

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

As Engrossed: H3/2/21

A Bill

HOUSE BILL 1554

5 By: Representative Penzo
6

For An Act To Be Entitled

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

Subtitle

12
13 *TO ESTABLISH SAFE HARBOR PROVISIONS FOR*
14 *VICTIMS OF HUMAN TRAFFICKING; AND TO*
15 *ESTABLISH AN AFFIRMATIVE DEFENSE.*
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 5, Chapter 2, Subchapter 2, is amended
22 to add an additional section to read as follows:

23 5-2-210. Human trafficking – Affirmative defense.

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

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

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

30 (2) Engaged in the offense as a result of the trafficking of
31 persons.
32

33 SECTION 2. Arkansas Code § 5-18-102, concerning definitions used in
34 the Human Trafficking Act of 2013, is amended to add additional subdivisions
35 to read as follows:

36 (16) "Abuse or threatened abuse of law or legal process" means



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

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

11
12 SECTION 3. Arkansas Code § 5-18-103(a), concerning the elements of the
13 offense of trafficking of persons, is amended to read as follows:

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

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

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

22 (3) Subjects a person to involuntary servitude;

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

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

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

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

33 (B) The physical restraint or threat of physical restraint
34 of a person;

35 (C) Serious physical injury or threat of serious physical
36 injury to a person;

1 (D) Abuse or threatened abuse of the law or legal process;
2 or

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

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

10
11 SECTION 4. Arkansas Code § 16-90-1412(c), concerning sealing
12 convictions for victims of human trafficking, is amended to read as follows:

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

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

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

19 (B) A finding concerning the affirmative defense under §
20 5-2-210 does not affect a finding under subdivision (c)(2)(A) of this
21 section, and the petitioner is not required to have raised the affirmative
22 defense under § 5-2-210.

23
24 /s/Penzo
25
26
27
28
29
30
31
32
33
34
35
36