

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0635.01 Jane Ritter x4342

SENATE BILL 18-084

SENATE SPONSORSHIP

Kefalas, Fields, Garcia, Martinez Humenik

HOUSE SPONSORSHIP

Landgraf and Lundeen,

Senate Committees

Health & Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING ENHANCING PROTECTIONS FOR MINORS WHO ARE
102 VICTIMS OF HUMAN TRAFFICKING.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill establishes legislation to further protect minors who are victims of human trafficking of a minor for involuntary servitude and human trafficking of a minor for sexual servitude (minor who is a victim of human trafficking). The term "sexually exploited minor" is clarified to include a person less than 18 years of age who has been a victim of human trafficking or has engaged in certain prostitution-related activities.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

A statutory presumption is established that any person who is less than 18 years of age who engages in conduct that would constitute prostitution if such person were an adult is presumed to be a minor who is a victim of human trafficking, and must be referred to the appropriate county department of human or social services for care and services.

The bill makes conforming amendments.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Human trafficking is a serious problem in Colorado and across
5 the nation;

6 (b) Among the diverse populations affected by human trafficking,
7 children and youth, especially homeless and runaway youth, are
8 particularly at risk of being trafficked for sex and involuntary labor;

9 (c) Children and youth who are forced into involuntary servitude
10 and commercial sexual activity are more properly identified as victims
11 and not as criminals; and

12 (d) Human trafficking in all forms creates a cycle of violence and
13 impacts victims, families, and communities.

14 (2) The general assembly further finds and declares that:

15 (a) As a result of the diverse systems that touch these children's
16 and youth's lives, professionals in the child welfare, law enforcement,
17 treatment, nonprofit, and faith-based communities must collaborate to
18 develop a multi-disciplinary approach to protect children and youth who
19 are victims of human trafficking. This multi-disciplinary approach needs
20 to emphasize prevention, protection, prosecution, and partnerships.

21 (b) Protecting children and youth who are victims of human
22 trafficking from further trauma by recognizing them as victims rather than

1 criminals is beneficial for the children and youth involved and therefore
2 in the public interest.

3 (3) It is therefore the intent of the general assembly to:

4 (a) Offer pathways that direct victimized children and youth away
5 from juvenile delinquency by making available to those children and
6 youth appropriate and comprehensive rehabilitative services;

7 (b) Offer protection and provide consistency in the treatment,
8 care, and support of children and youth who are victims of human
9 trafficking so they may continue to heal from the traumatic environment
10 of being trafficked in a restorative justice manner; and

11 (c) Help create a safe haven for children and youth who are
12 victims of human trafficking to come forward without fear and identify
13 their traffickers and perpetrators.

14 (4) Now, therefore, the general assembly joins the federal
15 government and other states around the nation in passing legislation to
16 further combat human trafficking and protect children and youth who are
17 victims of human trafficking.

18 **SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend**
19 (1)(a) introductory portion, (1)(a)(VIII), (23.5), and (71); and **add** (62.5),
20 (62.6), and (97.3) as follows:

21 **19-1-103. Definitions.** As used in this title 19 or in the specified
22 portion of this title 19, unless the context otherwise requires:

23 (1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of
24 article 3 of this ~~title~~ TITLE 19, means an act or omission in one of the
25 following categories that threatens the health or welfare of a child:

26 (VIII) Any case in which a child is subjected to HUMAN
27 TRAFFICKING OF A MINOR FOR INVOLUNTARY SERVITUDE, AS DESCRIBED

1 IN SECTION 18-3-503, OR human trafficking of a minor for sexual
2 servitude, as described in ~~section 18-3-504, C.R.S.~~ SECTION 18-3-504(2).

3 (23.5) "~~Commercial sexual exploitation of children~~" involves
4 ~~crimes~~ A CHILD" MEANS A CRIME of a sexual nature committed against
5 ~~juvenile victims~~ A CHILD for financial or other economic reasons.

6 (62.5) "HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY
7 SERVITUDE" MEANS AN ACT AS DESCRIBED IN SECTION 18-3-503.

8 (62.6) "HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE"
9 MEANS AN ACT AS DESCRIBED IN SECTION 18-3-504 (2).

10 (71) "Juvenile delinquent", as used in article 2 of this ~~title~~ TITLE
11 19, means a juvenile who has been found guilty of a delinquent act.
12 "JUVENILE DELINQUENT" DOES NOT INCLUDE A JUVENILE WHO HAS
13 COMMITTED A DELINQUENT ACT WHILE A VICTIM OF SEXUAL
14 EXPLOITATION OF A CHILD, AS DESCRIBED IN SECTION 18-6-403 (3);
15 HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY SERVITUDE, AS
16 DESCRIBED IN SECTION 18-3-503; OR HUMAN TRAFFICKING OF A MINOR FOR
17 SEXUAL SERVITUDE, AS DESCRIBED IN SECTION 18-3-504 (2).

18 (97.3) "SEXUAL EXPLOITATION OF A CHILD" MEANS A CRIME OF A
19 SEXUAL NATURE COMMITTED AGAINST A CHILD, AS DESCRIBED IN SECTION
20 18-6-403 (3).

21 **SECTION 3.** In Colorado Revised Statutes, 18-3-502, **add** (11.3)
22 as follows:

23 **18-3-502. Definitions.** As used in this part 5, unless the context
24 otherwise requires:

25 (11.3) "SEXUALLY EXPLOITED MINOR" MEANS A PERSON LESS THAN
26 EIGHTEEN YEARS OF AGE WHO HAS BEEN SUBJECTED TO SEXUAL
27 EXPLOITATION BECAUSE THE MINOR IS:

1 (a) A VICTIM OF THE CRIME OF HUMAN TRAFFICKING OF A MINOR
2 FOR SEXUAL SERVITUDE, AS DESCRIBED IN SECTION 18-3-504 (2); OR

3 (b) ENGAGED IN PROSTITUTION-RELATED ACTIVITIES AS PROVIDED
4 IN SECTION 18-7-201 (1), 18-7-207, OR PART 4 OF ARTICLE 7 OF THIS TITLE
5 18.

6 **SECTION 4.** In Colorado Revised Statutes, 18-3-504, **amend**
7 (1)(a), (2)(a), and (2.5) as follows:

8 **18-3-504. Human trafficking for sexual servitude - human**
9 **trafficking of a minor for sexual servitude.** (1) (a) A person ~~who~~
10 COMMITS HUMAN TRAFFICKING FOR SEXUAL SERVITUDE IF HE OR SHE
11 knowingly sells, recruits, harbors, transports, transfers, isolates, entices,
12 provides, receives, or obtains by any means another person for the
13 purpose of coercing the person to engage in commercial sexual activity.
14 ~~commits human trafficking for sexual servitude.~~

15 (2) (a) A person ~~who~~ COMMITS HUMAN TRAFFICKING OF A MINOR
16 FOR SEXUAL SERVITUDE IF HE OR SHE:

17 (I) Knowingly sells, recruits, harbors, transports, transfers,
18 isolates, entices, provides, receives, obtains by any means, maintains, or
19 makes available a minor for the purpose of commercial sexual activity;
20 ~~commits human trafficking of a minor for sexual servitude.~~ OR

21 (II) ~~A person who~~ Knowingly advertises, offers to sell, or sells
22 travel services that facilitate an activity prohibited pursuant to subsection
23 (2)(a)(I) of this section. ~~commits human trafficking of a minor for sexual~~
24 ~~servitude.~~

25 (2.5) ~~It is an affirmative defense to a charge pursuant to~~
26 ~~subsection (2) of this section if the person being charged can demonstrate~~
27 ~~by a preponderance of the evidence that, at the time of the offense, he or~~

1 ~~she was a victim of human trafficking for sexual servitude who was~~
2 ~~forced or coerced into engaging in the human trafficking of minors for~~
3 ~~sexual servitude pursuant to subsection (2) of this section.~~ IF PROBABLE
4 CAUSE EXISTS TO BELIEVE THAT A PERSON WHO WAS A SEXUALLY
5 EXPLOITED MINOR AND WHO IS CHARGED WITH AN OFFENSE RELATED TO
6 CONDUCT ARISING FROM HUMAN TRAFFICKING OF A MINOR FOR
7 INVOLUNTARY SERVITUDE OR HUMAN TRAFFICKING OF A MINOR FOR
8 SEXUAL SERVITUDE WAS A VICTIM OF HUMAN TRAFFICKING OF A MINOR
9 FOR EITHER INVOLUNTARY OR SEXUAL SERVITUDE AT THE TIME OF THE
10 OFFENSE BEING CHARGED, AND THE PERSON COMMITTED THE OFFENSE
11 WHILE A VICTIM OF HUMAN TRAFFICKING OF A MINOR PURSUANT TO
12 SECTION 18-3-503 OR SUBSECTION (2) OF THIS SECTION, HE OR SHE IS
13 IMMUNE FROM CRIMINAL LIABILITY OR JUVENILE DELINQUENCY
14 PROCEEDINGS FOR SUCH OFFENSE.

15 **SECTION 5.** In Colorado Revised Statutes, 18-7-201, **amend** (1)
16 as follows:

17 **18-7-201. Prostitution prohibited.** (1) Any person, EIGHTEEN
18 YEARS OF AGE OR OLDER, who performs or offers or agrees to perform any
19 act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal
20 intercourse with any person not his OR HER spouse in exchange for money
21 or other thing of value commits prostitution.

22 **SECTION 6.** In Colorado Revised Statutes, **add** 18-7-201.4 as
23 follows:

24 **18-7-201.4. Presumption of victim of human trafficking of a**
25 **minor for sexual servitude - provision of services - reporting.** (1) ANY
26 PERSON LESS THAN EIGHTEEN YEARS OF AGE WHO ENGAGES IN CONDUCT
27 THAT WOULD CONSTITUTE AN OFFENSE PURSUANT TO SECTION 18-7-201

1 OR 18-7-207 IF SUCH PERSON WERE AN ADULT IS PRESUMED TO BE A
2 VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE
3 PURSUANT TO SECTION 18-3-504 AND MUST BE REFERRED TO THE
4 APPROPRIATE COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES FOR
5 CARE AND SERVICES PURSUANT SECTION 19-3-108.

6 (2) A PERSON WHO IS PRESUMED TO BE A VICTIM OF HUMAN
7 TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE PURSUANT TO
8 SUBSECTION (1) OF THIS SECTION MUST BE PROVIDED THE OPPORTUNITY TO
9 ACCESS APPROPRIATE SERVICES PURSUANT TO SECTION 19-3-208.

10 (3) IF A LAW ENFORCEMENT OFFICER ENCOUNTERS A PERSON WHO
11 IS LESS THAN EIGHTEEN YEARS OF AGE AND IS ENGAGING IN ANY CONDUCT
12 THAT WOULD BE A VIOLATION OF SECTION 18-7-201 OR 18-7-207 AND
13 THERE IS PROBABLE CAUSE TO BELIEVE THAT THE CHILD IS A VICTIM OF
14 HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE PURSUANT TO
15 SECTION 18-3-504, THE LAW ENFORCEMENT OFFICER OR AGENCY SHALL:

16 (a) IMMEDIATELY REPORT A SUSPECTED VIOLATION OF HUMAN
17 TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE TO THE APPROPRIATE
18 COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES OR THE CHILD
19 WELFARE HOTLINE CREATED PURSUANT TO SECTION 26-5-111. THE
20 COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES SHALL
21 SUBSEQUENTLY FOLLOW THE REPORTING REQUIREMENTS SET FORTH IN
22 SECTION 19-3-308 (4)(c).

23 (b) WITHIN A REASONABLE TIME FRAME, CONTACT A CHILD
24 ADVOCATE, SUCH AS A GUARDIAN AD LITEM, AS DEFINED IN SECTION
25 13-91-103 (4); A COURT-APPOINTED SPECIAL ADVOCATE, AS DEFINED IN
26 SECTION 13-91-103 (3); OR A VICTIM'S ADVOCATE, AS DEFINED IN SECTION
27 13-90-107 (1)(k)(II); AND

1 (c) IMMEDIATELY IMPOSE THE PRESUMPTION THAT THE MINOR IS
2 A VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE AS
3 SET FORTH IN SUBSECTION (1) OF THIS SECTION AND NOTIFY THE CHILD'S
4 ATTORNEY, IF ANY, THAT THE CHILD MAY BE A VICTIM OF HUMAN
5 TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE.

6 **SECTION 7. Act subject to petition - effective date.** This act
7 takes effect January 1, 2019; except that, if a referendum petition is filed
8 pursuant to section 1 (3) of article V of the state constitution against this
9 act or an item, section, or part of this act within the ninety-day period
10 after final adjournment of the general assembly, then the act, item,
11 section, or part will not take effect unless approved by the people at the
12 general election to be held in November 2018 and, in such case, will take
13 effect on January 1, 2019, or on the date of the official declaration of the
14 vote thereon by the governor, whichever is later.