

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S3/25/13

A Bill

SENATE BILL 869

5 By: Senators Elliott, *Irvin, Rapert*
6 By: Representatives Leding, *D. Meeks*
7

For An Act To Be Entitled

9 AN ACT TO PROVIDE A SAFE HARBOR FOR VICTIMS OF
10 CERTAIN SEX TRAFFICKING AND COMMERCIAL SEX OFFENSES;
11 TO PROVIDE FOR A FINE; TO PROVIDE FOR A STUDY; TO
12 DEVELOP A PROTOCOL; TO ESTABLISH A SAFE HARBOR FOR
13 SEXUALLY EXPLOITED CHILDREN FUND; TO PROVIDE FOR
14 TRAINING; TO DECLARE AN EMERGENCY; AND FOR OTHER
15 PURPOSES.
16
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Subtitle

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19 TO PROVIDE A SAFE HARBOR FOR VICTIMS OF
20 CERTAIN SEX TRAFFICKING AND COMMERCIAL
21 SEX OFFENSES; AND TO DECLARE AN
22 EMERGENCY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. DO NOT CODIFY. Legislative findings.

28 The General Assembly finds that:

29 (1) Arresting, prosecuting, and incarcerating victimized children
30 serves to retraumatize them and to increase their feelings of low self-
31 esteem, which only makes the process of recovery more difficult.

32 (2) Both federal and international law recognize that sexually
33 exploited children are the victims of crime and should be treated as such.

34 (3) Therefore, sexually exploited children should not be prosecuted
35 for criminal acts related to prostitution.

36 (4) Instead, sexually exploited children should, where possible, be



1 diverted into services that address the needs of these children outside of
2 the justice system.

3 (5) Sexually exploited children deserve the protection of child
4 welfare services, including diversion, crisis intervention, counseling, and
5 emergency housing services.

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7 SECTION 2. DO NOT CODIFY. Legislative intent.

8 (1) The intent of this act is to protect a child from further
9 victimization after the child is discovered to be a sexually exploited child
10 by ensuring that a child protective response is in place in the state.

11 (2) This is to be accomplished by presuming that any child engaged in
12 prostitution or solicitation is a victim of sex trafficking and providing
13 these children with the appropriate care and services when possible.

14 (3) In determining the need for and capacity of services that may be
15 provided, the Department of Human Services shall recognize that sexually
16 exploited children have separate and distinct service needs according to
17 gender, and every effort should be made to ensure that these children are not
18 prosecuted or treated as juvenile delinquents, but instead are given the
19 appropriate social services.

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21 SECTION 3. DO NOT CODIFY. Establishment of an interim study.

22 (1) The Senate Interim Committee on Children and Youth shall conduct
23 an interim study on the problem of child sex trafficking and the commercial
24 sexual exploitation of children in Arkansas.

25 (2) The committee shall:

26 (A) Invite the following entities to participate in the study:

27 (i) Members of the law enforcement community;

28 (ii) Representative of the Arkansas Prosecuting Attorneys

29 Association;

30 (iii) Representatives of the Department of Human Services;

31 (iv) Representatives of the Administrative Office of the

32 Courts; and

33 (v) Victim-service providers and advocates; and

34 (B) Make a report by July 1, 2014, to the Senate on the issue of
35 child sex trafficking and the commercial sexual exploitation of children, to
36 include the following:

1 (i) A proposed state plan for providing adequate services
2 for sexually exploited children;

3 (ii) Recommendations for changes in state law, policies
4 and procedures; and

5 (iii) Any appropriations necessary to allow the applicable
6 agencies to better serve and protect this victim population.

7
8 SECTION 4. Arkansas Code § 5-18-103, as created by Acts 2013, Nos. 132
9 and 133, concerning the offense of trafficking of persons, is amended to add
10 a new subsection to read as follows:

11 (d) In addition to any other sentence authorized by this section, a
12 person who is convicted of violating this section shall be ordered to pay a
13 fine of two hundred fifty dollars (\$250) to be deposited into the Safe Harbor
14 Fund for Sexually Exploited Children.

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16 SECTION 5. Arkansas § 5-70-102, as amended to Acts 2013, Nos. 132 and
17 133, concerning the offense of prostitution, is amended to add a new
18 subsection to read as follows:

19 (d) In addition to any other sentence authorized by this section, a
20 person who is convicted of violating this section shall be ordered to pay a
21 fine of two hundred fifty dollars (\$250) to be deposited into the Safe Harbor
22 Fund for Sexually Exploited Children.

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24 SECTION 6. Arkansas Code § 5-70-103, as amended by Acts 2013, Nos. 132
25 and 133, concerning the offense of sexual solicitation, is amended to add a
26 new subsection to read as follows:

27 (d) In addition to any other sentence authorized by this section, a
28 person who is convicted of violating this section shall be ordered to pay a
29 fine of two hundred fifty dollars (\$250) to be deposited into the Safe Harbor
30 Fund for Sexually Exploited Children.

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32 SECTION 7. Arkansas Code § 9-27-323 is amended to add a new subsection
33 to read as follows:

34 (k)(1) The Department of Human Services shall develop a statewide
35 referral protocol for helping to coordinate the delivery of services to
36 sexually exploited children that are granted diversion from delinquency

1 proceedings under this section.

2 (2) As used in this section, "sexually exploited child" means a
3 person less than eighteen (18) years of age who has been subject to sexual
4 exploitation because the person:

5 (A) Is a victim of trafficking of persons under § 5-18-
6 103;

7 (B) Is a victim of child sex trafficking under 18 U.S.C. §
8 1591, as it existed on January 1, 2013; or

9 (C) Engages in an act of prostitution under § 5-70-102 or
10 sexual solicitation under § 5-70-103.

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12 SECTION 8. Arkansas Code Title 12, Chapter 18, is amended to add a new
13 subchapter to read as follows:

14 Subchapter 12 – Training Regarding Sexually Exploited Children

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16 12-18-1201. Definitions.

17 As used in this subchapter "sexually exploited child" means a person
18 less than eighteen (18) years of age who has been subject to sexual
19 exploitation because the person:

20 (1) Is a victim of trafficking of persons under § 5-18-103;

21 (2) Is a victim of child sex trafficking under 18 U.S.C. § 1591,
22 as it existed on January 1, 2013; or

23 (3) Engages in an act of prostitution under § 5-70-102 or sexual
24 solicitation under § 5-70-103.

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26 12-18-1202. Training regarding sexually exploited children.

27 The Arkansas Juvenile Officers Association, Arkansas Law Enforcement
28 Training Academy, or the Prosecutor Coordinators Office may provide training
29 to intake officers, law enforcement, prosecutors, and any other appropriate
30 staff, concerning how to identify a sexually exploited child and how to
31 obtain appropriate services for a sexually exploited child.

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33 SECTION 9. Arkansas Code Title 19, Chapter 5, Subchapter 12, is
34 amended to add an additional section to read as follows:

35 19-5-1249. Safe Harbor Fund for Sexually Exploited Children.

36 (a) There is created on the books of the Treasurer of State, the

1 Auditor of State, and the Chief Fiscal Officer of the State a fund to be
2 known as the "Safe Harbor Fund for Sexually Exploited Children".

3 (b) The fund shall consist of fines collected under §§ 5-18-103(d), 5-
4 70-102(d), and 5-70-103(d) and any other revenues authorized by law.

5 (c)(1) The fund shall be administered by the Department of Human
6 Services.

7 (2) The department shall use the fund to provide:

8 (A) Services and treatment, such as securing residential
9 housing, health services, and social services, for sexually exploited
10 children; and

11 (B) Grants to service providers working with sexually
12 exploited children.

13 (d) As used in this section, "sexually exploited child" means a person
14 less than eighteen (18) years of age who has been subject to sexual
15 exploitation because the person:

16 (1) Is a victim of trafficking of persons under § 5-18-103;

17 (2) Is a victim of child sex trafficking under 18 U.S.C. § 1591,
18 as it existed on January 1, 2013; or

19 (3) Engages in an act of prostitution under § 5-70-102 or sexual
20 solicitation under § 5-70-103.

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22 SECTION 10. EMERGENCY CLAUSE. It is found and determined by the
23 General Assembly of the State of Arkansas that human trafficking is a concern
24 of worldwide proportions; that children kidnapped or otherwise forced into
25 prostitution are extremely vulnerable and need substantial help; and that
26 this act is immediately necessary because every day that goes by without
27 addressing the problem of human trafficking and child prostitution is one
28 more day that children are forced into this horrendous situation. Therefore,
29 an emergency is declared to exist, and this act being immediately necessary
30 for the preservation of the public peace, health, and safety shall become
31 effective on:

32 (1) The date of its approval by the Governor;

33 (2) If the bill is neither approved nor vetoed by the Governor,
34 the expiration of the period of time during which the Governor may veto the
35 bill; or

36 (3) If the bill is vetoed by the Governor and the veto is

1 overridden, the date the last house overrides the veto.

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/s/Elliott

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