

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

*As Engrossed: H3/1/17*

# A Bill

HOUSE BILL 1417

5 By: Representative Sturch  
6

## For An Act To Be Entitled

8 AN ACT CONCERNING THE OFFENSE OF SEXUAL SOLICITATION;  
9 CONCERNING HUMAN TRAFFICKING; PROVIDING FOR  
10 IMPOUNDMENT OF A MOTOR VEHICLE WHEN A PERSON IS  
11 ARRESTED FOR AN OFFENSE INVOLVING SEXUAL  
12 SOLICITATION; PROVIDING FOR HUMAN TRAFFICKING  
13 AWARENESS EDUCATION FOR EDUCATORS; AND FOR OTHER  
14 PURPOSES.

## Subtitle

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17 CONCERNING THE OFFENSE OF SEXUAL  
18 SOLICITATION; PROVIDING FOR IMPOUNDMENT  
19 OF A MOTOR VEHICLE; AND PROVIDING FOR  
20 HUMAN TRAFFICKING AWARENESS EDUCATION FOR  
21 EDUCATORS.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code Title 5, Chapter 5, is amended to add an  
28 additional subchapter to read as follows:

29 Subchapter 5 – Impoundment of Motor Vehicle Due to Prostitution Offense

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31 5-5-501. Motor vehicle impoundment.

32 (a) An arresting law enforcement officer may impound the motor vehicle  
33 of a person arrested if:

34 (1) The motor vehicle was used in the commission of an offense  
35 under § 5-70-101 et seq. by the person arrested;

36 (2) The person arrested is the owner of the motor vehicle or the



1 motor vehicle is being rented and the person arrested is the lessee; and

2 (3) Either:

3 (A) The person arrested has previously been convicted of  
4 an offense under § 5-70-101 et seq.; or

5 (B) An ordinance under subsection (b) of this section is  
6 in effect and the offense was committed within an area designated under  
7 subsection (b) of this section.

8 (b)(1) A local government may designate by ordinance an area within  
9 which a motor vehicle is subject to impoundment if a person using a motor  
10 vehicle is arrested for an offense under § 5-70-101 et seq.

11 (2) The designation must be based on evidence indicating that  
12 the area has a disproportionately higher number of arrests for an offense  
13 under § 5-70-101 et seq. as compared to other areas within the same  
14 jurisdiction.

15 (3) The local government shall post signs at the boundaries of  
16 the area to indicate that the area has been designated under this subsection.

17 (c)(1) An impoundment of a motor vehicle under this section shall be  
18 in accordance with state law and the impoundment shall be indicated as a  
19 “prostitution hold”.

20 (2)(A) Before redeeming the impounded motor vehicle, and in  
21 addition to all applicable impoundment, towing, and storage fees paid to the  
22 towing company as provided by law, an owner of an impounded motor vehicle  
23 shall pay an impoundment fee of five hundred dollars (\$500) to the impounding  
24 law enforcement agency.

25 (B)(i) Upon receipt of the impoundment fee paid under  
26 subdivision (c)(2) of this section, the impounding law enforcement agency  
27 shall issue a written receipt to the owner of the impounded motor vehicle,  
28 which the owner shall provide the towing company.

29 (ii) The written receipt issued under subdivision  
30 (c)(2)(B) of this section authorizes the towing company to release the  
31 impounded motor vehicle upon payment of all impoundment, towing, and storage  
32 fees.

33 (iii) A towing company that relies on a forged  
34 receipt to release a motor vehicle impounded under this section is not liable  
35 to the impounding law enforcement agency for any unpaid impoundment fee under  
36 this subsection.

1 (d) An impoundment fee assessed under this section shall be collected  
 2 by the impounding law enforcement agency and remitted to the Human  
 3 Trafficking Victim Support Fund on the first business day of each month.

4 (e)(1) In a legal proceeding to contest the validity of an impoundment  
 5 under this section in which the person substantially prevails, in which the  
 6 person is found not guilty at trial for the offense or offenses for which the  
 7 motor vehicle was impounded, or in which the charges for which the motor  
 8 vehicle was impounded are dismissed, the person is entitled to a full refund  
 9 of the impoundment, towing, and storage fees paid and the impounding fee paid  
 10 under subsection (c) of this section.

11 (2) A refund made under this subsection shall be paid by the  
 12 impounding law enforcement agency.

13 (3) Before receiving a refund under this subsection, the person  
 14 must provide proof of payment of the fee for which he or she is claiming a  
 15 refund.

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 17 SECTION 2. Arkansas Code § 5-70-103 is amended to read as follows:

18 5-70-103. Sexual solicitation.

19 (a) A person commits the offense of sexual solicitation if he or she:

20 (1) Offers or agrees to pay a fee to a person to engage in  
 21 sexual activity with him or her or another person; or

22 (2) Solicits or requests a person to engage in sexual activity  
 23 with him or her in return for a fee.

24 (b) Sexual solicitation is ~~a~~ an unclassified misdemeanor with the  
 25 following sentences:

26 (1) ~~Class B misdemeanor for the~~ For a first offense:

27 (A) No more than ninety (90) days imprisonment;

28 (B) A fine of no more than two thousand dollars (\$2,000);

29 or

30 (C) Both imprisonment and a fine; and

31 (2) ~~Class A misdemeanor for~~ For a second or subsequent offense:

32 (A) No more than one (1) year of imprisonment;

33 (B) A fine of no more than three thousand five hundred  
 34 dollars (\$3,500); or

35 (C) Both imprisonment and a fine.

36 (c) It is an affirmative defense to prosecution under this section

1 that the person engaged in an act of sexual solicitation as a result of being  
2 a victim of trafficking of persons, § 5-18-103.

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

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9 SECTION 3. Arkansas Code Title 6, Chapter 17, Subchapter 7, is amended  
10 to add an additional section to read as follows:

11 6-17-710. Human trafficking professional development.

12 (a) Each year, a school district shall make available to licensed  
13 personnel thirty (30) minutes of professional development on:

14 (1) Recognizing the warning signs that a child is a victim of  
15 human trafficking; and

16 (2) Reporting a suspicion that a child is a victim of human  
17 trafficking.

18 (b) The Department of Education or another person, firm, or  
19 corporation designated by the department shall develop and administer the  
20 professional development under subsection (a) of this section.

21 (c) The professional development under this section shall count  
22 toward the satisfaction of requirements for professional development in the  
23 Standards for Accreditation of Arkansas Public Schools and School Districts  
24 and for licensure requirements for licensed personnel.

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26 SECTION 4. Arkansas Code Title 19, Chapter 5, Subchapter 12, is  
27 amended to add an additional section to read as follows:

28 19-5-1258. Human Trafficking Victim Support Fund.

29 (a) There is created on the books of the Treasurer of State, the  
30 Auditor of State, and the Chief Fiscal Officer of the State a fund to be  
31 known as the "Human Trafficking Victim Support Fund".

32 (b) The fund shall consist of fees collected under § 5-5-501(d) and  
33 any other revenues authorized by law.

34 (c)(1) The fund shall be administered by the Attorney General.

35 (2) The Attorney General shall use the fund to provide:

36 (A) Grants to nonprofit, religious, and other third-party

1 organizations that provide services and treatment, such as securing  
2 residential housing, health services, and social services for victims of  
3 human trafficking; and

4 (B) For the management and operation of the fund.

5 (d) As used in this section, "victim of human trafficking" means a  
6 person who has been subject to sexual exploitation because the person:

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

8 (2) Is a victim of child sex trafficking under 18 U.S.C. § 1591,  
9 as it existed on January 1, 2017; or

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

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13 /s/Sturch  
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