

House Bill 1130

By: Representatives Holcomb of the 81<sup>st</sup> and Werkheiser of the 157<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 1 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated,  
2 relating to responsibility relative to crimes and offenses, so as to provide for immunity from  
3 criminal prosecution for offenses committed as a victim of human trafficking; to provide a  
4 definition; to provide for related matters; to amend Article 1 of Chapter 10 of Title 17 of the  
5 Official Code of Georgia Annotated, relating to procedure for sentencing and imposition of  
6 punishment, so as to provide that a person's failure to prevail at an immunity hearing for  
7 offenses committed as a victim of human trafficking shall not be relevant to vacatur  
8 proceedings; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 Article 1 of Chapter 3 of Title 16 of the Official Code of Georgia Annotated, relating to  
12 responsibility relative to crimes and offenses, is amended by adding a new Code section to  
13 read as follows:

14 "16-3-6.1.

15 (a) A person who commits an offense as a direct result of being the victim of an offense  
16 of trafficking under Code Section 16-5-46 shall be immune from criminal prosecution  
17 therefore.

18 (b) An immunity motion pursuant to this statute may include documentation of a  
19 defendant's status as a victim of an offense of trafficking under Code Section 16-5-46 at  
20 the time of the offense; provided, however, that official documentation shall not be  
21 required to obtain relief under this Code section. Such documentation shall create a  
22 rebuttable presumption that the defendant was a victim of trafficking under Code Section  
23 16-5-46. As used in this subsection, the term 'official documentation' includes, but is not  
24 limited to, the following:

25 (1) A copy of an official record, certification, or eligibility letter from a federal, state,  
26 tribal, or local proceeding showing that the defendant was a victim of trafficking under  
27 Code Section 16-5-46;

28 (2) An affidavit, a letter, or sworn testimony from a member of the clergy, medical  
29 professional, member of a victim services organization, or a certified, licensed, or  
30 registered professional from whom the defendant has sought assistance, counseling, or  
31 legal counsel related to his or her victimization; or

32 (3) Any other evidence that the court determines is of sufficient credibility or probative  
33 value.

34 (c) At a hearing on an immunity motion pursuant to this statute, the defendant bears the  
35 burden of showing that the offense was committed as a direct result of being the victim of  
36 an offense of trafficking under Code Section 16-5-46 by a preponderance of the evidence.

37 (d) A defendant does not waive any defenses or objections at trial by participating in an  
38 immunity hearing, even if the evidence objected to at trial was presented at the immunity  
39 hearing."

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**SECTION 2.**

41 Article 1 of Chapter 10 of Title 17 of the Official Code of Georgia Annotated, relating to  
42 procedure for sentencing and imposition of punishment, is amended by adding a new  
43 subsection to Code Section 17-10-21, relating to vacating of sentence for trafficking victim  
44 defendants, to read as follows:

45 "(e) The following shall not be relevant to proceedings pursuant to this statute:

46 (1) The defendant's failure to plead an affirmative defense under Code Section 16-3-6;

47 (2) The defendant's failure to prevail on an affirmative defense at trial as provided by  
48 Code Section 16-3-6;

49 (3) The defendant's failure to motion for an immunity hearing under Code Section  
50 16-3-6.1; and

51 (4) The defendant's failure to prevail at a immunity hearing as provided in Code Section  
52 16-3-6.1."

53

**SECTION 3.**

54 All laws and parts of laws in conflict with this Act are repealed.