

1 State of Arkansas
2 93rd General Assembly
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4

As Engrossed: H3/2/21 H3/9/21

A Bill

HOUSE BILL 1554

5 By: Representative Penzo
6 By: Senator B. Ballinger
7

For An Act To Be Entitled

9 AN ACT TO ESTABLISH SAFE HARBOR PROVISIONS FOR
10 VICTIMS OF HUMAN TRAFFICKING; TO ESTABLISH AN
11 AFFIRMATIVE DEFENSE; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO ESTABLISH SAFE HARBOR PROVISIONS FOR
16 VICTIMS OF HUMAN TRAFFICKING; AND TO
17 ESTABLISH AN AFFIRMATIVE DEFENSE.
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19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 5, Chapter 2, Subchapter 2, is amended
23 to add an additional section to read as follows:

24 5-2-210. Human trafficking – Affirmative defense.

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

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

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

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



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

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

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

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

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

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

23 (3) Subjects a person to involuntary servitude;

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

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

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

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

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

36 (C) Serious physical injury or threat of serious physical

1 injury to a person;

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

3 or

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

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

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

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

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

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

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

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25 /s/Penzo
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