

1 HB481  
2 158198-1  
3 By Representatives Williams (J), Coleman-Evans, Wallace, Beech  
4 and Hall  
5 RFD: Judiciary  
6 First Read: 13-FEB-14

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8 SYNOPSIS: This bill would provide a safe harbor  
9 provision in current law for a child who engages in  
10 the act of prostitution by providing that a  
11 sexually exploited child may not be adjudicated  
12 delinquent or convicted of a crime of prostitution,  
13 but that the child may be adjudicated a child in  
14 need of supervision or a dependent child.

15 This bill would prohibit the transfer of a  
16 case involving a sexually exploited child who  
17 commits an act of prostitution from the  
18 jurisdiction of juvenile court to any adult court.

19 This bill would provide that a juvenile  
20 court retains jurisdiction over a sexually  
21 exploited child and may issue any requisite order  
22 or conduct any hearing necessary to protect the  
23 health or safety of a sexually exploited child that  
24 is determined to be in the best interests of the  
25 child.

1           This bill would provide that certain social  
2 and community services shall be made available to  
3 sexually exploited children.

4           This bill would authorize the assessment of  
5 an additional fine of \$500 upon conviction of the  
6 crimes of promoting prostitution and certain other  
7 crimes relating to prostitution and would provide  
8 that the fine be paid to a court-certified  
9 therapeutic counselor that provides education,  
10 treatment, and prevention counseling to persons  
11 convicted of prostitution offenses.

12           This bill would also allow the detention for  
13 72 hours of a foreign national who does not speak  
14 English if the person is arrested for the crime of  
15 prostitution to ensure that the person has access  
16 to certain resources, such as health care, shelter,  
17 and counseling.

18           Amendment 621 of the Constitution of Alabama  
19 of 1901, now appearing as Section 111.05 of the  
20 Official Recompilation of the Constitution of  
21 Alabama of 1901, as amended, prohibits a general  
22 law whose purpose or effect would be to require a  
23 new or increased expenditure of local funds from  
24 becoming effective with regard to a local  
25 governmental entity without enactment by a 2/3 vote  
26 unless: it comes within one of a number of  
27 specified exceptions; it is approved by the

1 affected entity; or the Legislature appropriates  
2 funds, or provides a local source of revenue, to  
3 the entity for the purpose.

4 The purpose or effect of this bill would be  
5 to require a new or increased expenditure of local  
6 funds within the meaning of the amendment. However,  
7 the bill does not require approval of a local  
8 governmental entity or enactment by a 2/3 vote to  
9 become effective because it comes within one of the  
10 specified exceptions contained in the amendment.

11  
12 A BILL  
13 TO BE ENTITLED  
14 AN ACT  
15

16 To add Section 13A-12-123 to the Code of Alabama  
17 1975, to provide a definition of "sexually exploited child";  
18 to prohibit a sexually exploited child from being adjudicated  
19 delinquent or convicted of a crime of prostitution; to provide  
20 that a sexually exploited child engaged in prostitution may be  
21 adjudicated a child in need of supervision or a dependent  
22 child; to prohibit the transfer of a case involving a sexually  
23 exploited child who commits an act of prostitution from the  
24 jurisdiction of juvenile court to any adult court; to  
25 authorize a juvenile court to retain jurisdiction over a  
26 sexually exploited child; to provide for certain court orders  
27 in the best interests of the child; to provide that certain

1 social and community services will be made available to  
2 sexually exploited children; to authorize an additional fine  
3 for certain crimes relating to prostitution; to require  
4 certain persons convicted of certain prostitution related  
5 crimes to attend counseling and education programs; to allow  
6 the detention of a person for 72 hours if the person is  
7 arrested for the crime of prostitution and the person is a  
8 foreign national who does not speak English; and in connection  
9 therewith would have as its purpose or effect the requirement  
10 of a new or increased expenditure of local funds within the  
11 meaning of Amendment 621 of the Constitution of Alabama of  
12 1901, now appearing as Section 111.05 of the Official  
13 Recompilation of the Constitution of Alabama of 1901, as  
14 amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall be known and may be cited  
17 as the "Alabama Human Trafficking Safe Harbor Act."

18 Section 2. Section 13A-12-123 is added to Division 2  
19 of Article 3 of Chapter 12 of Title 13A, Code of Alabama 1975,  
20 to read as follows:

21 §13A-12-123.

22 A sexually exploited child, as defined in Section 3,  
23 who is alleged to have committed a violation of Section  
24 13A-12-120 or 13A-12-121, or any municipal ordinance  
25 prohibiting such acts, shall be treated pursuant to Section 4.

26 Section 3. (a) For the purposes of this section,  
27 "sexually exploited child" shall mean an individual under the

1 age of 18 years who is under the jurisdiction of the juvenile  
2 court and who has been subjected to sexual exploitation  
3 because he or she is any of the following:

4 (1) A victim of the crime of human trafficking  
5 sexual servitude as provided in Section 13A-6-150, et seq.,  
6 Code of Alabama 1975.

7 (2) Engaged in prostitution as provided in Section  
8 13A-12-120 or 13A-12-121, Code of Alabama 1975.

9 (3) A victim of the crime of promoting prostitution  
10 as provided in Section 13A-12-111, 13A-12-112, or 13A-12-113,  
11 Code of Alabama 1975.

12 (b) A sexually exploited child may not be  
13 adjudicated delinquent or convicted of a crime of prostitution  
14 as provided in Section 13A-12-120 or 13A-12-121, Code of  
15 Alabama 1975, or any municipal ordinance prohibiting such  
16 acts.

17 (c) In any proceeding based upon a child's arrest  
18 for an act of prostitution, there is a presumption that the  
19 child satisfies the definition of a sexually exploited child  
20 as provided in this section.

21 (d) If a law enforcement officer or a person seeks  
22 to file a complaint against a child for an offense of  
23 prostitution as provided in Section 13A-12-120 or 13A-12-121,  
24 Code of Alabama 1975, the juvenile court intake officer shall  
25 evaluate the complaint to determine if the child is a sexually  
26 exploited child and could have another complaint filed stating  
27 that the child is alleged to be in need of supervision or

1 alleged to be dependent, and not a child alleged to be  
2 delinquent, pursuant to Rule 12 of the Alabama Rules of  
3 Juvenile Procedure. A juvenile probation officer who is  
4 designated to be a juvenile court intake officer may determine  
5 if a child alleged to be in need of supervision is appropriate  
6 for an informal adjustment pursuant to Rule 15 of the Alabama  
7 Rules of Juvenile Procedure.

8 (e) If a petition alleging that a sexually exploited  
9 child is in need of supervision or is dependent is filed, a  
10 sexually exploited child may be adjudicated a child in need of  
11 supervision or a dependent child pursuant to Section  
12 12-15-102(4) and (8), Code of Alabama 1975. Once the sexually  
13 exploited child is adjudicated, the juvenile court shall  
14 retain jurisdiction over the sexually exploited child and may  
15 enforce prior orders requiring payment of court-ordered monies  
16 pursuant to Section 12-15-117, Code of Alabama 1975. The  
17 juvenile court may issue any requisite order or conduct any  
18 hearing necessary to protect the health or safety of a  
19 sexually exploited child that is determined to be in the best  
20 interests of the child. The juvenile court may also, on an  
21 emergency basis, enter an order of protection or restraint to  
22 protect the health or safety of a sexually exploited child.

23 (f) A sexually exploited child who commits an act of  
24 prostitution as provided in Section 13A-12-120 or 13A-12-121,  
25 Code of Alabama 1975, may not be transferred from the  
26 jurisdiction of juvenile court to any adult court pursuant to  
27 Section 12-15-203, Code of Alabama 1975, except in those cases

1 where the child has been convicted or adjudicated a youthful  
2 offender divesting the juvenile court of jurisdiction as  
3 provided in Sections 12-15-203(i) and 12-15-204(b), Code of  
4 Alabama 1975.

5 (g) A sexually exploited child who commits an act of  
6 prostitution as provided in Section 13A-12-120 or 13A-12-121,  
7 Code of Alabama 1975, shall be afforded all rights pursuant to  
8 Section 12-15-202, Code of Alabama 1975.

9 (h) All social and community services shall be made  
10 available to a sexually exploited child. Services may include,  
11 but are not limited to, any of the following:

12 (1) Forensic evidence collection.

13 (2) Forensic interviewing.

14 (3) Counseling.

15 (4) Advocacy.

16 (5) Shelter.

17 (6) Alcohol or substance abuse treatment.

18 (7) Mental health services.

19 (8) Medical treatment.

20 (9) Legal services.

21 (10) Educational tutoring, counseling, and language  
22 interpreter services.

23 (11) Crisis intervention services.

24 (12) Safety planning.

25 (13) Investigation and prosecution of the  
26 individuals subjecting the child to sexual exploitation or  
27 abuse.

1           Section 4. (a) Notwithstanding any other fines,  
2           restitution, court costs, or docket fees, upon conviction for  
3           the offense of promoting prostitution under Division 1,  
4           Article 3, Chapter 12, Title 13A, or a violation of subsection  
5           (b) or (d) of Section 13A-12-121, a mandatory fine of five  
6           hundred dollars (\$500) shall be assessed. The court shall  
7           order the five hundred dollar (\$500) fine to be paid to the  
8           clerk of court to be distributed to a court-certified  
9           therapeutic counseling entity that provides education,  
10          treatment, and prevention counseling to persons convicted of  
11          prostitution offenses.

12                 (b) A court may order a person convicted of an  
13          offense under Division 1, Article 3, Chapter 12, Title 13A, or  
14          subsection (b) or (d) of Section 13A-12-121, to successfully  
15          attend counseling or an educational training program designed  
16          to reduce recidivism rates for these violations. Attendance of  
17          such programs shall be at the cost and expense of the person  
18          convicted of the offense.

19           Section 5. For the safety and well-being of a person  
20          arrested for the crime of prostitution under Division 2,  
21          Article 3, Chapter 12, Title 13A, Code of Alabama 1975, he or  
22          she may be held in custody for up to 72 hours if it is  
23          determined he or she is a non-English speaking foreign  
24          national. The person shall be brought before a court of  
25          competent jurisdiction as soon as possible within the 72-hour  
26          period to conduct an inquiry into the person's access to  
27          resources, such as, but not limited to, health care, shelter,

1 mental health counseling, or financial aid. The court may  
2 issue an order to assist the person in obtaining the services  
3 and resources needed pursuant to the court's inquiry.

4 Section 6. Although this bill would have as its  
5 purpose or effect the requirement of a new or increased  
6 expenditure of local funds, the bill is excluded from further  
7 requirements and application under Amendment 621, now  
8 appearing as Section 111.05 of the Official Recompilation of  
9 the Constitution of Alabama of 1901, as amended, because the  
10 bill defines a new crime or amends the definition of an  
11 existing crime.

12 Section 7. This act shall become effective on the  
13 first day of the third month following its passage and  
14 approval by the Governor, or its otherwise becoming law.