

ACT No. 446

HOUSE BILL NO. 49

BY REPRESENTATIVES ABRAMSON AND LEGER AND SENATORS ALARIO, AMEDEE, APPEL, BROOME, BROWN, BUFFINGTON, CHABERT, CORTEZ, CROWE, DONAHUE, DORSEY-COLOMB, ERDEY, GALLOT, GUILLORY, JOHNS, KOSTELKA, LONG, MARTINY, MILLS, MORRELL, MURRAY, NEVERS, PERRY, PETERSON, RISER, GARY SMITH, JOHN SMITH, TARVER, THOMPSON, WALSWORTH, WARD, AND WHITE

1 AN ACT

2 To amend and reenact R.S. 14:46.2(D), 46.3(D)(1) and (2), 81.1(A)(1), (D), and (E)(1), (2),
3 and (4), 81.3(C), 82.1, 83, 83.1(B), 83.2(B), 84, 85, 86(B)(1), 89(B), 89.2(B)(3), 104,
4 105, 282, and 403.3(A)(1)(introductory paragraph) and (C), R.S. 15:541(12)(c) and
5 (25)(l), R.S. 40:2521, R.S. 46:1433 and 1809(B)(3)(d) and (4)(a), Code of Criminal
6 Procedure Article 571.1 and Children's Code Articles 804(3) and (5) and 1015(3)(l)
7 and to enact R.S. 14:46.2(E), 46.3(A)(6) and (C)(3), 82(C)(4) and (5) and (G),
8 83.3(D), 83.4(C), 86(C), 89(C), and 89.2(D), R.S. 15:541(12)(d) and (25)(k), (m),
9 (n), and (o), and 1308(A)(2)(q) and (r), and Children's Code Articles 603(10)(r) and
10 (s), 606(A)(6), 918(D), and 1015(3)(m), relative to human trafficking, trafficking of
11 children for sexual purposes, and the commercial sexual exploitation of children; to
12 amend certain crimes involving the prostitution and trafficking of children for sexual
13 purposes; to provide for increased penalties for certain prostitution and trafficking
14 offenses when the offense involves persons of a certain age; to provide for
15 affirmative defenses; to prohibit certain defenses to certain crimes; to authorize the
16 use of wiretaps for trafficking investigations; to require the reporting of recovered
17 children; to provide relative to victim reparations; to provide with respect to
18 limitations on the institution of prosecution for specific offenses; to provide access
19 of child sex trafficking victims to certain services; to authorize the expungement of
20 certain juvenile adjudication records; and to provide for related matters.

21 Be it enacted by the Legislature of Louisiana:

22 Section 1. R.S. 14:46.2(D), 46.3(D)(1) and (2), 81.1(A)(1), (D), and (E)(1), (2), and
23 (4), 81.3(C), 82.1, 83, 83.1(B), 83.2(B), 84, 85, 86(B)(1), 89(B), 89.2(B)(3), 104, 105, 282,

1 and 403.3(A)(1)(introductory paragraph) and (C) are hereby amended and reenacted and
2 R.S. 14:46.2(E), 46.3(A)(6) and (C)(3), 82(C)(4) and (5) and (G), 83.3(D), 83.4(C), 86(C),
3 89(C), and 89.2(D) are hereby enacted to read as follows:

4 §46.2. Human trafficking

5 * * *

6 D. It shall not be a defense to prosecution for a violation of this Section that
7 the person being recruited, harbored, transported, provided, solicited, obtained, or
8 maintained is actually a law enforcement officer or peace officer acting within the
9 official scope of his duties.

10 E. If any Subsection, Paragraph, Subparagraph, Item, sentence, clause,
11 phrase, or word of this Section is for any reason held to be invalid, unlawful, or
12 unconstitutional, such decision shall not affect the validity of the remaining portions
13 of this Section.

14 §46.3. Trafficking of children for sexual purposes

15 A. It shall be unlawful:

16 * * *

17 (6) For any person to knowingly sell or offer to sell travel services that
18 include or facilitate any of the activities prohibited by this Section.

19 * * *

20 C.

21 * * *

22 (3) It shall not be a defense to prosecution for a violation of this Section that
23 the person being recruited, harbored, transported, provided, sold, purchased,
24 obtained, or maintained is actually a law enforcement officer or peace officer acting
25 within the official scope of his duties.

26 D.(1)(a) Whoever violates the provisions of Paragraph (A)(1), (2), (4), ~~or (5)~~,
27 or (6) of this Section shall be fined not more than fifty thousand dollars, imprisoned
28 at hard labor for not less than fifteen, nor more than fifty years, or both.

29 (b) Whoever violates the provisions of Paragraph (A)(1), (2), (4), ~~or (5)~~, or
30 (6) of this Section when the victim is under the age of fourteen years shall be fined

1 not more than seventy-five thousand dollars and imprisoned at hard labor for not less
2 than twenty-five years nor more than fifty years. At least twenty-five years of the
3 sentence imposed shall be served without benefit of probation, parole, or suspension
4 of sentence.

5 (c) Any person who violates the provisions of Paragraph (A)(1), (2), (4), (5),
6 or (6) of this Section, who was previously convicted of a sex offense as defined in
7 R.S. 15:541 when the victim of the sex offense was under the age of eighteen years,
8 shall be fined not more than one hundred thousand dollars and shall be imprisoned
9 at hard labor for not less than fifty years or for life. At least fifty years of the
10 sentence imposed shall be served without benefit of parole, probation, or suspension
11 of sentence.

12 (2) Whoever violates the provisions of Paragraph (A)(3) of this Section shall
13 be required to serve at least five years of the sentence ~~imposed~~ provided for in
14 Subparagraph (D)(1)(a) of this Section without benefit of probation, parole, or
15 suspension of sentence. Whoever violates the provisions of Paragraph (A)(3) when
16 the victim is under the age of fourteen years shall be required to serve at least ten
17 years of the sentence ~~imposed~~ provided for in Subparagraph (D)(1)(b) of this Section
18 without benefit of probation, parole, or suspension of sentence.

19 * * *

20 §81.1. Pornography involving juveniles

21 A.(1) It shall be unlawful for a person to produce, promote, advertise,
22 distribute, possess, or possess with the intent to distribute pornography involving
23 juveniles.

24 * * *

25 D.(1) Lack of knowledge of the juvenile's age shall not be a defense.

26 (2) It shall not be a defense to prosecution for a violation of this Section that
27 the juvenile consented to participation in the activity prohibited by this Section.

28 E.(1)(a) Whoever intentionally possesses pornography involving juveniles
29 shall be fined not more than ~~ten~~ fifty thousand dollars and shall be imprisoned at

1 hard labor for not less than ~~two~~ five years or more than ~~ten~~ twenty years, without
2 benefit of parole, probation, or suspension of sentence.

3 (b) On a second or subsequent conviction for the intentional possession of
4 pornography involving juveniles, the offender shall be fined not more than seventy-
5 five thousand dollars and imprisoned at hard labor for not more than forty years,
6 without benefit of parole, probation, or suspension of sentence.

7 (2)(a) Whoever distributes or possesses with the intent to distribute
8 pornography involving juveniles shall be fined not more than ~~ten~~ fifty thousand
9 dollars and shall be imprisoned at hard labor for not less than five years or more than
10 ~~ten~~ twenty years, without benefit of parole, probation, or suspension of sentence.

11 (b) On a second or subsequent conviction for distributing or possessing with
12 the intent to distribute pornography involving juveniles, the offender shall be fined
13 not more than seventy-five thousand dollars and imprisoned at hard labor for not
14 more than forty years, without benefit of parole, probation, or suspension of
15 sentence.

16 * * *

17 (4) Whoever engages in the promotion, advertisement, or production of
18 pornography involving juveniles shall be fined not more than fifteen thousand dollars
19 and be imprisoned at hard labor for not less than ten years or more than twenty years,
20 without benefit of probation, parole, or suspension of sentence.

21 * * *

22 §81.3. Computer-aided solicitation of a minor

23 * * *

24 C.(1) It shall not constitute a defense to a prosecution brought pursuant to
25 this Section that the person reasonably believed to be under the age of seventeen is
26 actually a law enforcement officer or peace officer acting in his official capacity.

27 (2) It shall not be a defense to prosecution for a violation of this Section that
28 the juvenile consented to participation in the activity prohibited by this Section.

29 * * *

1 §82. Prostitution; definition; penalties; enhancement

2 * * *

3 C.

4 * * *

5 (4) Whoever commits the crime of prostitution with a person under the age
6 of eighteen years shall be fined not more than fifty thousand dollars, imprisoned for
7 not less than fifteen years nor more than fifty years, or both.

8 (5) Whoever commits the crime of prostitution with a person under the age
9 of fourteen years shall be fined not more than seventy-five thousand dollars,
10 imprisoned for not less than twenty-five years nor more than fifty years, or both.

11 * * *

12 G. It shall be an affirmative defense to prosecution for a violation of this
13 Section that, during the time of the alleged commission of the offense, the defendant
14 was a victim of trafficking of children for sexual purposes as provided in R.S.
15 14:46.3(E).

16 §82.1. Prostitution; persons under ~~seventeen~~; eighteen; additional offenses

17 A. It shall be unlawful:

18 (1) For any person over the age of seventeen to engage in sexual intercourse
19 with any person under the age of ~~seventeen~~ eighteen who is practicing prostitution,
20 and there is an age difference of greater than two years between the two persons.
21 ~~Lack of knowledge of the latter person's age shall not be a defense.~~

22 (2) For any parent or tutor of any person under the age of ~~seventeen~~ eighteen
23 knowingly to consent to the person's entrance or detention in the practice of
24 prostitution.

25 B.(1) Lack of knowledge of the age of the person practicing prostitution shall
26 not be a defense.

27 (2) It shall not be a defense to prosecution for a violation of this Section that
28 the person practicing prostitution consented to the activity prohibited by this Section.

29 ~~B-C.~~ As used in this Section, "sexual intercourse" means anal, oral, or
30 vaginal sexual intercourse.

1 ~~C.D.(1)~~ Whoever violates the provisions of Paragraph (A)(1) of this Section
 2 shall be fined not more than ~~five~~ fifty thousand dollars, ~~or imprisoned, with or~~
 3 ~~without hard labor,~~ imprisoned at hard labor for not less than ~~two~~ fifteen years nor
 4 more than ~~ten~~ fifty years, or both.

5 (2) Whoever violates the provisions of Paragraph (A)(1) of this Section when
 6 the person practicing prostitution is under the age of fourteen shall be fined not more
 7 than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-
 8 five years nor more than fifty years, or both. Twenty-five years of the sentence
 9 imposed shall be without benefit of parole, probation, or suspension of sentence.

10 (3)(a) Whoever violates the provisions of Paragraph (A)(2) of this Section
 11 shall be required to serve at least five years of the sentence imposed in Paragraph (1)
 12 of this Subsection without benefit of parole, probation, or suspension of sentence.

13 (b) Whoever violates the provisions of Paragraph (A)(2) of this Section when
 14 the person practicing prostitution is under the age of fourteen shall be required to
 15 serve at least ten years of the sentence imposed in Paragraph (2) of this Subsection
 16 without benefit of parole, probation, or suspension of sentence.

17 E. It shall not be a defense to prosecution for a violation of this Section that
 18 the person practicing prostitution who is believed to be under the age of eighteen is
 19 actually a law enforcement officer or peace officer acting within the official scope
 20 of his duties.

21 §83. Soliciting for prostitutes

22 A. Soliciting for prostitutes is the soliciting, inviting, inducing, directing, or
 23 transporting a person to any place with the intention of promoting prostitution.

24 B.(1) Whoever commits the crime of soliciting for prostitutes shall be fined
 25 not more than five hundred dollars, imprisoned for not more than six months, or
 26 both.

27 (2) Whoever commits the crime of soliciting for prostitutes when the person
 28 being solicited is under the age of eighteen years shall be fined not more than fifty
 29 thousand dollars, imprisoned for not less than fifteen years nor more than fifty years,
 30 or both.

1 fined not more than seventy-five thousand dollars, imprisoned for not less than
2 twenty-five years nor more than fifty years, or both.

3 * * *

4 C. It shall not be a defense to prosecution for a violation of this Section that
5 the person being enticed is actually a law enforcement officer or peace officer acting
6 in his official capacity.

7 * * *

8 §89. Crime against nature

9 * * *

10 B.(1) Whoever violates the provisions of this Section shall be fined not more
11 than two thousand dollars, ~~or~~ imprisoned, with or without hard labor, for not more
12 than five years, or both.

13 (2) Whoever violates the provisions of this Section with a person under the
14 age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned
15 for not less than fifteen years nor more than fifty years, or both.

16 (3) Whoever violates the provisions of this Section with a person under the
17 age of fourteen years shall be fined not more than seventy-five thousand dollars,
18 imprisoned for not less than twenty-five years nor more than fifty years, or both.

19 C. It shall be an affirmative defense to prosecution for a violation of this
20 Section that, during the time of the alleged commission of the offense, the defendant
21 was a victim of trafficking of children for sexual purposes as provided in R.S.
22 14:46.3(E).

23 * * *

24 §89.2. Crime against nature by solicitation

25 * * *

26 B.

27 * * *

28 (3)(a) Whoever violates the provisions of this Section, when the person
29 being solicited is under the age of ~~seventeen~~ eighteen years, shall be fined not more
30 than ~~two~~ fifty thousand dollars, ~~or imprisoned, with or without hard labor,~~

1 imprisoned at hard labor for not less than fifteen years nor more than five fifty years,
2 or both. ~~Lack of knowledge of the age of the person being solicited shall not be a~~
3 ~~defense.~~

4 (b) Whoever violates the provisions of this Section, when the person being
5 solicited is under the age of fourteen years, shall be fined not more than seventy-five
6 thousand dollars, imprisoned at hard labor for not less than twenty-five years nor
7 more than fifty years, or both. Twenty-five years of the sentence imposed shall be
8 without benefit of parole, probation, or suspension of sentence.

9 * * *

10 D.(1) It shall be an affirmative defense to prosecution for a violation of this
11 Section that, during the time of the alleged commission of the offense, the defendant
12 was a victim of trafficking of children for sexual purposes as provided in R.S.
13 14:46.3(E).

14 (2) Lack of knowledge of the age of the person being solicited shall not be
15 a defense.

16 (3) It shall not be a defense to prosecution for a violation of Paragraph (B)(3)
17 of this Section that the person being solicited consented to the activity prohibited by
18 this Section.

19 (4) It shall not be a defense to prosecution for a violation of Paragraph (B)(3)
20 of this Section that the person being solicited is actually a law enforcement officer
21 or peace officer acting within the official scope of his duties.

22 * * *

23 §104. Keeping a disorderly place

24 A. Keeping a disorderly place is the intentional maintaining of a place to be
25 used habitually for any illegal purpose.

26 B.(1) Whoever commits the crime of keeping a disorderly place shall be
27 fined not more than five hundred dollars, ~~or~~ imprisoned for not more than six
28 months, or both.

29 (2) Whoever commits the crime of keeping a disorderly place for the purpose
30 of prostitution of persons under the age of eighteen years shall be fined not more

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 than fifty thousand dollars, imprisoned for not less than fifteen years nor more than
2 fifty years, or both.

3 (3) Whoever commits the crime of keeping a disorderly place for the purpose
4 of prostitution of persons under the age of fourteen years shall be fined not more than
5 seventy-five thousand dollars, imprisoned for not less than twenty-five years nor
6 more than fifty years, or both.

7 §105. Letting a disorderly place

8 A. Letting a disorderly place is the granting of the right to use any premises
9 knowing that they are to be used as a disorderly place, or allowing the continued use
10 of the premises with such knowledge.

11 B.(1) Whoever commits the crime of letting a disorderly place shall be fined
12 not more than five hundred dollars, ~~or~~ imprisoned for not more than six months, or
13 both.

14 (2) Whoever commits the crime of letting a disorderly place for the purpose
15 of prostitution of persons under the age of eighteen years shall be fined not more
16 than fifty thousand dollars, imprisoned for not less than fifteen years nor more than
17 fifty years, or both.

18 (3) Whoever commits the crime of letting a disorderly place for the purpose
19 of prostitution of persons under the age of fourteen years shall be fined not more than
20 seventy-five thousand dollars, imprisoned for not less than twenty-five years nor
21 more than fifty years, or both.

22 * * *

23 §282. Operation of places of prostitution prohibited; penalty

24 A. No person shall maintain, operate, or knowingly own any place or any
25 conveyance used for the purpose of lewdness, assignation, or prostitution, or shall
26 rent or let any place or conveyance to any person with knowledge of or good reason
27 to believe that the lessee intends to use the place or conveyance for the purpose of
28 lewdness, assignation, or prostitution, or reside in, enter, or remain in any place for
29 the purpose of lewdness, assignation, or prostitution.

1 §541. Definitions

2 For the purposes of this Chapter, the definitions of terms in this Section shall
3 apply:

4 * * *

5 (12) "Criminal offense against a victim who is a minor" for the purposes of
6 this Chapter means conviction for the perpetration or attempted perpetration of or
7 conspiracy to commit any of the following offenses:

8 * * *

9 (c) A violation of R.S. 14:83, 83.1, 83.2, or 282 when the prostitution
10 involves persons under the age of eighteen years.

11 ~~(e)~~(d) Any conviction for an offense under the laws of another state, or
12 military, territorial, foreign, tribal, or federal law which is equivalent to the offenses
13 listed in Subparagraphs (a), (b), and ~~(b)~~ (c) of this Paragraph.

14 * * *

15 (25) "Sexual offense against a victim who is a minor" means a conviction for
16 the perpetration or attempted perpetration of, or conspiracy to commit, any of the
17 following:

18 * * *

19 (k) Soliciting for prostitutes when the persons being solicited for prostitution
20 are under the age of eighteen years (R.S. 14:83).

21 (l) Inciting prostitution when the prostitution involves persons under the age
22 of eighteen years (R.S. 14:83.1).

23 (m) Promoting prostitution when the prostitution being promoted involves
24 persons under the age of eighteen years (R.S. 14:83.2).

25 (n) Operation of places of prostitution when the prostitution involves persons
26 under the age of eighteen years (R.S. 14:282).

27 ~~(t)~~(o) Any conviction for an offense under the laws of another state, or
28 military, territorial, foreign, tribal, or federal law which is equivalent to the offenses
29 listed in Subparagraphs (a) through ~~(t)~~ (n) of this Paragraph.

30 * * *

1 §1308. Authorization for interception of wire or oral communications

2 A. The attorney general, or the deputy or any assistant attorney general
3 acting pursuant to the authorization of the attorney general, with the approval of the
4 district attorney or any assistant district attorney acting pursuant to the written
5 authorization of the district attorney in whose district the interception of wire or oral
6 communications shall take place, and the district attorney or authorized assistant
7 district attorney, with the approval of the attorney general or authorized deputy or
8 assistant attorney general may authorize an application to a judge in whose district
9 the interception of wire or oral communications shall take place, and such judge may
10 grant in conformity with R.S. 15:1310 an order authorizing or approving the
11 interception of wire or oral communications by an investigative or law enforcement
12 officer having responsibility for the investigation of the offense as to which the
13 application is made, when such interception may provide or has provided evidence
14 of:

15 * * *

16 (2) The commission, attempted commission, or conspiracy to commit a
17 crime involving any of the following offenses:

18 * * *

19 (q) Human trafficking when prosecuted under R.S. 14:46.2(B)(3).

20 (r) Trafficking of children for sexual purposes as defined by R.S. 14:46.3.

21 * * *

22 Section 3. R.S. 40:2521 is hereby amended and reenacted to read as follows:

23 §2521. Law enforcement agency receiving report of missing or recovered child;
24 duty

25 The law enforcement agency which receives an initial report of a missing
26 child or the recovery of a missing child shall immediately report the missing or
27 recovered child to national law enforcement agencies and the state law enforcement
28 agencies of neighboring states. This notification shall include entry of the ~~child's~~
29 name of the child into the National Crime Information Center registry. These reports

1 shall be made for each reported missing child without regard to whether the child is
2 believed to be missing due to stranger abduction, parental abduction, or any other
3 cause.

4 Section 4. R.S. 46:1433 and 1809(B)(3)(d) and (4)(a) are hereby amended and
5 reenacted to read as follows:

6 §1433. Notification of location of missing and/or exploited child

7 A. The parent, guardian, or legal custodian responsible for notifying the
8 clearinghouse or a law enforcement agency of a missing ~~and/or~~ or exploited child
9 shall immediately notify such agency or the clearinghouse of any child whose
10 location has been determined.

11 B. Any law enforcement agency shall transmit information of the recovery
12 of a missing child to the clearinghouse, which shall maintain the information in the
13 central repository pursuant to R.S. 46:1431 and 1432.

14 * * *

15 §1809. Criteria for making awards; prohibitions; authority to deny or reduce awards

16 * * *

17 B. In making its determination, the following provisions shall apply:

18 * * *

19 (3) No award of reparations shall be made if the board finds that:

20 * * *

21 (d) The claimant was the offender or an accessory, or that an award to the
22 claimant would unjustly benefit any of them. However, such ineligibility shall not
23 apply if the claimant is a victim of human trafficking or trafficking of children for
24 sexual purposes.

25 * * *

26 (4) The board may deny or reduce an award:

27 (a) If it finds that the behavior of the victim at the time of the crime giving
28 rise to the claim was such that the victim bears some measure of responsibility for

1 Art. 603. Definitions

2 As used in this Title:

3 * * *

4 (10) "Crime against the child" shall include the commission of or the
5 attempted commission of any of the following crimes against the child as provided
6 by federal or state statutes:

7 * * *

8 (r) Human trafficking.

9 (s) Trafficking of children for sexual purposes.

10 * * *

11 Art. 606. Grounds; child in need of care

12 A. Allegations that a child is in need of care must assert one or more of the
13 following grounds:

14 * * *

15 (6) The child is a victim of human trafficking or trafficking of children for
16 sexual purposes.

17 * * *

18 Art. 804. Definitions

19 As used in this Title:

20 * * *

21 (3) "Delinquent act" means an act committed by a child of ten years of age
22 or older which if committed by an adult is designated an offense under the statutes
23 or ordinances of this state, or of another state if the offense occurred there, or under
24 federal law, except traffic violations. It includes an act constituting an offense under
25 R.S. 14:95.8, an act constituting an offense under R.S. 14:81.1.1(A)(2), and a direct
26 contempt of court committed by a child. "Delinquent act" shall not include a
27 violation of R.S. 14:82, 83.3, 83.4, 89, or 89.2 for a child who, during the time of the
28 alleged commission of the offense, was a victim of trafficking of children for sexual
29 purposes pursuant to R.S. 14:46.3(E).

30 * * *

