

SENATE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

February 15, 2018

Date

Committee on Health & Human Services.

After consideration on the merits, the Committee recommends the following:

SB18-084 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

- 1 Amend printed bill, strike everything below the enacting clause and
2 substitute:
- 3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly finds and declares that:
- 5 (a) Human trafficking is a serious problem in Colorado and across
6 the nation;
- 7 (b) Among the diverse populations affected by human trafficking,
8 children and youth, especially homeless and runaway youth, are
9 particularly at risk of being trafficked for sex and involuntary labor;
- 10 (c) Children and youth who are forced into involuntary servitude
11 and commercial sexual activity are more properly identified as victims
12 and not as criminals; and
- 13 (d) Human trafficking in all forms creates a cycle of violence and
14 impacts victims, families, and communities.
- 15 (2) The general assembly further finds and declares that:
- 16 (a) As a result of the diverse systems that touch these children's
17 and youth's lives, professionals in the child welfare, law enforcement,
18 treatment, nonprofit, and faith-based communities must collaborate to
19 develop a multidisciplinary approach to protect children and youth who
20 are victims of human trafficking. This multidisciplinary approach needs
21 to emphasize prevention, protection, prosecution, and partnerships.
- 22 (b) Protecting children and youth who are victims of human
23 trafficking from further trauma by recognizing them as victims rather than
24 criminals is beneficial for the children and youth involved and therefore

1 in the public interest.

2 (3) It is therefore the intent of the general assembly to:

3 (a) Offer pathways that direct victimized children and youth away

4 from juvenile delinquency by making available to those children and

5 youth appropriate and comprehensive rehabilitative services;

6 (b) Offer protection and provide consistency in the treatment,

7 care, and support of children and youth who are victims of human

8 trafficking so they may continue to heal from the traumatic environment

9 of being trafficked in a restorative justice manner; and

10 (c) Help create a safe haven for children and youth who are

11 victims of human trafficking to come forward without fear and identify

12 their traffickers and perpetrators.

13 (4) Now, therefore, the general assembly joins the federal

14 government and other states around the nation in passing legislation to

15 further combat human trafficking and protect children and youth who are

16 victims of human trafficking.

17 **SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend**

18 (1)(a) introductory portion, (1)(a)(VIII), and (71); and **add** (62.5) and

19 (62.6) as follows:

20 **19-1-103. Definitions.** As used in this title 19 or in the specified

21 portion of this title 19, unless the context otherwise requires:

22 (1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of

23 article 3 of this ~~title~~ TITLE 19, means an act or omission in one of the

24 following categories that threatens the health or welfare of a child:

25 (VIII) Any case in which a child is subjected to HUMAN

26 TRAFFICKING OF A MINOR FOR INVOLUNTARY SERVITUDE, AS DESCRIBED

27 IN SECTION 18-3-503, OR human trafficking of a minor for sexual

28 servitude, as described in ~~section 18-3-504, C.R.S.~~ SECTION 18-3-504 (2).

29 (62.5) "HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY

30 SERVITUDE" MEANS AN ACT AS DESCRIBED IN SECTION 18-3-503.

31 (62.6) "HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE"

32 MEANS AN ACT AS DESCRIBED IN SECTION 18-3-504 (2).

33 (71) (a) "Juvenile delinquent", as used in article 2 of this ~~title~~

34 TITLE 19, means a juvenile who has been found guilty of a delinquent act.

35 (b) "JUVENILE DELINQUENT" DOES NOT INCLUDE A JUVENILE WHO

36 IS ALLEGED TO HAVE COMMITTED A DELINQUENT ACT, AS DEFINED IN

37 SUBSECTION (71)(c) OF THIS SECTION, WHILE A VICTIM OF:

38 (I) SEXUAL EXPLOITATION OF A CHILD, AS DESCRIBED IN SECTION

39 18-6-403 (3);

40 (II) HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY

41 SERVITUDE, AS DESCRIBED IN SECTION 18-3-503; OR

1 (III) HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE, AS
2 DESCRIBED IN SECTION 18-3-504 (2).

3 (c) FOR THE PURPOSES OF SUBSECTION (71)(b) OF THIS SECTION
4 ONLY, "DELINQUENT ACT" INCLUDES:

5 (I) ANY MISDEMEANOR OR DRUG MISDEMEANOR OFFENSE IF THE
6 MISDEMEANOR OFFENSE IS NOT A CRIME DEFINED IN SECTION 24-4.1-302
7 (1); OR

8 (II) ANY PETTY OR DRUG PETTY OFFENSE; OR

9 (III) ANY COMPARABLE MUNICIPAL ORDINANCE VIOLATION.

10 **SECTION 3.** In Colorado Revised Statutes, 18-3-504, **amend**
11 (1)(a) and (2)(a); and **add** (2.7) as follows:

12 **18-3-504. Human trafficking for sexual servitude - human**
13 **trafficking of a minor for sexual servitude - affirmative defense -**
14 **immunity - definition.** (1) (a) A person ~~who~~ COMMITS HUMAN
15 TRAFFICKING FOR SEXUAL SERVITUDE IF HE OR SHE knowingly sells,
16 recruits, harbors, transports, transfers, isolates, entices, provides, receives,
17 or obtains by any means another person for the purpose of coercing the
18 person to engage in commercial sexual activity. ~~commits human~~
19 ~~trafficking for sexual servitude.~~

20 (2) (a) A person ~~who~~ COMMITS HUMAN TRAFFICKING OF A MINOR
21 FOR SEXUAL SERVITUDE IF HE OR SHE:

22 (I) Knowingly sells, recruits, harbors, transports, transfers,
23 isolates, entices, provides, receives, obtains by any means, maintains, or
24 makes available a minor for the purpose of commercial sexual activity;
25 ~~commits human trafficking of a minor for sexual servitude.~~ OR

26 (II) ~~A person who~~ Knowingly advertises, offers to sell, or sells
27 travel services that facilitate an activity prohibited pursuant to subsection
28 (2)(a)(I) of this section. ~~commits human trafficking of a minor for sexual~~
29 ~~servitude.~~

30 (2.7) (a) A MINOR WHO IS ALLEGED TO HAVE COMMITTED CERTAIN
31 DELINQUENT ACTS, AS DEFINED IN SUBSECTION (2.7)(b) OF THIS SECTION,
32 IS IMMUNE FROM CRIMINAL LIABILITY OR ANY DELINQUENCY PROCEEDING
33 FOR SUCH DELINQUENT ACT IF THE ALLEGED DELINQUENT ACT OCCURRED
34 WHILE THE MINOR WAS A VICTIM OF:

35 (I) SEXUAL EXPLOITATION OF A CHILD, AS DESCRIBED IN SECTION
36 18-6-403 (3);

37 (II) HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY
38 SERVITUDE, AS DESCRIBED IN SECTION 18-3-503; OR

39 (III) HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE, AS
40 DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

41 (b) FOR THE PURPOSES OF THIS SUBSECTION (2.7) ONLY,

1 "DELINQUENT ACT" INCLUDES:
2 (I) ANY MISDEMEANOR OR DRUG MISDEMEANOR OFFENSE IF THE
3 MISDEMEANOR OFFENSE IS NOT A CRIME DEFINED IN SECTION 24-4.1-302
4 (1); OR
5 (II) ANY PETTY OR DRUG PETTY OFFENSE; OR
6 (III) ANY COMPARABLE MUNICIPAL ORDINANCE VIOLATION.
7 (c) FOR A DELINQUENT ACT OR ACTS FOR WHICH A MINOR IS
8 GRANTED IMMUNITY PURSUANT TO THIS SUBSECTION (2.7), THE
9 PROSECUTOR SHALL REFRAIN FROM FILING DELINQUENCY OR ANY OTHER
10 CRIMINAL PROCEEDINGS AGAINST THE MINOR WHEN IT IS DETERMINED BY
11 THE PROSECUTION, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE
12 ALLEGED DELINQUENT ACT OR ACTS OCCURRED WHILE THE MINOR WAS A
13 VICTIM OF ANY CRIME ENUMERATED IN SUBSECTIONS (2.7)(a)(I) TO
14 (2.7)(a)(III) OF THIS SECTION.
15 (d) IF A MINOR IS CHARGED IN DELINQUENCY OR OTHER CRIMINAL
16 PROCEEDINGS, THE MINOR MAY ASSERT, AT ANY TIME PRIOR TO TRIAL,
17 THAT HE OR SHE IS ENTITLED TO IMMUNITY PURSUANT TO THE PROVISIONS
18 OF SUBSECTION (2.7)(a) OF THIS SECTION. THE MINOR SHALL
19 DEMONSTRATE BY A PREPONDERANCE OF THE EVIDENCE THAT HE OR SHE
20 ENGAGED IN THE CONDUCT ALLEGED IN THE DELINQUENCY OR OTHER
21 CRIMINAL PROCEEDING WHILE HE OR SHE WAS A VICTIM OF ANY CRIME
22 ENUMERATED IN SUBSECTIONS (2.7)(a)(I) TO (2.7)(a)(III) OF THIS SECTION.
23 THE MINOR IS ENTITLED TO A PRETRIAL DETERMINATION OF STATUTORY
24 IMMUNITY WITHIN THIRTY DAYS OF THE FILING OF THE MOTION. IF DENIED
25 BY THE COURT, THE MINOR MAY RAISE AN IMMUNITY DEFENSE OR AN
26 AFFIRMATIVE DEFENSE.

27 **SECTION 4.** In Colorado Revised Statutes, 18-7-201, **amend** (1)
28 as follows:

29 **18-7-201. Prostitution prohibited.** (1) Any person, EIGHTEEN
30 YEARS OF AGE OR OLDER, who performs or offers or agrees to perform any
31 act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal
32 intercourse with any person not his OR HER spouse in exchange for money
33 or other thing of value commits prostitution.

34 **SECTION 5.** In Colorado Revised Statutes, 18-7-202, **amend** (1)
35 introductory portion as follows:

36 **18-7-202. Soliciting for prostitution.** (1) ~~A person~~ ANY PERSON,
37 EIGHTEEN YEARS OF AGE OR OLDER, commits soliciting for prostitution if
38 he OR SHE:

39 **SECTION 6.** In Colorado Revised Statutes, **amend** 18-7-207 as
40 follows:

41 **18-7-207. Prostitute making display.** Any person, EIGHTEEN

1 YEARS OF AGE OR OLDER, who by word, gesture, or action endeavors to
2 further the practice of prostitution in any public place or within public
3 view commits a class 1 petty offense.

4 **SECTION 7.** In Colorado Revised Statutes, **add** 18-7-201.4 as
5 follows:

6 **18-7-201.4. Presumption of victim of human trafficking of a**
7 **minor for sexual servitude - provision of services - reporting.** (1) ANY
8 PERSON LESS THAN EIGHTEEN YEARS OF AGE WHO ENGAGES IN CONDUCT
9 THAT WOULD CONSTITUTE AN OFFENSE PURSUANT TO SECTION 18-7-201,
10 18-7-202, 18-7-207, OR 18-3-504 IF SUCH PERSON WERE AN ADULT MUST
11 BE REFERRED TO THE APPROPRIATE COUNTY DEPARTMENT OF HUMAN OR
12 SOCIAL SERVICES OR THE CHILD WELFARE HOTLINE CREATED PURSUANT TO
13 SECTION 26-5-111.

14 (2) IF A LAW ENFORCEMENT OFFICER ENCOUNTERS A PERSON WHO
15 IS LESS THAN EIGHTEEN YEARS OF AGE WHO IS ALLEGED TO HAVE
16 COMMITTED ANY DELINQUENCY OFFENSE AND THERE IS PROBABLE CAUSE
17 TO BELIEVE THAT SUCH PERSON IS A VICTIM OF HUMAN TRAFFICKING OF A
18 MINOR FOR SEXUAL SERVITUDE PURSUANT TO SECTION 18-3-504 (2), THE
19 LAW ENFORCEMENT OFFICER OR COUNTY DEPARTMENT OF HUMAN OR
20 SOCIAL SERVICES SHALL:

21 (a) IMMEDIATELY REPORT A SUSPECTED VIOLATION OF HUMAN
22 TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE TO THE APPROPRIATE
23 COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES OR THE CHILD
24 WELFARE HOTLINE CREATED PURSUANT TO SECTION 26-5-111. THE
25 COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES SHALL
26 SUBSEQUENTLY FOLLOW THE REPORTING REQUIREMENTS SET FORTH IN
27 SECTION 19-3-308 (4)(c).

28 (b) WITHIN A REASONABLE TIME FRAME, CONTACT OR CAUSE TO
29 BE CONTACTED, IN WRITING:

30 (I) THE PERSON'S GUARDIAN AD LITEM, AS DEFINED IN SECTION
31 13-91-103 (4), IF A GUARDIAN AD LITEM HAS BEEN APPOINTED BY THE
32 COURT;

33 (II) A COURT-APPOINTED SPECIAL ADVOCATE, AS DEFINED IN
34 SECTION 13-91-103 (3), IF ONE HAS BEEN APPOINTED BY THE COURT; OR

35 (III) A SPECIALIZED VICTIM'S ADVOCATE, AS DEFINED IN SECTION
36 13-90-107 (1)(k)(II) OR OTHER CHILD ADVOCATE PROVIDED BY THE
37 JURISDICTION; AND

38 (c) IMMEDIATELY IMPOSE THE PRESUMPTION THAT THE PERSON IS
39 A VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE AS
40 SET FORTH IN SUBSECTION (1) OF THIS SECTION AND NOTIFY THE PERSON'S
41 ATTORNEY, IN WRITING, IF ANY, THAT HE OR SHE MAY BE A VICTIM OF

1 HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE.
2 **SECTION 8. Act subject to petition - effective date.** This act
3 takes effect January 1, 2019; except that, if a referendum petition is filed
4 pursuant to section 1 (3) of article V of the state constitution against this
5 act or an item, section, or part of this act within the ninety-day period
6 after final adjournment of the general assembly, then the act, item,
7 section, or part will not take effect unless approved by the people at the
8 general election to be held in November 2018 and, in such case, will take
9 effect on January 1, 2019, or on the date of the official declaration of the
10 vote thereon by the governor, whichever is later."

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