

1 HB305
2 189044-2
3 By Representatives Williams (JD), Coleman, Hall and Boyd
4 RFD: Judiciary
5 First Read: 25-JAN-18

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8 SYNOPSIS: Under existing law, sexual servitude is
9 defined to require the use of deception or
10 coercion.

11 This bill would remove the requirement of
12 deception or coercion if the sexual conduct is with
13 a minor.

14 Under existing law, it is a crime to commit
15 an act of prostitution, solicit or compel a person
16 to participate in prostitution, aid another in
17 engaging in prostitution, or provide a premises for
18 prostitution.

19 This bill would make it a crime to engage in
20 an act of prostitution with a minor, solicit or
21 compel a minor to participate in prostitution, aid
22 another in engaging in prostitution with a minor,
23 or provide a premises for engaging in prostitution
24 with a minor.

25 The bill would provide enhanced criminal
26 penalties for a violation.

1 Under existing law, a defendant accused of
2 human trafficking is expressly prohibited from
3 asserting a mistake of age defense.

4 This bill would also prohibit a defendant
5 accused of engaging in an act of prostitution with
6 a minor from asserting a mistake of age defense.

7 Amendment 621 of the Constitution of Alabama
8 of 1901, now appearing as Section 111.05 of the
9 Official Recompilation of the Constitution of
10 Alabama of 1901, as amended, prohibits a general
11 law whose purpose or effect would be to require a
12 new or increased expenditure of local funds from
13 becoming effective with regard to a local
14 governmental entity without enactment by a 2/3 vote
15 unless: it comes within one of a number of
16 specified exceptions; it is approved by the
17 affected entity; or the Legislature appropriates
18 funds, or provides a local source of revenue, to
19 the entity for the purpose.

20 The purpose or effect of this bill would be
21 to require a new or increased expenditure of local
22 funds within the meaning of the amendment. However,
23 the bill does not require approval of a local
24 governmental entity or enactment by a 2/3 vote to
25 become effective because it comes within one of the
26 specified exceptions contained in the amendment.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
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5 Relating to human trafficking and offenses against
6 minors; to amend Sections 13A-6-151, 13A-6-152, and
7 13A-12-122, Code of Alabama 1975, to provide further for the
8 definition of sexual servitude; to add Sections 13A-12-121.1
9 and 13A-12-124 to the Code of Alabama 1975, to establish the
10 crime of engaging in an act of prostitution with a minor; to
11 prohibit a defendant accused of engaging in an act of
12 prostitution with a minor from asserting a mistake of age
13 defense; and in connection therewith would have as its purpose
14 or effect the requirement of a new or increased expenditure of
15 local funds within the meaning of Amendment 621 of the
16 Constitution of Alabama of 1901, now appearing as Section
17 111.05 of the Official Recompilation of the Constitution of
18 Alabama of 1901, as amended.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 13A-6-151, 13A-6-152, and
21 13A-12-122, Code of Alabama 1975, are amended to read as
22 follows:

23 "§13A-6-151.

24 "As used in this article, the following terms shall
25 have the following, or any combination of the following,
26 meanings ascribed to them by this section:

27 "(1) COERCION. Any of the following:

1 "a. Causing or threatening to cause physical injury
2 or mental suffering to any person, physically restraining or
3 confining any person, or threatening to physically restrain or
4 confine any person or otherwise causing the person performing
5 or providing labor or services to believe that the person or
6 another person will suffer physical injury or mental
7 suffering.

8 "b. Implementing any scheme, plan, or pattern
9 intended to cause a person to believe that failure to perform
10 an act would result in physical injury, mental suffering, or
11 physical restraint of any person.

12 "c. Destroying, concealing, removing, confiscating,
13 or withholding from the person or another person, or
14 threatening to destroy, conceal, remove, confiscate, or
15 withhold from the person or another person, the person's or
16 any person's actual or purported government records,
17 immigration documents, identifying information, or personal or
18 real property.

19 "d. Exposing or threatening to expose any fact or
20 information that if revealed would tend to subject a person to
21 criminal prosecution, criminal or immigration proceedings,
22 hatred, contempt, or ridicule.

23 "e. Threatening to report the person or another
24 person to immigration officials or to other law enforcement
25 officials or otherwise blackmailing or extorting the person or
26 another person.

1 "f. Controlling a person's access to a controlled
2 substance, as the term is defined in Section 20-2-2.

3 "g. Rape or sodomy or threatened rape or sodomy of
4 any person, as defined in Title 13A.

5 "(2) DECEPTION. Any of the following:

6 "a. Creating or confirming an impression of any
7 existing fact or past event which is false and which the
8 accused knows or believes to be false.

9 "b. Exerting financial control over the person or
10 another person by placing the person or another person under
11 the actor's control as a security or payment of a debt, if the
12 value of the services as reasonably assessed is not applied
13 toward the liquidation of the debt or the length and nature of
14 those services are not respectively limited and defined or the
15 principal amount of the debt does not reasonably reflect the
16 value of the items or services for which debt was incurred or
17 by preventing a person from acquiring information pertinent to
18 the disposition of the debt, referenced in this paragraph.

19 "c. Promising benefits or the performance of
20 services which the accused does not intend to be delivered.
21 Evidence of failure to deliver benefits or perform services
22 standing alone shall not be sufficient to authorize a
23 conviction under this article.

24 "d. Using any scheme, plan, or pattern, whether
25 overt or subtle, intended to cause any person to believe that,
26 if the person did not perform such labor, services, acts, or

1 performances, the person or another person would suffer
2 physical injury or mental suffering.

3 "(3) LABOR SERVITUDE. Work or service of economic or
4 financial value which is performed or provided by another
5 person and is induced or obtained by coercion or deception.

6 "(4) MENTAL SUFFERING. A high degree of mental pain
7 or emotional disturbances, such as distress, anxiety, public
8 humiliation, or psychosomatic physical symptoms. It is more
9 than mere disappointment, anger, resentment, wounded pride, or
10 embarrassment and must be a direct result of the crime of
11 human trafficking.

12 "(5) MINOR. A person under the age of 18.

13 "(6) PHYSICAL INJURY. Impairment of physical
14 condition or substantial pain.

15 "(7) SEXUAL SERVITUDE. Any of the following:

16 "a. Any sexual conduct as defined in subdivision (3)
17 of Section 14-11-30, for which anything of value is directly
18 or indirectly given, promised to, or received by any person,
19 which conduct is induced or obtained by coercion or deception
20 from a person; provided, however, that if the sexual conduct
21 is with a minor, no coercion or deception is required.

22 "b. Sexual conduct includes:

23 "1. Sexually explicit performances, meaning an act
24 or show intended to arouse, satisfy the sexual desires of, or
25 appeal to the prurient interests of patrons or viewers,
26 whether public or private, live, photographed, recorded,
27 videotaped, or projected over the Internet.

1 "2. Commercial sex acts, meaning any sex act ~~on~~
2 ~~account of~~ for which anything of value is given, promised to,
3 or received, directly or indirectly, by any person.

4 "3. Acts defined in subdivision (3) of Section
5 14-11-30.

6 "(8) TRAFFICKING VICTIM. Any person, including
7 minors, subjected to labor servitude, sexual servitude, or
8 involuntary servitude.

9 "§13A-6-152.

10 "(a) A person commits the crime of human trafficking
11 in the first degree if:

12 "(1) He or she knowingly subjects another person to
13 labor servitude or sexual servitude ~~through use of coercion or~~
14 ~~deception.~~

15 "(2) He or she knowingly obtains, recruits, entices,
16 solicits, induces, threatens, isolates, harbors, holds,
17 restrains, transports, provides, or maintains any minor for
18 the purpose of causing a minor to engage in sexual servitude.

19 "(3) For purposes of this section, it is not
20 required that the defendant have knowledge of a minor victim's
21 age, nor is reasonable mistake of age a defense to liability
22 under this section.

23 "(4) A corporation, or any other legal entity other
24 than an individual, may be prosecuted for human trafficking in
25 the first degree for an act or omission only if an agent of
26 the corporation or entity performs the conduct which is an
27 element of the crime while acting within the scope of his or

1 her office or employment and on behalf of the corporation or
2 entity, and the commission of the crime was either authorized,
3 requested, commanded, performed, or within the scope of the
4 person's employment on behalf of the corporation or entity or
5 constituted a pattern of conduct that an agent of the
6 corporation or entity knew or should have known was occurring.

7 "(5) Any person who obstructs, or attempts to
8 obstruct, or in any way interferes with or prevents the
9 enforcement of this section shall be guilty of a Class C
10 felony.

11 "(b) Human trafficking in the first degree is a
12 Class A felony.

13 "§13A-12-122.

14 "(a) Each violation of ~~this division~~ Section
15 13A-12-121 is a Class A misdemeanor.

16 "(b) A violation of Section 13A-12-121.1 is a Class
17 B felony."

18 Section 2. Sections 13A-12-121.1 and 13A-12-124 are
19 added to the Code of Alabama 1975, to read as follows:

20 §13A-12-121.1.

21 (a) No person shall commit an act of prostitution,
22 as defined in Section 13A-12-120, with a minor.

23 (b) No person shall solicit, compel, or coerce any
24 minor to have sexual intercourse or participate in any natural
25 or unnatural sexual act, deviate sexual intercourse, or sexual
26 contact for monetary consideration or other thing of
27 marketable value.

1 (c) No person shall agree to engage in sexual
2 intercourse, deviate sexual intercourse, or sexual contact
3 with a minor or participate in the act for monetary
4 consideration or other thing of marketable value and give or
5 accept monetary consideration or other thing of value in
6 furtherance of the agreement.

7 (d) No person shall knowingly do any of the
8 following:

9 (1) Cause or aid a minor to commit or engage in
10 prostitution.

11 (2) Procure or solicit a minor for prostitution.

12 (3) Provide premises for the prostitution of a
13 minor.

14 (4) Receive or accept money or other thing of value
15 pursuant to a prior agreement with a minor where the minor
16 participates or is to participate in the proceeds of any
17 prostitution activity.

18 (5) Operate or assist in the operation of a house of
19 prostitution or a prostitution enterprise where minors
20 participate in prostitution.

21 (6) Sell or offer to sell travel services that
22 include or facilitate travel for the purpose of engaging in
23 sexual intercourse, sexual acts, deviate sexual intercourse,
24 or any other sexual contact with a minor.

25 §13A-12-124.

1 (a) As used in this section, the term minor victim
2 means a person who committed, or was solicited to commit, an
3 act of prostitution while the person was a minor.

4 (b) Evidence of any of the following facts or
5 conditions does not constitute a defense in a prosecution
6 under Section 13A-12-121.1, Code of Alabama 1975, nor shall
7 the evidence preclude a finding of a violation:

8 (1) A minor victim's sexual history or history of
9 commercial sexual activity.

10 (2) A minor victim's connection by blood or marriage
11 to a defendant in the case or to anyone involved in the minor
12 victim's prostitution.

13 (3) Consent of or permission by a minor victim or
14 anyone else on the minor victim's behalf to any commercial sex
15 act or sexually explicit performance.

16 (4) Age of consent to engage in sexual activity.

17 (5) Mistake as to the minor victim's age, even if
18 the mistake is reasonable.

19 Section 3. Although this bill would have as its
20 purpose or effect the requirement of a new or increased
21 expenditure of local funds, the bill is excluded from further
22 requirements and application under Amendment 621, now
23 appearing as Section 111.05 of the Official Recompilation of
24 the Constitution of Alabama of 1901, as amended, because the
25 bill defines a new crime or amends the definition of an
26 existing crime.

1 Section 4. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.