**A** **BILL**

TO AMEND SECTION 16‑3‑2020, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO CRIMES INVOLVING TRAFFICKING IN PERSONS, SO AS TO PROVIDE CIRCUMSTANCES WHEN A PERSON IS CONSIDERED A TRAFFICKER IN PERSONS, TO PROHIBIT A VICTIM IN TRAFFICKING FROM BEING CONVICTED OF A VIOLATION OF TRAFFICKING IN PERSONS OR OF PROSTITUTION UNDER CERTAIN CIRCUMSTANCES, AND TO CLARIFY THAT A VICTIM’S SEXUAL HISTORY OR HISTORY OF COMMERCIAL SEXUAL ACTIVITY ARE NOT ADMISSIBLE BY A DEFENDANT IN A CRIMINAL ACTION; TO AMEND SECTION 16‑3‑2030, RELATING TO CRIMINAL LIABILITY OF PRINCIPAL OWNERS OF A BUSINESS OR OTHER ENTITY, SO AS TO PROVIDE THAT THE COURT MAY CONSIDER DISGORGEMENT OF PROFIT FROM THE PROHIBITED ACTIVITY AND BAR THE BUSINESS OR ENTITY INVOLVED FROM STATE AND LOCAL GOVERNMENT CONTRACTS; TO AMEND SECTION 16‑3‑2040, RELATING TO RESTITUTION FOR VICTIMS OF TRAFFICKING IN PERSONS, SO AS TO INCLUDE ATTORNEY’S FEES AND AN AMOUNT REPRESENTING THE VALUE OF THE VICTIM’S LABOR OR SERVICES AS RECOVERABLE; TO AMEND SECTION 16‑3‑2050, RELATING TO THE INTERAGENCY TASK FORCE FOR THE PREVENTION OF TRAFFICKING IN PERSONS, SO AS TO PROVIDE THAT TO THE EXTENT FUNDS ARE APPROPRIATED, THE TASK FORCE MAY MAKE GRANTS OR CONTRACT WITH STATE AGENCIES OR VICTIMS SERVICE ORGANIZATIONS TO DEVELOP OR EXPAND SERVICE PROGRAMS FOR VICTIMS OF TRAFFICKING IN PERSONS AND REVISE THE MEMBERSHIP OF THE TASK FORCE; TO AMEND SECTION 16‑3‑2060, RELATING TO CIVIL ACTIONS FOR VICTIMS OF TRAFFICKING IN PERSONS, SO AS TO PROVIDE THAT A VICTIM’S SEXUAL HISTORY OR HISTORY OF COMMERCIAL SEXUAL ACTIVITY ARE NOT ADMISSIBLE BY A DEFENDANT IN A CIVIL ACTION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 16‑3‑2020 of the 1976 Code, as added by Act 258 of 2012, is amended to read:

“Section 16‑3‑2020. (A) A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons.

(B) A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, for the purposes of sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in subsection (A), is guilty of trafficking in persons.

(C) For a first offense, the person is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

(D) For a second offense, the person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

(E) For a third or subsequent offense, the person is guilty of a felony and, upon conviction, must be imprisoned not more than forty‑five years.

(F) If the victim of an offense contained in this section is under the age of eighteen, an additional term of fifteen years may be imposed in addition and must be consecutive to the penalty prescribed for a violation of this section.

(G) A person who aids, abets, or conspires with another person to violate the criminal provisions of this section must be punished in the same manner as provided for the principal offender and is considered a trafficker. A person is considered a trafficker if the person solicits or participates in prostitution with another person knowing that the other person is a victim of trafficking in persons.

(H) A business owner who uses his business in a way that participates in a violation of this article, upon conviction, must be imprisoned for not more than ten years in addition to the penalties provided in this section for each violation.

(I) A plea of guilty or the legal equivalent entered pursuant to a provision of this article by an offender entitles the victim of trafficking in persons to all benefits, rights, and compensation granted pursuant to Section 16‑3‑1110.

(J) In a prosecution of a person who is a victim of trafficking in persons, it is an affirmative defense that he was under duress or coerced into committing the offenses for which he is subject to prosecution, if the offenses were committed as a direct result of, or incidental or related to, trafficking. A victim of trafficking in persons convicted of a violation of this article or prostitution may motion the court to vacate the conviction and expunge the record of the conviction. The court may grant the motion on a finding that the person’s participation in the offense was a direct result of being a victim. A victim of trafficking in persons is not subject to prosecution pursuant to this article or prostitution, if the victim was a minor at the time of the offense and committed the offense as a direct result of, or incidental or related to, trafficking.

(K) Evidence of the following facts or conditions do not constitute a defense in a prosecution for a violation of this article, nor does the evidence preclude a finding of a violation:

~~(1)~~ ~~the victim’s sexual history or history of commercial sexual activity, the specific instances of the victim’s sexual conduct, opinion evidence of the victim’s sexual conduct, and reputation evidence of the victim’s sexual conduct;~~

~~(2)~~(1) the victim’s connection by blood or marriage to a defendant in the case or to anyone involved in the victim’s trafficking;

~~(3)~~(2) the implied or express consent of a victim to acts which violate the provisions of this section do not constitute a defense to violations of this section;

~~(4)~~(3) age of consent to sex, legal age of marriage, or other discretionary age; and

~~(5)~~(4) mistake as to the victim’s age, even if the mistake is reasonable.

(L) A victim’s sexual history or history of commercial sexual activity, the specific instances of a victim’s sexual conduct, opinion evidence of a victim’s sexual conduct, and reputation evidence of a victim’s sexual conduct are not admissible by a defendant in a criminal action.

~~(L)~~(M) A person who violates the provisions of this section may be prosecuted by the State Grand Jury, pursuant to Section 14‑7‑1600, when a victim is trafficked in more than one county or a trafficker commits the offense of trafficking in persons in more than one county.”

SECTION 2. Section 16‑3‑2030(A) of the 1976 Code, as added by Act 258 of 2012, is amended to read:

“(A) The principal owners of a business, a business entity, including a corporation, partnership, charitable organization, or another legal entity, that knowingly aids or participates in an offense provided in this article is criminally liable for the offense and will be subject to a fine or loss of business license in the State, or both. In addition, the court may consider disgorgement of profit from activity in violation of this article and disbarment from state and local government contracts.”

SECTION 3. Section 16‑3‑2040(D) of the 1976 Code, as added by Act 258 of 2012, is amended to read:

“(D) Restitution for this section, pursuant to Section 16‑3‑1270, means payment for all injuries, specific losses, and expenses, including, but not limited to, attorney’s fees, sustained by a crime victim resulting from an offender’s criminal conduct pursuant to Section 16‑3‑1110(12)(a). In addition, the court may order an amount representing the value of the victim’s labor or services.”

SECTION 4. Section 16‑3‑2050 of the 1976 Code, as added by Act 258 of 2012, is amended by adding an appropriately numbered subsection to read:

“( ) To the extent that funds are appropriated, the task force may make grants to or contract with a state agency, local government, or private victims service organization to develop or expand service programs for victims. A recipient of a grant or contract shall report annually to the task force the number and demographic information of all victims receiving services pursuant to the grant or contract.”

SECTION 5. Section 16‑3‑2060 of the 1976 Code, as added by Act 258 of 2012, is amended by adding an appropriately numbered subsection to read:

“( ) A victim’s sexual history or history of commercial sexual activity, the specific instances of a victim’s sexual conduct, opinion evidence of a victim’s sexual conduct, and reputation evidence of a victim’s sexual conduct are not admissible by a defendant in a civil action.”

SECTION 6. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 7. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 8. This act takes effect upon approval by the Governor.

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