Regular Session, 2011

HOUSE BILL NO. 49

BY REPRESENTATIVES LEGER AND GARY SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME: Amends the crimes of human trafficking and trafficking of children for sexual purposes

AN ACT

To amend and reenact R.S. 14:46.2(A) and 46.3(A)(1) and (2), (B), and (D)(1) and to enact R.S. 14:46.3(A)(4) and (5), relative to human trafficking; to provide with respect to the crimes of human trafficking and trafficking of children for sexual purposes; to amend the elements of those crimes; to provide for definitions; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:46.2(A) and 46.3(A)(1) and (2), (B), and (D)(1) are hereby amended and reenacted and R.S. 14:46.3(A)(4) and (5) are hereby enacted to read as follows:

§46.2. Human trafficking

A. It shall be unlawful: ~~for a person to~~

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

(2) For any person to knowingly benefit from activity prohibited by the provisions of this Section.

(3) For any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person.

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§46.3. Trafficking of children for sexual purposes

A. It shall be unlawful:

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

(2) For any person to knowingly benefit from ~~participation in a venture which has engaged in~~ activity prohibited by the provisions of this Section.

* * *

(4) For any person to knowingly facilitate any of the activities prohibited by the provisions of this Section by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the person.

(5) For any person to knowingly advertise any of the activities prohibited by this Section.

B. For purposes of this Section, ~~the following words have the following meanings:~~

~~(1) "Commercial~~ "commercial sexual activity" means any sexual act performed or conducted when any thing of value has been given, promised, or received by any person.

~~(2) "Venture" means any group of two or more individuals associated in fact, regardless of whether or not they are associated in a legal entity.~~

* * *

D.(1)(a) Whoever violates the provisions of Paragraphs (A)(1) ~~or (2)~~, (2), (4), or (5) of this Section shall be fined not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen, nor more than fifty years, or both.

(b) Whoever violates the provisions of Paragraphs (A)(1) ~~or (2)~~, (2), (4), or (5) of this Section when the victim is under the age of fourteen years shall be fined not more than seventy-five thousand dollars and imprisoned at hard labor for not less than twenty-five years nor more than fifty years. At least twenty-five years of the

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sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

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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)]

Leger HB No. 49

Abstract: Amends the crimes of human trafficking and trafficking of children for sexual purposes to include those persons who benefit in any way from the trafficking activity, who facilitate the trafficking activity, or who advertise the trafficking activity.

Present law (R.S. 14:46.2 - Human trafficking) provides that it is unlawful for a person to knowingly recruit, harbor, transport, provide, solicit, or obtain another person through fraud, force, or coercion to provide services or labor.

Present law provides for the following penalties for the crime of human trafficking:

(1) Except as provided in proposed law, whoever commits the crime of human trafficking shall be fined not more than $10,000 and shall be imprisoned for not more than 10 years.

(2) Whoever commits the crime of human trafficking when the services include commercial sexual activity or any sexual conduct constituting a crime under the laws of this state shall be fined not more than $15,000 and shall be imprisoned for not more than 20 years.

(3) Whoever commits the crime of human trafficking when the trafficking involves a person under the age of 18 shall be fined not more than $25,000 and shall be imprisoned for not less than five nor more than 25 years, five years of which shall be without the benefit of parole, probation, or suspension of sentence.

Proposed law amends present law and adds that it shall also be unlawful for a person to knowingly maintain the use of another person in the human trafficking activity, to knowingly benefit from the human trafficking activity, or to knowingly facilitate any of the human trafficking activities by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the persons.

Proposed law retains present law penalties.

Present law (R.S. 14:46.3 - Trafficking of children for sexual purposes) provides that it shall be unlawful for a person to engage in any of the following activities:

(1) To knowingly recruit, harbor, transport, provide, sell, purchase, or otherwise obtain a person under the age of 18 years for the purpose of engaging in commercial sexual activity.

(2) To knowingly benefit from participation in a venture which has engaged in activity prohibited by present law.

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(3) For any parent, legal guardian, or person having custody of a person under the age of 18 years to knowingly permit or consent to a minor entering into any activity prohibited by present law.

Present law (R.S. 14:46.3 - Trafficking of children for sexual purposes) defines "commercial sexual activity" and "venture".

Present law provides for the following penalties for the crime of trafficking of children for sexual purposes:

(1) Whoever violates present law shall be fined not more than $50,000, imprisoned for not less than 15 years nor more than 50 years, or both.

(2) Whoever violates present law when the victim is under the age of 14 years shall be fined not more than $75,000 and imprisoned for not less than 25 years nor more than 50 years. At least 25 years of the sentence imposed shall be served without benefit of probation, parole, or suspension of sentence.

Proposed law amends present law and adds that it shall also be unlawful for any person to engage in any of the following:

(1) To maintain the use of another person under the age of 18 for the purposes of sexual trafficking.

(2) To knowingly facilitate any of the sexual trafficking activities by any means, including but not limited to helping, aiding, abetting, or conspiring, regardless of whether a thing of value has been promised to or received by the persons.

(3) To knowingly advertise any of the sexual trafficking activities.

Proposed law retains present law definition of "commercial sexual activity" and deletes the definition of "venture".

Proposed law retains present law penalties.

(Amends R.S. 14:46.2(A) and 46.3(A)(1) and (2), (B), and (D)(1); Adds R.S. 14:46.3(A)(4) and (5))

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