

1 SB161
2 136058-1
3 By Senators Brooks, Glover, Scofield, Ward, Reed, Bedford,
4 Holtzclaw, Taylor, Brewbaker, Williams, Fielding, Beason,
5 Dial, Blackwell, Allen, McGill, Waggoner, Smitherman, Ross,
6 Irons, Beasley, Orr and Keahey
7 RFD: Judiciary
8 First Read: 07-FEB-12

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8 SYNOPSIS: Under existing law, first degree human
9 trafficking is a Class A felony, and second degree
10 human trafficking is a Class B felony. It also is a
11 crime to obstruct or attempt to interfere or
12 prevent enforcement of Alabama's human trafficking
13 law.

14 Under existing law, a victim of human
15 trafficking is entitled to mandatory restitution
16 and is entitled to initiate a civil lawsuit to
17 recover damages.

18 Also under existing law, a person convicted
19 of human trafficking in the first degree is
20 required to register as a sex offender, provided
21 that the offense involves sexual servitude.

22 This bill would enhance penalties for
23 subsequent convictions of first degree human
24 trafficking and second degree human trafficking.

25 This bill would require that, in determining
26 whether a minor was caused, induced, or persuaded
27 to engage in sexual servitude, the total

1 circumstances, including the age of the victim and
2 his or her relationship to the trafficker or agents
3 of the trafficker, and any handicap or disability
4 of the victim, must be considered.

5 This bill would require certain sex
6 offenders to disclose their Internet service
7 provider when registering.

8 This bill would require law enforcement
9 agencies to use due diligence to identify all
10 victims of human trafficking, regardless of the
11 citizenship of the person and to consider certain
12 information related to certain victims.

13 This bill also would provide for additional
14 fines for persons convicted of first degree or
15 second degree human trafficking and would provide
16 for the deposit of these fines into the Alabama
17 Crime Victims Compensation Fund, for the purpose of
18 funding grants for services for victims of human
19 trafficking.

20 Amendment 621 of the Constitution of Alabama
21 of 1901, now appearing as Section 111.05 of the
22 Official Recompilation of the Constitution of
23 Alabama of 1901, as amended, prohibits a general
24 law whose purpose or effect would be to require a
25 new or increased expenditure of local funds from
26 becoming effective with regard to a local
27 governmental entity without enactment by a 2/3 vote

1 unless: it comes within one of a number of
2 specified exceptions; it is approved by the
3 affected entity; or the Legislature appropriates
4 funds, or provides a local source of revenue, to
5 the entity for the purpose.

6 The purpose or effect of this bill would be
7 to require a new or increased expenditure of local
8 funds within the meaning of the amendment. However,
9 the bill does not require approval of a local
10 governmental entity or enactment by a 2/3 vote to
11 become effective because it comes within one of the
12 specified exceptions contained in the amendment.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 To amend Sections 13A-6-152, 13A-6-153, and Section
19 7 of Act 2011-640, 2011 Regular Session, now appearing as
20 Section 15-20A-7, Code of Alabama 1975, to enhance penalties
21 for subsequent convictions of first degree human trafficking
22 and second degree human trafficking; to require the
23 consideration of certain factors for human trafficking of
24 minors; to require certain sex offenders to disclose their
25 Internet service provider when registering; to require law
26 enforcement agencies to use due diligence to identify all
27 victims of human trafficking; to provide for additional fines

1 for persons convicted of first degree and second degree human
2 trafficking; to provide for deposit of fines in the Alabama
3 Crime Victims Compensation Fund; to specify the purpose of the
4 fund; and in connection therewith would have as its purpose or
5 effect the requirement of a new or increased expenditure of
6 local funds within the meaning of Amendment 621 of the
7 Constitution of Alabama of 1901, now appearing as Section
8 111.05 of the Official Recompilation of the Constitution of
9 Alabama of 1901, as amended.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. This bill shall be known and may be cited
12 as the Alabamians Against Sexual Exploitation Act.

13 Section 2. Sections 13A-6-152, 13A-6-153, and
14 15-20A-7, Code of Alabama 1975, are amended to read as
15 follows:

16 "§13A-6-152.

17 "(a) A person commits the crime of human trafficking
18 in the first degree if:

19 "(1) He or she knowingly subjects another person to
20 labor servitude or sexual servitude through use of coercion or
21 deception.

22 "(2) He or she knowingly obtains, recruits, entices,
23 solicits, induces, threatens, isolates, harbors, holds,
24 restrains, transports, provides, or maintains any minor for
25 the purpose of causing a minor to engage in sexual servitude.

26 "(3) For purposes of this section, it is not
27 required that the defendant have knowledge of a minor victim's

1 age, nor is reasonable mistake of age a defense to liability
2 under this section. In determining whether a minor was caused,
3 induced, or persuaded to engage in sexual servitude, the total
4 circumstances, including the age of the victim and his or her
5 relationship to the trafficker or agents of the trafficker,
6 and any handicap or disability of the victim, shall be
7 considered.

8 "(4) A corporation, or any other legal entity other
9 than an individual, may be prosecuted for human trafficking in
10 the first degree for an act or omission only if an agent of
11 the corporation or entity performs the conduct which is an
12 element of the crime while acting within the scope of his or
13 her office or employment and on behalf of the corporation or
14 entity, and the commission of the crime was either authorized,
15 requested, commanded, performed, or within the scope of the
16 person's employment on behalf of the corporation or entity or
17 constituted a pattern of conduct that an agent of the
18 corporation or entity knew or should have known was occurring.

19 "(5) Any person who obstructs, or attempts to
20 obstruct, or in any way interferes with or prevents the
21 enforcement of this section shall be guilty of a Class C
22 felony.

23 "(b) Human trafficking in the first degree is a
24 Class A felony. Any person who has previously been convicted
25 of a violation of this section shall receive an additional and
26 consecutive term of imprisonment for each additional
27 conviction.

1 "§13A-6-153.

2 "(a) A person commits the crime of human trafficking
3 in the second degree if:

4 "(1) A person knowingly benefits, financially or by
5 receiving anything of value, from participation in a venture
6 or engagement for the purpose of sexual servitude or labor
7 servitude.

8 "(2) A person knowingly recruits, entices, solicits,
9 induces, harbors, transports, holds, restrains, provides,
10 maintains, subjects, or obtains by any means another person
11 for the purpose of labor servitude or sexual servitude.

12 "(3) A corporation, or any other legal entity other
13 than an individual, may be prosecuted for human trafficking in
14 the second degree for an act or omission only if an agent of
15 the corporation or entity performs the conduct which is an
16 element of the crime while acting within the scope of his or
17 her office or employment and on behalf of the corporation or
18 entity, and the commission of the crime was either authorized,
19 requested, commanded, performed, or within the scope of the
20 person's employment on behalf of the corporation or entity or
21 constituted a pattern of conduct that an agent of the
22 corporation or entity knew or should have known was occurring.

23 "(4) Any person who obstructs, or attempts to
24 obstruct, or in any way interferes with or prevents the
25 enforcement of this section shall be guilty of a Class A
26 misdemeanor.

1 "(b) Human trafficking in the second degree is a
2 Class B felony. Any person who has previously been convicted
3 of a violation of this section shall receive an additional and
4 consecutive term of imprisonment for each additional
5 conviction.

6 "§15-20A-7.

7 "(a) The following registration information, unless
8 otherwise indicated, shall be provided by the sex offender
9 when registering:

10 "(1) Name, including any aliases, nicknames, ethnic,
11 or tribal names.

12 "(2) Date of birth.

13 "(3) Social Security number.

14 "(4) Address of each residence.

15 "(5) Name and address of any school the sex offender
16 attends or will attend. For purposes of this subdivision, a
17 school includes an educational institution, public or private,
18 including a secondary school, a trade or professional school,
19 or an institution of higher education.

20 "(6) Name and address of any employer where the sex
21 offender works or will work, including any transient or day
22 laborer information.

23 "(7) The license plate number, registration number
24 or identifier, description, and permanent or frequent location
25 where all vehicles are kept for any vehicle used for work or
26 personal use, including land vehicles, aircraft, and
27 watercraft.

1 "(8) Any telephone number used, including land line
2 and cell phone numbers.

3 "(9) Any email addresses or instant message address
4 or identifiers used, including any designations or monikers
5 used for self-identification in Internet communications or
6 postings.

7 "(10) A current photograph.

8 "(11) A physical description of the sex offender
9 including physical appearance, physical characteristics, and
10 identifying marks such as scars and tattoos.

11 "(12) Fingerprints and palm prints.

12 "(13) A DNA sample. The DNA sample may be collected
13 by the probation officer, sheriff, chief of police, or other
14 responsible agency. Prior to collecting a DNA sample, the
15 responsible agency shall determine if a DNA sample has already
16 been collected for the sex offender by checking the Dru Sjodin
17 National Sex Offender Public Registry website, the Alabama
18 Department of Forensic Sciences DNATracker site, or with the
19 Alabama Department of Public Safety. If a DNA sample has not
20 been previously collected for the sex offender, the
21 responsible agency shall coordinate for the collection of a
22 DNA sample with the sheriff of the county in which the
23 registration is occurring. The collection of a DNA sample
24 should be performed using materials recommended or provided by
25 the Alabama Department of Forensic Sciences. The DNA sample
26 shall be immediately forwarded by the entity collecting the
27 sample to the Department of Forensic Sciences.

1 "(14) A photocopy of the valid driver license or
2 identification card.

3 "(15) A photocopy of any and all passport and
4 immigration documents.

5 "(16) Any professional licensing information that
6 authorizes the sex offender to engage in an occupation or
7 carry out a trade or business.

8 "(17) A full criminal history of the sex offender,
9 including dates of all arrests and convictions, status of
10 parole, probation, or supervised release, registration status,
11 and outstanding arrest warrants.

12 "(18) A list of any and all Internet service
13 providers used by the sex offender.

14 "~~(18)~~ (19) Any other information deemed necessary by
15 the Director of the Department of Public Safety.

16 "(b) The registering agency is not required to
17 obtain any of the following information each time the sex
18 offender verifies his or her required registration information
19 if the registering agency verifies the information has already
20 been collected and has not been changed or altered:

21 "(1) A current photograph.

22 "(2) Fingerprints or palm prints.

23 "(3) A DNA sample.

24 "(4) A photocopy of the valid driver license or
25 identification card.

26 "(5) A photocopy of any and all passport and
27 immigration documents.

1 "(c) The registration information shall be
2 transmitted to the Department of Public Safety in a manner
3 determined by the director of the department and promulgated
4 in rule by the director upon recommendation of an advisory
5 board consisting of representatives of the office of the
6 Attorney General, District Attorneys Association, Chiefs of
7 Police Association, Sheriffs Association, and the Department
8 of Public Safety. The advisory board members shall not receive
9 any compensation or reimbursement for serving on the advisory
10 board.

11 "(d) The required registration information shall
12 include a form explaining all registration and notification
13 duties, including any requirements and restrictions placed on
14 the sex offender. This form shall be signed and dated by the
15 sex offender. If the sex offender fails to sign the form, the
16 designee of the registering agency shall sign the form stating
17 that the requirements have been explained to the sex offender
18 and that the sex offender refused to sign.

19 "(e) All required registration information shall be
20 stored electronically in a manner determined by the Director
21 of the Department of Public Safety and shall be available in a
22 digitized format by the Department of Public Safety to anyone
23 entitled to receive the information as provided in Section
24 15-20A-42.

25 "(f) Any person who fails to provide the required
26 registration information pursuant to this section shall be
27 guilty of a Class C felony."

1 Section 3. Law enforcement agencies shall use due
2 diligence to identify all victims of human trafficking,
3 regardless of the citizenship of the person. When a law
4 enforcement officer comes into contact with a person who has
5 been deprived of his or her personal liberty, a minor who has
6 engaged in prostitution, or a victim of a crime of domestic
7 violence or rape sexual assault, the law enforcement officer
8 shall consider whether the following indicators of human
9 trafficking are present:

10 (1) Signs of trauma, fatigue, injury, or other
11 evidence of poor care.

12 (2) The person is withdrawn, afraid to talk, or his
13 or her communication is censored by another person.

14 (3) The person does not have freedom of movement.

15 (4) The person lives and works in one place.

16 (5) The person owes a debt to his or her employer.

17 (6) Security measures are used to control who has
18 contact with the person.

19 (7) The person does not have control over his or her
20 own government-issued identification or over his or her worker
21 immigration documents.

22 Section 4. (a) Upon the conviction of any person of
23 a violation of Section 13A-6-152 or 13A-6-153, Code of Alabama
24 1975, the court, in addition to any other penalty, fine, or
25 restitution imposed, may order the defendant to pay an
26 additional fine not to exceed one million dollars
27 (\$1,000,000). In setting the amount of the fine, the court

1 shall consider any relevant factors including, but not limited
2 to, the seriousness and gravity of the offense and the
3 circumstances and duration of its commission, the amount of
4 economic gain the defendant derived as a result of the crime,
5 and the extent to which the victim suffered losses as a result
6 of the crime.

7 (b) Every fine imposed and collected pursuant to
8 subsection (a) shall be deposited in the Alabama Crime Victims
9 Compensation Fund for the purpose of funding grants for
10 services for victims of human trafficking. Seventy percent of
11 the fines collected and deposited shall be distributed to
12 public agencies and nonprofit corporations that provide
13 shelter, counseling, or other direct services for trafficked
14 victims. Thirty percent of the fines collected and deposited
15 shall be distributed to law enforcement and the district
16 attorney in the jurisdiction in which the charge was filed to
17 fund human trafficking prevention, witness protection, and
18 rescue operations.

19 Section 5. Although this bill would have as its
20 purpose or effect the requirement of a new or increased
21 expenditure of local funds, the bill is excluded from further
22 requirements and application under Amendment 621, now
23 appearing as Section 111.05 of the Official Recompilation of
24 the Constitution of Alabama of 1901, as amended, because the
25 bill defines a new crime or amends the definition of an
26 existing crime.

1 Section 6. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.