

SB084 L.002

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Health & Human Services.

SB18-084 be amended as follows:

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
25 in the public interest.

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

27 (a) Offer pathways that direct victimized children and youth away
28 from juvenile delinquency by making available to those children and
29 youth appropriate and comprehensive rehabilitative services;

30 (b) Offer protection and provide consistency in the treatment,
31 care, and support of children and youth who are victims of human
32 trafficking so they may continue to heal from the traumatic environment
33 of being trafficked in a restorative justice manner; and

34 (c) Help create a safe haven for children and youth who are
35 victims of human trafficking to come forward without fear and identify
36 their traffickers and perpetrators.

37 (4) Now, therefore, the general assembly joins the federal
38 government and other states around the nation in passing legislation to
39 further combat human trafficking and protect children and youth who are
40 victims of human trafficking.

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

1 (1)(a) introductory portion, (1)(a)(VIII), and (71); and add (62.5) and
2 (62.6) as follows:

3 **19-1-103. Definitions.** As used in this title 19 or in the specified
4 portion of this title 19, unless the context otherwise requires:

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

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

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

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

16 (71) (a) "Juvenile delinquent", as used in article 2 of this title
17 TITLE 19, means a juvenile who has been found guilty of a delinquent act.

18 (b) "JUVENILE DELINQUENT" DOES NOT INCLUDE A JUVENILE WHO
19 IS ALLEGED TO HAVE COMMITTED A DELINQUENT ACT, AS DEFINED IN
20 SUBSECTION (71)(c) OF THIS SECTION, WHILE A VICTIM OF:

21 (I) SEXUAL EXPLOITATION OF A CHILD, AS DESCRIBED IN SECTION
22 18-6-403 (3);

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

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

27 (c) FOR THE PURPOSES OF THIS SUBSECTION (71) ONLY,
28 "DELINQUENT ACT" INCLUDES:

29 (I) ANY MISDEMEANOR OR DRUG MISDEMEANOR OFFENSE IF THE
30 MISDEMEANOR OFFENSE IS NOT A CRIME DEFINED IN SECTION 24-4.1-302
31 (1); OR

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

33 (III) ANY COMPARABLE MUNICIPAL ORDINANCE VIOLATION.

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

36 **18-3-504. Human trafficking for sexual servitude - human**
37 **trafficking of a minor for sexual servitude - affirmative defense -**
38 **immunity - definition.** (1) (a) A person who COMMITS HUMAN
39 TRAFFICKING FOR SEXUAL SERVITUDE IF HE OR SHE knowingly sells,
40 recruits, harbors, transports, transfers, isolates, entices, provides, receives,
41 or obtains by any means another person for the purpose of coercing the
42 person to engage in commercial sexual activity. ~~commits human~~
43 ~~trafficking for sexual servitude.~~

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

1 (I) Knowingly sells, recruits, harbors, transports, transfers,
2 isolates, entices, provides, receives, obtains by any means, maintains, or
3 makes available a minor for the purpose of commercial sexual activity;
4 ~~commits human trafficking of a minor for sexual servitude.~~ OR
5 (II) ~~A person who~~ Knowingly advertises, offers to sell, or sells
6 travel services that facilitate an activity prohibited pursuant to subsection
7 (2)(a)(I) of this section. ~~commits human trafficking of a minor for sexual~~
8 ~~servitude.~~

9 (2.7) (a) A MINOR WHO IS ALLEGED TO HAVE COMMITTED CERTAIN
10 DELINQUENT ACTS, AS DEFINED IN SUBSECTION (2.7)(b) OF THIS SECTION,
11 IS IMMUNE FROM CRIMINAL LIABILITY OR ANY DELINQUENCY PROCEEDING
12 FOR SUCH DELINQUENT ACT IF THE ALLEGED DELINQUENT ACT OCCURRED
13 WHILE THE MINOR WAS A VICTIM OF:

14 (I) SEXUAL EXPLOITATION OF A CHILD, AS DESCRIBED IN SECTION
15 18-6-403 (3);

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

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

20 (b) FOR THE PURPOSES OF THIS SUBSECTION (2.7) ONLY,
21 "DELINQUENT ACT" INCLUDES:

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

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

26 (III) ANY COMPARABLE MUNICIPAL ORDINANCE VIOLATION.

27 (c) FOR A DELINQUENT ACT OR ACTS FOR WHICH A MINOR IS
28 GRANTED IMMUNITY PURSUANT TO THIS SUBSECTION (2.7), THE
29 PROSECUTOR SHALL REFRAIN FROM FILING DELINQUENCY OR ANY OTHER
30 CRIMINAL PROCEEDINGS AGAINST THE MINOR WHEN IT IS DETERMINED BY
31 THE PROSECUTION, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE
32 ALLEGED DELINQUENT ACT OR ACTS OCCURRED WHILE THE MINOR WAS A
33 VICTIM OF ANY CRIME ENUMERATED IN SUBSECTIONS (2.7)(a)(I) TO
34 (2.7)(a)(III) OF THIS SECTION.

35 (d) IF A MINOR IS CHARGED IN DELINQUENCY OR OTHER CRIMINAL
36 PROCEEDINGS, THE MINOR MAY ASSERT, AT ANY TIME PRIOR TO TRIAL,
37 THAT HE OR SHE IS ENTITLED TO IMMUNITY PURSUANT TO THE PROVISIONS
38 OF SUBSECTION (2.7)(a) OF THIS SECTION. THE MINOR SHALL
39 DEMONSTRATE BY A PREPONDERANCE OF THE EVIDENCE THAT HE OR SHE
40 ENGAGED IN THE CONDUCT ALLEGED IN THE DELINQUENCY OR OTHER
41 CRIMINAL PROCEEDING WHILE HE OR SHE WAS A VICTIM OF ANY CRIME
42 ENUMERATED IN SUBSECTIONS (2.7)(a)(I) TO (2.7)(a)(III) OF THIS SECTION.
43 THE MINOR IS ENTITLED TO A PRETRIAL DETERMINATION OF STATUTORY
44 IMMUNITY WITHIN THIRTY DAYS OF THE FILING OF THE MOTION. IF DENIED
45 BY THE COURT, THE MINOR MAY RAISE AN IMMUNITY DEFENSE OR AN

1 AFFIRMATIVE DEFENSE.
2 SECTION 4. In Colorado Revised Statutes, 18-7-201, amend (1)
3 as follows:

4 18-7-201. Prostitution prohibited. (1) Any person, EIGHTEEN
5 YEARS OF AGE OR OLDER, who performs or offers or agrees to perform any
6 act of sexual intercourse, fellatio, cunnilingus, masturbation, or anal
7 intercourse with any person not his OR HER spouse in exchange for money
8 or other thing of value commits prostitution.

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

11 18-7-202. Soliciting for prostitution. (1) A person ANY PERSON,
12 EIGHTEEN YEARS OF AGE OR OLDER, commits soliciting for prostitution if
13 he OR SHE:

14 SECTION 6. In Colorado Revised Statutes, amend 18-7-207 as
15 follows:

16 18-7-207. Prostitute making display. Any person, EIGHTEEN
17 YEARS OF AGE OR OLDER, who by word, gesture, or action endeavors to
18 further the practice of prostitution in any public place or within public
19 view commits a class 1 petty offense.

20 SECTION 7. In Colorado Revised Statutes, add 18-7-201.4 as
21 follows:

22 18-7-201.4. Presumption of victim of human trafficking of a
23 minor for sexual servitude - provision of services - reporting. (1) ANY
24 PERSON LESS THAN EIGHTEEN YEARS OF AGE WHO ENGAGES IN CONDUCT
25 THAT WOULD CONSTITUTE AN OFFENSE PURSUANT TO SECTION 18-7-201,
26 18-7-202, 18-7-207, OR 18-3-504 IF SUCH PERSON WERE AN ADULT MUST
27 BE REFERRED TO THE APPROPRIATE COUNTY DEPARTMENT OF HUMAN OR
28 SOCIAL SERVICES OR THE CHILD WELFARE HOTLINE CREATED PURSUANT TO
29 SECTION 26-5-111.

30 (2) IF A LAW ENFORCEMENT OFFICER ENCOUNTERS A PERSON WHO
31 IS LESS THAN EIGHTEEN YEARS OF AGE WHO IS ALLEGED TO HAVE
32 COMMITTED ANY DELINQUENCY OFFENSE AND THERE IS PROBABLE CAUSE
33 TO BELIEVE THAT SUCH PERSON IS A VICTIM OF HUMAN TRAFFICKING OF A
34 MINOR FOR SEXUAL SERVITUDE PURSUANT TO SECTION 18-3-504 (2), THE
35 LAW ENFORCEMENT OFFICER OR COUNTY DEPARTMENT OF HUMAN OR
36 SOCIAL SERVICES SHALL

37 REPORT A SUSPECTED VIOLATION OF HUMAN
38 TR. ELIZABETH SEXUAL SERVITUDE TO THE APPROPRIATE
39 COI AN OR SOCIAL SERVICES OR THE CHILD
40 WEI PURSUANT TO SECTION 26-5-111. THE
41 COL HUMAN OR SOCIAL SERVICES SHALL
42 SUB: REPORTING REQUIREMENTS SET FORTH IN

43 SECTION 18-3-308 (4)(c).

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

1 (I) THE PERSON'S GUARDIAN AD LITEM, AS DEFINED IN SECTION
2 13-91-103 (4), IF A GUARDIAN AD LITEM HAS BEEN APPOINTED BY THE
3 COURT;

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

6 (III) A SPECIALIZED VICTIM'S ADVOCATE, AS DEFINED IN SECTION
7 13-90-107 (1)(k)(II) OR OTHER CHILD ADVOCATE PROVIDED BY THE
8 JURISDICTION; AND

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

14 **SECTION 8. Act subject to petition - effective date.** This act
15 takes effect January 1, 2019; except that, if a referendum petition is filed
16 pursuant to section 1 (3) of article V of the state constitution against this
17 act or an item, section, or part of this act within the ninety-day period
18 after final adjournment of the general assembly, then the act, item,
19 section, or part will not take effect unless approved by the people at the
20 general election to be held in November 2018 and, in such case, will take
21 effect on January 1, 2019, or on the date of the official declaration of the
22 vote thereon by the governor, whichever is later."

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