

1 State of Arkansas As Engrossed: S3/25/13 S4/1/13 H4/6/13

2 89th General Assembly

# A Bill

3 Regular Session, 2013

SENATE BILL 869

4

5 By: Senators Elliott, Irvin, Rapert

6 By: Representatives Leding, D. Meeks

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## 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; AND FOR OTHER PURPOSES.

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## Subtitle

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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*SECTION 1. DO NOT CODIFY. Legislative findings.*

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*The General Assembly finds that:*

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*(1) The criminal justice system is not the appropriate place for sexually exploited children because it serves to retraumatize them and to increase their feelings of low self-esteem;*

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

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*(3) Sexually exploited children should, when possible, be diverted into services that address the needs of these children outside of the justice system; and*

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*(4) Sexually exploited children deserve the protection of child welfare services, including diversion, crisis intervention, counseling, and*

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1 emergency housing services.

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3 SECTION 2. DO NOT CODIFY. Legislative intent.

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

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

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

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

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

21 (2) The committee shall:

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

23 (i) Members of the law enforcement community;

24 (ii) Representative of the Arkansas Prosecuting Attorneys

25 Association;

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

27 (iv) Representatives of the Administrative Office of the

28 Courts; and

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

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

33 (i) A proposed state plan for providing adequate services  
34 for sexually exploited children;

35 (ii) Recommendations for changes in state law, policies  
36 and procedures; and

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

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

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

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12           SECTION 5. Arkansas § 5-70-102, as amended to Acts 2013, Nos. 132 and  
13 133, concerning the offense of prostitution, is amended to add a new  
14 subsection to read as follows:

15           (d) In addition to any other sentence authorized by this section, a  
16 person who violates this section by offering to pay, agreeing to pay, or  
17 paying a fee to engage in sexual activity upon conviction shall be ordered to  
18 pay a fine of two hundred fifty dollars (\$250) to be deposited into the Safe  
19 Harbor Fund for Sexually Exploited Children.

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

24           (d) In addition to any other sentence authorized by this section, a  
25 person who violates this section by offering to pay, agreeing to pay, or  
26 paying a fee to engage in sexual activity upon conviction shall be ordered to  
27 pay a fine of two hundred fifty dollars (\$250) to be deposited into the Safe  
28 Harbor Fund for Sexually Exploited Children.

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

32           (k)(1) The Department of Human Services shall develop a statewide  
33 referral protocol for helping to coordinate the delivery of services to  
34 sexually exploited children.

35           (2) As used in this section, "sexually exploited child" means a  
36 person less than eighteen (18) years of age who has been subject to sexual

1 exploitation because the person:

2 (A) Is a victim of trafficking of persons under § 5-18-  
3 103;

4 (B) Is a victim of child sex trafficking under 18 U.S.C. §  
5 1591, as it existed on January 1, 2013; or

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

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

11 Subchapter 12 – Training Regarding Sexually Exploited Children

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13 12-18-1201. Definitions.

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

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

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

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

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23 12-18-1202. Training regarding sexually exploited children.

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

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

32 19-5-1249. Safe Harbor Fund for Sexually Exploited Children.

33 (a) There is created on the books of the Treasurer of State, the  
34 Auditor of State, and the Chief Fiscal Officer of the State a fund to be  
35 known as the "Safe Harbor Fund for Sexually Exploited Children".

36 (b) The fund shall consist of fines collected under §§ 5-18-103(d), 5-

1 70-102(d), and 5-70-103(d) and any other revenues authorized by law.

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

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

5 (A) Services and treatment, such as securing residential  
6 housing, health services, and social services for sexually exploited  
7 children;

8 (B) Grants to service providers working with sexually  
9 exploited children; and

10 (C) For the management and operation of the fund.

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

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

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

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

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21 */s/Elliott*  
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