

**First Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 19-0892.01 Jerry Barry x4341

SENATE BILL 19-185

SENATE SPONSORSHIP

Fields and Lundeen,

HOUSE SPONSORSHIP

Landgraf and Roberts,

Senate Committees

State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTIONS FOR MINOR HUMAN TRAFFICKING**
102 **VICTIMS, AND, IN CONNECTION THEREWITH, REQUIRING A**
103 **POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS**
104 **ACT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill clarifies definitions in the "Colorado Children's Code" concerning victims of human trafficking of a minor for involuntary servitude and for sexual servitude.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
April 4, 2019

The bill creates immunity for a violation of a prostitution-related offense if probable cause exists to believe that a minor was a victim of either human trafficking of a minor for involuntary servitude or for sexual servitude.

The bill establishes an affirmative defense for all criminal violations, except class 1 felonies, if a minor proves that he or she was:

! A victim of human trafficking of a minor for involuntary servitude or sexual servitude; and

! Forced or coerced into engaging in the criminal acts.

The bill also requires a minor who engages in prostitution-related conduct to be referred to the county department of human or social services or the child abuse and that if a law enforcement officer encounters such a minor and there is probable cause to believe that the minor was a victim of human trafficking of a minor for sexual servitude, the officer shall report the suspected violation to the county department of human or social services or the child abuse hotline.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Human trafficking is a serious problem in Colorado and across
5 the nation;

6 (b) Among the diverse populations affected by human trafficking,
7 minors, especially homeless and runaway youth, are particularly at risk of
8 being trafficked for sex and involuntary labor;

9 (c) Minors who are forced into involuntary servitude and
10 commercial sexual activity are more properly identified as victims and not
11 as criminals; and

12 (d) Human trafficking in all forms creates a cycle of violence and
13 impacts victims, families, and communities.

14 (2) The general assembly further finds and declares that:

15 (a) As a result of the diverse systems that touch these minors'
16 lives, professionals in the child welfare, law enforcement, treatment,

1 nonprofit, and faith-based communities must collaborate to develop a
2 multidisciplinary approach to protect children and youth who are victims
3 of human trafficking. This multidisciplinary approach needs to emphasize
4 prevention, protection, prosecution, and partnerships.

5 (b) Protecting minors who are victims of human trafficking from
6 further trauma by recognizing them as victims rather than criminals is
7 beneficial for the minors involved and therefore in the public interest.

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

9 (a) Offer pathways that direct victimized minors away from
10 juvenile delinquency by making available to those minors appropriate and
11 comprehensive rehabilitative services;

12 (b) Offer protection and provide consistency in the treatment,
13 care, and support of minors who are victims of human trafficking so they
14 may continue to heal from the traumatic environment of being trafficked
15 in a restorative justice manner; and

16 (c) Help create a safe haven for minors who are victims of human
17 trafficking to come forward without fear and identify their traffickers and
18 perpetrators.

19 (4) Therefore, the general assembly declares that the general
20 assembly joins the federal government and other states around the nation
21 in passing legislation to further combat human trafficking and protect
22 minors who are victims of human trafficking.

23 **SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend**
24 (1)(a) introductory portion, (1)(a)(VIII), and (23.5); and **add** (62.5) and
25 (62.6) as follows:

26 **19-1-103. Definitions.** As used in this title 19 or in the specified
27 portion of this title 19, unless the context otherwise requires:

1 (1) (a) "Abuse" or "child abuse or neglect", as used in part 3 of
2 article 3 of this ~~title~~ TITLE 19, means an act or omission in one of the
3 following categories that threatens the health or welfare of a child:

4 (VIII) Any case in which a child is subjected to HUMAN
5 TRAFFICKING OF A MINOR FOR INVOLUNTARY SERVITUDE, AS DESCRIBED
6 IN SECTION 18-3-503, OR human trafficking of a minor for sexual
7 servitude, as described in ~~section 18-3-504, C.R.S.~~ SECTION 18-3-504 (2).

8 (23.5) "~~Commercial sexual exploitation of children" involves~~
9 ~~crimes~~ A CHILD" MEANS A CRIME of a sexual nature committed against
10 ~~juvenile victims~~ A CHILD for financial or other economic reasons.

11 (62.5) "HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY
12 SERVITUDE" MEANS AN ACT AS DESCRIBED IN SECTION 18-3-503.

13 (62.6) "HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE"
14 MEANS AN ACT AS DESCRIBED IN SECTION 18-3-504 (2).

15 **SECTION 3.** In Colorado Revised Statutes, add 18-7-209 as
16 follows:

17 **18-7-209. Immunity from prostitution-related offenses -**
18 **victims - human trafficking of a minor for involuntary servitude -**
19 **human trafficking of a minor for sexual servitude.** IF PROBABLE CAUSE
20 EXISTS TO BELIEVE THAT A MINOR CHARGED WITH A
21 PROSTITUTION-RELATED ACTIVITY PURSUANT TO SECTION 18-7-201,
22 18-7-202, 18-7-204, OR 18-7-207 OR A PROSTITUTION-RELATED
23 OFFENSE PURSUANT TO A COUNTY OR MUNICIPAL ORDINANCE WAS A
24 VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY
25 SERVITUDE, PURSUANT TO SECTION 18-3-503 (2), OR HUMAN TRAFFICKING
26 OF A MINOR FOR SEXUAL SERVITUDE, PURSUANT TO SECTION 18-3-504 (2),
27 AT THE TIME OF THE OFFENSE BEING CHARGED, THE MINOR IS IMMUNE

1 FROM CRIMINAL LIABILITY OR JUVENILE DELINQUENCY PROCEEDINGS FOR
2 SUCH CHARGES.

3 **SECTION 4.** In Colorado Revised Statutes, 18-3-504, **amend**
4 (1)(a), (2)(a), and (2.5) as follows:

5 **18-3-504. Human trafficking for sexual servitude - human**
6 **trafficking of a minor for sexual servitude.** (1) (a) A person ~~who~~
7 COMMITS HUMAN TRAFFICKING FOR SEXUAL SERVITUDE IF THE PERSON
8 knowingly sells, recruits, harbors, transports, transfers, isolates, entices,
9 provides, receives, or obtains by any means another person for the
10 purpose of coercing the person to engage in commercial sexual activity.
11 ~~commits human trafficking for sexual servitude.~~

12 (2) (a) A person ~~who~~ COMMITS HUMAN TRAFFICKING OF A MINOR
13 FOR SEXUAL SERVITUDE IF THE PERSON:

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

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

22 (2.5) It is an affirmative defense to a charge pursuant to
23 subsection (2) of this section if the person being charged can demonstrate
24 by a preponderance of the evidence that, at the time of the offense, he or
25 she was a victim of human trafficking for sexual servitude who was
26 forced or coerced into engaging in the human trafficking of minors for
27 sexual servitude pursuant to subsection (2) of this section.

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SECTION 5. In Colorado Revised Statutes, **add** 18-1-713 as follows:

18-1-713. Victims of human trafficking of a minor for involuntary servitude or sexual servitude - affirmative defenses.

(1) EXCEPT AS PROVIDED IN SECTION 18-7-209, IT IS AN AFFIRMATIVE DEFENSE TO ANY CHARGE, OTHER THAN A CLASS 1 FELONY, IF THE MINOR BEING CHARGED PROVES, BY A PREPONDERANCE OF THE EVIDENCE, THAT HE OR SHE WAS, AT THE TIME OF THE OFFENSE:

(a) A VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY SERVITUDE PURSUANT TO SECTION 18-3-503 OR HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE PURSUANT TO SECTION 18-3-504; AND

(b) FORCED OR COERCED INTO ENGAGING IN THE CRIMINAL ACT CHARGED.

SECTION 6. In Colorado Revised Statutes, **add** 18-7-201.4 as follows:

18-7-201.4. Victim of human trafficking of a minor for sexual servitude - provision of services - reporting. IF A LAW

ENFORCEMENT OFFICER ENCOUNTERS A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE AND WHO IS ENGAGING IN ANY CONDUCT THAT WOULD BE A VIOLATION OF SECTION 18-7-201, 18-7-202, 18-7-204, OR 18-7-207 OR A PROSTITUTION-RELATED OFFENSE PURSUANT TO A COUNTY OR MUNICIPAL ORDINANCE AND THERE IS PROBABLE CAUSE TO BELIEVE THAT THE MINOR IS A VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE PURSUANT TO SECTION 18-3-504, THE LAW ENFORCEMENT OFFICER OR AGENCY SHALL IMMEDIATELY REPORT A SUSPECTED

1 VIOLATION OF HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE
2 TO THE APPROPRIATE COUNTY DEPARTMENT OF HUMAN OR SOCIAL
3 SERVICES OR THE CHILD ABUSE REPORTING HOTLINE SYSTEM CREATED
4 PURSUANT TO SECTION 26-5-111. THE COUNTY DEPARTMENT OF HUMAN
5 OR SOCIAL SERVICES SHALL SUBSEQUENTLY FOLLOW THE REPORTING
6 REQUIREMENTS SET FORTH IN SECTION 19-3-308 (4)(c).

7 **SECTION 7. Accountability.** Five years after this act becomes
8 law and in accordance with section 2-2-1201, Colorado Revised Statutes,
9 the legislative service agencies of the Colorado general assembly shall
10 conduct a post-enactment review of the implementation of this act
11 utilizing the information contained in the legislative declaration set forth
12 in section 1 of this act.

13 **SECTION 8. Safety clause.** The general assembly hereby finds,
14 determines, and declares that this act is necessary for the immediate
15 preservation of the public peace, health, and safety.