographically appropriate
17 area of the state. Each safe house shall provide safe and secure housing and
18 specialized services for sexually exploited children. Nothing in this Article shall be
19 construed to preclude an agency from applying for and accepting grants, gifts, and
20 bequests for funds from private individuals, foundations, and the federal government
21 for the purpose of creating or carrying out the duties of a safe house for sexually
22 exploited children.

23 B. Each safe house operating under a contract with the department to provide
24 services to sexually exploited children pursuant to the provisions of this Article shall
25 submit to the department an annual report on their operations including information
26 on the services offered, geographic areas served, number of children served, and
27 individual status updates on each child served. This information shall not include
28 the name, address, or other identifying information of the child served. The
29 department shall compile the data from all the reports submitted by each safe house

1 pursuant to the provisions of this Article and shall provide this information in an
2 annual report to the legislature on or before the first day of February each year.

3 Section 8. Children's Code Articles 606(A)(7) is hereby enacted to read as follows:

4 Art. 606. Grounds; child in need of care

5 A. Allegations that a child is in need of care must assert one or more of the
6 following grounds:

7 * * *

8 (7) The child is a victim of commercial sexual exploitation, human
9 trafficking, or trafficking of children for sexual purposes perpetrated by any person
10 regardless of their relationship to the child.

11 * * *

12 Section 9. The provisions of Section 8 of this Act shall become effective when a
13 child, who is a victim of commercial sexual exploitation, human trafficking, or trafficking
14 of children for sexual purposes perpetrated by someone other than a parent or caretaker,
15 becomes an eligible victim for which federal match funds are available through Title IV-E
16 of 47 U.S.C. 672.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Abramson

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.

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 any offense committed by the victim as a direct result of being trafficked.
- (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 class of possible victims of computer-aided solicitation of a minor to include 17-year-olds and 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 provides for the inadmissibility of statements made by these victims during the course of an investigation if the victim agrees to provide assistance in furtherance of the investigation and to receive services if such services are available.
- (16) Authorizes the filing of a motion to vacate a conviction 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), (B)(1)(a) and (c), 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(12)(b) and (25)(o), 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), and Ch.C. Art. 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), 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(25)(p), 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. 930.10, and Ch.C. Art. 603(9.1) and 606(A)(7))