

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1554

5 By: Representative Penzo
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For An Act To Be Entitled

8 AN ACT TO ESTABLISH SAFE HARBOR PROVISIONS FOR
9 VICTIMS OF HUMAN TRAFFICKING OR LABOR TRAFFICKING; TO
10 ESTABLISH AN AFFIRMATIVE DEFENSE; AND FOR OTHER
11 PURPOSES.
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Subtitle

14 TO ESTABLISH SAFE HARBOR PROVISIONS FOR
15 VICTIMS OF HUMAN TRAFFICKING OR LABOR
16 TRAFFICKING; AND TO ESTABLISH AN
17 AFFIRMATIVE DEFENSE.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code Title 5, Chapter 2, Subchapter 2, is amended
24 to add an additional section to read as follows:

25 5-2-210. Human trafficking – Affirmative defense.

26 (a) As used in this section, "victim of trafficking of persons" means
27 a person who has been subjected to trafficking of persons, § 5-18-103.

28 (b) It is an affirmative defense to a prosecution if at the time a
29 person engaged in the conduct charged to constitute the offense the person
30 was:

31 (1) A victim of trafficking of persons; and

32 (2) Engaged in the offense as a result of the trafficking of
33 persons.
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35 SECTION 2. Arkansas Code § 5-18-102, concerning definitions used in
36 the Human Trafficking Act of 2013, is amended to add additional subdivisions



1 to read as follows:

2 (16) "Abuse or threatened abuse of law or legal process" means
 3 the use or threatened use of a law or legal process, whether administrative,
 4 civil, or criminal, in any manner or for any purpose for which the law was
 5 not designed, in order to exert pressure on another person to cause that
 6 person to take some action or refrain from taking some action; and

7 (17) "Serious harm" means any harm, whether physical or
 8 nonphysical, including psychological, financial, or reputational harm, that
 9 is sufficiently serious, under all the surrounding circumstances, to compel a
 10 reasonable person of the same background and in the same circumstances to
 11 perform or to continue performing labor or a service in order to avoid
 12 incurring the harm.

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 14 SECTION 3. Arkansas Code § 5-18-103(a), concerning the elements of the
 15 offense of trafficking of persons, is amended to read as follows:

16 (a) A person commits the offense of trafficking of persons if he or
 17 she knowingly:

18 (1) Recruits, harbors, transports, obtains, entices, solicits,
 19 isolates, provides, or maintains a person knowing that the person will be
 20 subjected to involuntary servitude;

21 (2) Benefits financially or benefits by receiving anything of
 22 value from participation in a venture under subdivision (a)(1) of this
 23 section;

24 (3) Subjects a person to involuntary servitude;

25 (4) Recruits, entices, solicits, isolates, harbors, transports,
 26 provides, maintains, or obtains a minor for commercial sexual activity;

27 (5) Sells or offers to sell travel services that he or she knows
 28 include an activity prohibited under subdivisions (a)(1)-(4) of this section;

29 (6) Recruits, entices, solicits, isolates, harbors, transports,
 30 provides, maintains, or obtains a pregnant woman for the purpose of causing
 31 the pregnant woman ~~by the use of or threatened use of physical force to place~~
 32 ~~the baby who is not yet born for adoption~~ to place her unborn child for
 33 adoption by:

34 (A) The use of or threatened use of physical force;

35 (B) The physical restraint or threat of physical restraint
 36 of a person;

1 (C) Serious physical injury or threat of serious physical
2 injury to a person;

3 (D) Abuse or threatened abuse of the law or legal process;
4 or

5 (E) Any scheme, plan, or pattern that has a purpose to
6 cause the pregnant woman to believe that, if the pregnant woman does not
7 place the unborn child for adoption, a person would suffer serious physical
8 injury or physical restraint; or

9 (7) Benefits financially or benefits by receiving anything of
10 value from participating in an act described under subdivision (a)(6) of this
11 section.

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13 SECTION 4. Arkansas Code § 16-90-1412(c), concerning sealing
14 convictions for victims of human trafficking, is amended to read as follows:

15 (c) The court shall grant the uniform petition under this section if
16 it finds by a preponderance of the evidence that:

17 (1) The petitioner was convicted of prostitution, § 5-70-102;
18 and

19 (2)(A) The conviction was obtained as a result of the
20 petitioner's having been a victim of human trafficking.

21 (B) A finding concerning the affirmative defense under §
22 5-2-210 does not affect a finding under subdivision (c)(2)(A) of this
23 section, and the petitioner is not required to have raised the affirmative
24 defense under § 5-2-210.

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