**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 3181**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Fry, Norrell, Thayer, Wooten, Hewitt, Erickson, Bradley, Crawford, Caskey, Bryant, Clemmons, Hardee, Dillard, Bannister, Willis, G.R. Smith, B. Cox, W. Cox, Huggins, Kirby, Yow, Calhoon, Spires, W. Newton, Hixon, Gilliam, Jefferson, R. Williams, Henegan, Rivers, Ridgeway, Clyburn, Funderburk, Matthews, McDaniel, S. Williams, Ott and Brawley

Document Path: l:\council\bills\agm\19440ahb19.docx

Introduced in the House on January 8, 2019

Currently residing in the House Committee on **Judiciary**

Summary: Human trafficking

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/18/2018 House Prefiled

12/18/2018 House Referred to Committee on **Judiciary**

1/8/2019 House Introduced and read first time ([House Journal‑page 120](file:///h:\hj\20190108.docx))

1/8/2019 House Referred to Committee on **Judiciary** ([House Journal‑page 120](file:///h:\hj\20190108.docx))

1/15/2019 House Member(s) request name added as sponsor: Hewitt

1/16/2019 House Member(s) request name added as sponsor: Erickson, Bradley

4/3/2019 House Member(s) request name added as sponsor: Crawford, Caskey, Bryant, Clemmons, Hardee, Dillard, Bannister, Willis, G.R.Smith, B.Cox, W.Cox, Huggins, Kirby, Yow, Calhoon, Spires, W.Newton, Hixon, Gilliam, Jefferson, R.Williams, Henegan, Rivers, Ridgeway, Clyburn, Funderburk, Simmons, McDaniel, S.Williams, Ott, Brawley

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**VERSIONS OF THIS BILL**

[12/18/2018](file:///p:\pprever\2019-20\3181_20181218.docx)

**A** **BILL**

TO AMEND SECTION 16‑3‑2010, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DEFINITIONS FOR PURPOSES OF TRAFFICKING IN PERSONS OFFENSES, SO AS TO REVISE THE DEFINITION OF “SEX TRAFFICKING” TO INCLUDE CERTAIN SEXUAL EXPLOITATION AND PROSTITUTION OFFENSES INVOLVING MINORS; TO AMEND SECTION 16‑3‑2020, AS AMENDED, RELATING TO THE ELEMENTS OF TRAFFICKING IN PERSONS OFFENSES, PENALTIES, AND DEFENSES, SO AS TO ENSURE THAT A MINOR VICTIM ADJUDICATED DELINQUENT FOR A VIOLATION OF THE ARTICLE MAY HAVE THE RECORD OF CONVICTION EXPUNGED; TO AMEND SECTION 17‑30‑70, RELATING TO PROCEDURES FOR THE INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS, SO AS TO INCLUDE IN THE PURVIEW OF THE STATUTE OFFENSES INVOLVING TRAFFICKING IN PERSONS; BY ADDING SECTION 16‑3‑2110 SO AS TO PROVIDE FOR THE APPOINTMENT OF A SPECIAL VICTIM’S ADVOCATE FOR MINOR VICTIMS OF TRAFFICKING IN PERSONS OFFENSES; BY ADDING SECTION 16‑3‑2120 SO AS TO DIRECT THE APPROPRIATE AGENCIES TO COORDINATE WITH THE HUMAN TRAFFICKING TASK FORCE FOR THE TRAINING OF JUDGES, PROSECUTORS, AND LAW ENFORCEMENT; AND BY ADDING SECTION 16‑3‑2130 SO AS TO CREATE THE OFFENSE OF PROMOTING TRAVEL FOR PROSTITUTION OR SEX TRAFFICKING AND PROVIDE PENALTIES.

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

SECTION 1. Section 16‑3‑2010(7) of the 1976 Code, as last amended by Act 238 of 2018, is further amended to read:

“(7) ‘Sex trafficking’ means the recruitment, harboring, transportation, provision, or obtaining of a person for one of the following when it is induced by force, fraud, or coercion or the person performing the act is under the age of eighteen years and anything of value is given, promised to, or received, directly or indirectly, by any person:

(a) criminal sexual conduct pursuant to Section 16‑3‑651;

(b) criminal sexual conduct in the first degree pursuant to Section 16‑3‑652;

(c) criminal sexual conduct in the second degree pursuant to Section 16‑3‑653;

(d) criminal sexual conduct in the third degree pursuant to Section 16‑3‑654;

(e) criminal sexual conduct with a minor pursuant to Section 16‑3‑655;

(f) engaging a child for sexual performance pursuant to Section 16‑3‑810;

(g) producing, directing, or promoting sexual performance by a child pursuant to Section 16‑3‑820;

(h) sexual battery pursuant to Section 16‑3‑651;

(i) sexual conduct pursuant to Section 16‑3‑800; ~~or~~

(j) sexual performance pursuant to Section 16‑3‑800;

(k) sexual exploitation of a minor pursuant to Section 16‑3‑395, 16‑3‑405, or 16‑3‑410; or

(l) promoting or participating in prostitution of a minor pursuant to Section 16‑3‑415 or 16‑3‑425.”

SECTION 2. Section 16‑3‑2020(A) and (F) of the 1976 Code, as last amended by Act 238 of 2018, is further amended to read:

“(A) A person is guilty of trafficking in persons if he:

(1) recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to, or 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 this subsection, is guilty of trafficking in persons;

(2) aids, abets, or conspires with another person to violate the criminal provisions of this section; or

(3) knowingly gives, agrees to give, or offers to give anything of value so that any person may engage in commercial sexual activity with another person when he knows that the other person is a victim of trafficking in persons.

(F) 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, or adjudicated delinquent, 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.”

SECTION 3. Section 17‑30‑70 of the 1976 Code is amended to read:

“Section 17‑30‑70. (A) An application for an order authorizing or approving the interception of wire, oral, or electronic communications must be initiated by the Chief of SLED. After reviewing the application, the Attorney General or his designated Assistant Attorney General may authorize the submission of the application to a judge of competent jurisdiction for, and the judge may grant in conformity with this chapter, an order authorizing or approving the interception of wire, oral, or electronic communications by:

(1) the South Carolina Law Enforcement Division for the investigation of the offense as to which the application is made when the interception may provide or has provided evidence of the commission of the offenses of murder (Section 16‑3‑10); assault and battery with intent to kill (Section 16‑3‑620); kidnapping (Section 16‑3‑910); voluntary manslaughter (Section 16‑3‑50); armed robbery (Section 16‑11‑330(A)); attempted armed robbery (Section 16‑11‑330(B)); drug trafficking as defined in Sections 44‑53‑370(e) and 44‑53‑375(C); arson in the first degree (Section 16‑11‑110(A)); arson in the second degree (Section 16‑11‑110(B)); trafficking in persons (Article 19, Chapter 3, Title 16); accessory before the fact to commit any of the above offenses (Section 16‑1‑40); or attempt to commit any of the above offenses (Section 16‑1‑80). This interception may also be authorized when it may provide or has provided evidence of any conspiracy or solicitation to commit any violation of the offenses specified in this subsection;

(2) the South Carolina Law Enforcement Division for the investigation of the offense as to which the application is made when the interception may provide or has provided evidence of the commission of any offense related to terrorism or the commission of a terrorist act, any offense related to bombs, destructive devices, bacteriological and biological weapons, and weapons of mass destruction as provided for in Article 7, Chapter 23, Title 16 or evidence of any conspiracy or solicitation to commit any crime specifically enumerated in this subsection; or

(3) an individual operating under a contract with the South Carolina Law Enforcement Division for the investigation of an offense listed in subsection (1) or (2). Any interception conducted under this chapter by persons authorized by this subsection must conduct the interception under the direct supervision of an agent or officer of the South Carolina Law Enforcement Division.

(B) Any person authorized to intercept wire, oral, or electronic communications pursuant to this section must have completed training provided by SLED pursuant to Section 17‑30‑145.”

SECTION 4. Article 19, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑2110. A person acting on behalf of a minor victim of a violation of the provisions of this article may petition the court with jurisdiction over the offense for the appointment of a special advocate or guardian ad litem for the minor victim. The Crime Victim Services Division of the Office of the Attorney General shall coordinate the provision of such special advocate with the court when the court deems a special advocate for the minor victim is warranted. The division shall work with the Human Trafficking Task Force to ensure that the rights of the minor victim are protected pursuant to the provisions of Article 15, Chapter 3 regarding victim and witness services and pursuant to the provisions of Section 16‑3‑2070. The division and the task force also must ensure that any special advocate for a minor victim is trained in handling trafficking in person cases.”

SECTION 5. Article 19, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑2120. In order to ensure that the appropriate persons are properly trained and prepared to identify and handle cases involving a violation of the provisions of this article, and in accordance with the requirements of Section 16‑3‑2050(E)(7) requiring the Human Trafficking Task Force to develop and provide mandatory training for law enforcement agencies, prosecutors, and other relevant officials, the Criminal Justice Academy, the Prosecution Coordination Commission, and Court Administration are directed to work directly with the task force to ensure that law enforcement officers, prosecutors, and summary, family, and circuit court judges, respectively, are trained to recognize the signs of these offenses and the possible sensitive nature of the offenses including the effect on its victims. Training must be coordinated with the task force who may wish to utilize the expertise of Human Trafficking Acute Crisis Care and Resource Centers which meet criteria developed by the Attorney General through the task force according to the requirements of Section 16‑3‑2020(H). Additionally, training must include, but is not limited to, the protection of minor victims of trafficking in persons and sex trafficking in particular.”

SECTION 6. Article 19, Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Section 16‑3‑2130. (A) A person commits the offense of promoting travel for prostitution or sex trafficking if he knowingly sells or offers to sell travel services that include travel for the purpose of engaging in prostitution as defined in Section 16‑15‑90 or 16‑15‑100 or sex trafficking as defined in this article. A travel agency or charter tour operator may not:

(1) promote travel for prostitution;

(2) sell, advertise, or otherwise offer to sell travel services:

(a) for the purpose of engaging in prostitution or sex trafficking;

(b) that consist of tourism packages or activities using and offering any illegal sexual act as enticement for tourism; or

(c) that provides or purports to provide access to sex escorts or sexual services.

(B) A person who violates the provisions of this section is guilty of the felony of promoting travel for prostitution or sex trafficking and, upon conviction, must be fined not more than ten thousand dollars or imprisoned for not more than ten years, or both.

(C) No travel agency or charter tour operator shall engage in selling, advertising, or otherwise offering to sell travel services, tourism packages, or activities that solicit or encourage travel for the purpose of engaging in prostitution or sex trafficking. Upon violation of this section by a travel agency or charter tour operator, the Attorney General may petition the court for an order revoking the articles of incorporation of the travel agency or charter tour operator. The court, as part of a proceeding pursuant this section, may order a freeze of the bank or deposit accounts of the travel agency or charter tour operator.

(D) There is a rebuttable presumption that a travel agency or charter tour operator using advertisements that include the term ‘sex tours’ or ‘sex travel’ or include depictions of human genitalia is in violation of the provisions of this section.”

SECTION 7. 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 8. If any section, subsection, 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, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 9. This act takes effect upon approval by the Governor.

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