

1 HB433
2 167025-2
3 By Representatives Williams (JD), Coleman-Evans, Hall, Martin,
4 Collins, Davis, Standridge, Gaston, Patterson, Jones, Greer,
5 Hanes, Whorton (R), Wood, Beech, Farley, Daniels, Ledbetter,
6 Fridy, Faulkner, Ford, Butler, Weaver, Treadaway, South,
7 Nordgren, Johnson (K), Todd, Hill (M), Harper, Tuggle, Rowe,
8 McCutcheon, Rogers, Givan, Pringle, Garrett, Brown, Wingo,
9 Fincher, Mooney, Holmes (M), Lawrence, Carns, Drake, Hubbard,
10 Clouse, Baker, Shiver, McMillan, Beckman, Hammon, Alexander,
11 Grimsley, McClammy, McCampbell, Wadsworth, Scott, Moore (M),
12 Boothe, Hurst and Henry
13 RFD: Judiciary
14 First Read: 07-APR-15

1 ENGROSSED

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4 A BILL

5 TO BE ENTITLED

6 AN ACT

7

8 To add Section 13A-12-123 to the Code of Alabama
9 1975, to provide a definition of "sexually exploited child";
10 to prohibit a sexually exploited child from being adjudicated
11 delinquent or convicted of a crime of prostitution; to provide
12 that a sexually exploited child engaged in prostitution may be
13 adjudicated a child in need of supervision or a dependent
14 child; to prohibit the transfer of a case involving a sexually
15 exploited child who commits an act of prostitution from the
16 jurisdiction of juvenile court to any adult court; to
17 authorize a juvenile court to retain jurisdiction over a
18 sexually exploited child; to provide for certain court orders
19 in the best interests of the child; to provide that certain
20 social and community services will be made available to
21 sexually exploited children; to authorize an additional fine
22 for certain crimes relating to prostitution; to require
23 certain persons convicted of certain prostitution related
24 crimes to attend counseling and education programs; to allow
25 the detention of a person for 72 hours if the person is
26 arrested for the crime of prostitution; and in connection
27 therewith would have as its purpose or effect the requirement

1 of a new or increased expenditure of local funds within the
2 meaning of Amendment 621 of the Constitution of Alabama of
3 1901, now appearing as Section 111.05 of the Official
4 Recompilation of the Constitution of Alabama of 1901, as
5 amended.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. This act shall be known and may be cited
8 as the "Alabama Human Trafficking Safe Harbor Act."

9 Section 2. Section 13A-12-123 is added to Division 2
10 of Article 3 of Chapter 12 of Title 13A, Code of Alabama 1975,
11 to read as follows:

12 §13A-12-123.

13 A sexually exploited child, as defined in Section 3,
14 who is alleged to have committed a violation of Section
15 13A-12-120 or 13A-12-121, or any municipal ordinance
16 prohibiting such acts, shall be treated pursuant to Section 4.

17 Section 3. (a) For the purposes of this section,
18 "sexually exploited child" shall mean an individual under the
19 age of 18 years who is under the jurisdiction of the juvenile
20 court and who has been subjected to sexual exploitation
21 because he or she is any of the following:

22 (1) A victim of the crime of human trafficking
23 sexual servitude as provided in Section 13A-6-150, et seq.,
24 Code of Alabama 1975.

25 (2) Engaged in prostitution as provided in Section
26 13A-12-120 or 13A-12-121, Code of Alabama 1975.

1 (3) A victim of the crime of promoting prostitution
2 as provided in Section 13A-12-111, 13A-12-112, or 13A-12-113,
3 Code of Alabama 1975.

4 (b) A sexually exploited child may not be
5 adjudicated delinquent or convicted of a crime of prostitution
6 as provided in Section 13A-12-120 or 13A-12-121, Code of
7 Alabama 1975, or any municipal ordinance prohibiting such
8 acts.

9 (c) In any proceeding based upon a child's arrest
10 for an act of prostitution, there is a presumption that the
11 child satisfies the definition of a sexually exploited child
12 as provided in this section.

13 (d) If a law enforcement officer or a person seeks
14 to file a complaint against a child for an offense of
15 prostitution as provided in Section 13A-12-120 or 13A-12-121,
16 Code of Alabama 1975, the juvenile court intake officer shall
17 evaluate the complaint to determine if the child is a sexually
18 exploited child and could have another complaint filed stating
19 that the child is alleged to be in need of supervision or
20 alleged to be dependent, and not a child alleged to be
21 delinquent, pursuant to Rule 12 of the Alabama Rules of
22 Juvenile Procedure. A juvenile probation officer who is
23 designated to be a juvenile court intake officer may determine
24 if a child alleged to be in need of supervision is appropriate
25 for an informal adjustment pursuant to Rule 15 of the Alabama
26 Rules of Juvenile Procedure.

1 (e) If a petition alleging that a sexually exploited
2 child is in need of supervision or is dependent is filed, a
3 sexually exploited child may be adjudicated a child in need of
4 supervision or a dependent child pursuant to Section
5 12-15-102(4) and (8), Code of Alabama 1975. Once the sexually
6 exploited child is adjudicated, the juvenile court shall
7 retain jurisdiction over the sexually exploited child and may
8 enforce prior orders requiring payment of court-ordered monies
9 pursuant to Section 12-15-117, Code of Alabama 1975. The
10 juvenile court may issue any requisite order or conduct any
11 hearing necessary to protect the health or safety of a
12 sexually exploited child that is determined to be in the best
13 interests of the child. The juvenile court may also, on an
14 emergency basis, enter an order of protection or restraint to
15 protect the health or safety of a sexually exploited child.

16 (f) A sexually exploited child who commits an act of
17 prostitution as provided in Section 13A-12-120 or 13A-12-121,
18 Code of Alabama 1975, may not be transferred from the
19 jurisdiction of juvenile court to any adult court pursuant to
20 Section 12-15-203, Code of Alabama 1975, except in those cases
21 where the child has been convicted or adjudicated a youthful
22 offender divesting the juvenile court of jurisdiction as
23 provided in Sections 12-15-203(i) and 12-15-204(b), Code of
24 Alabama 1975.

25 (g) A sexually exploited child who commits an act of
26 prostitution as provided in Section 13A-12-120 or 13A-12-121,

1 Code of Alabama 1975, shall be afforded all rights pursuant to
2 Section 12-15-202, Code of Alabama 1975.

3 (h) All social and community services shall be made
4 available to a sexually exploited child. Services may include,
5 but are not limited to, any of the following:

6 (1) Forensic evidence collection.

7 (2) Forensic interviewing.

8 (3) Counseling.

9 (4) Advocacy.

10 (5) Shelter.

11 (6) Alcohol or substance abuse treatment.

12 (7) Mental health services.

13 (8) Medical treatment.

14 (9) Legal services.

15 (10) Educational tutoring, counseling, and language
16 interpreter services.

17 (11) Crisis intervention services.

18 (12) Safety planning.

19 (13) Investigation and prosecution of the
20 individuals subjecting the child to sexual exploitation or
21 abuse.

22 Section 4. (a) Notwithstanding any other fines,
23 restitution, court costs, or docket fees, upon conviction for
24 the offense of promoting prostitution under Division 1,
25 Article 3, Chapter 12, Title 13A, Code of Alabama 1975, or a
26 violation of subsection (b) or (d) of Section 13A-12-121, Code
27 of Alabama 1975, a mandatory fine of five hundred dollars

1 (\$500) shall be assessed. The court shall order the five
2 hundred dollar (\$500) fine to be paid to the clerk of court to
3 be distributed to a court-certified therapeutic counseling
4 entity that provides education, treatment, and prevention
5 counseling to adult persons convicted of prostitution
6 offenses.

7 (b) A court may order an adult person convicted of
8 an offense under Division 1, Article 3, Chapter 12, Title 13A,
9 or subsection (b) or (d) of Section 13A-12-121, Code of
10 Alabama 1975, to successfully attend counseling or an
11 educational training program designed to reduce recidivism
12 rates for these violations. Attendance of such programs shall
13 be at the cost and expense of the person convicted of the
14 offense.

15 (c) An adult person who is charged with an offense
16 under subsection (b) or (d) of Section 13A-12-121, Code of
17 Alabama 1975, and has no prior arrest or convictions for an
18 offense under Sections 13A-12-111, 13A-12-112, 13A-12-113, and
19 13A-12-121, Code of Alabama 1975, or an offense in any other
20 state that has the same or similar elements as those sections,
21 may be accepted into a pretrial diversion program, provided
22 the adult person satisfied the requirements of subsections (a)
23 and (b), as well as any other conditions imposed pursuant to
24 the pretrial diversion program.

25 (d) Under no circumstance may an adult person be
26 admitted into a pretrial diversion program if he or she has
27 been previously convicted of an offense under Sections

1 13A-12-111, 13A-12-112, 13A-12-113, and 13A-12-121, Code of
2 Alabama 1975, or an offense in any other state which has the
3 same or similar elements as those sections.

4 (e) A person charged with an offense defined under
5 13A-12-120, Code of Alabama 1975, in violation of subsection
6 (a) or (c) of Section 13A-12-121, Code of Alabama 1975, may be
7 accepted in a pretrial diversion program, provided that he or
8 she meets the requirements of a pretrial diversion program
9 within the jurisdiction where the offense occurred.

10 Section 5. For the safety and well-being of a person
11 arrested for the crime of prostitution under Division 2,
12 Article 3, Chapter 12, Title 13A, Code of Alabama 1975, he or
13 she may be held in custody for up to 72 hours. The person
14 shall be brought before a court of competent jurisdiction as
15 soon as possible within a 48-hour period to conduct an inquiry
16 into the person's access to resources, such as, but not
17 limited to, health care, shelter, mental health counseling, or
18 financial aid. The court may issue an order to assist the
19 person in obtaining the services and resources needed pursuant
20 to the court's inquiry.

21 Section 6. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621, now
25 appearing as Section 111.05 of the Official Recompilation of
26 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

3 Section 7. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Judiciary 07-APR-15

Read for the second time and placed
on the calendar 1 amendment 30-APR-15

Read for the third time and passed
as amended..... 26-MAY-15

Yeas 100, Nays 0, Abstains 0

Jeff Woodard
Clerk