~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

May 8, 2019

**S. 194**

Introduced by Senators Shealy and Senn

S. Printed 5/8/19--H.

Read the first time January 30, 2019.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 194) to amend Sections 16-15-90 and 16-15-100, relating to prostitution, to increase the penalties for solicitation of prostitution, establishing or keeping a brothel, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, Section 16‑15‑100(3), as contained in SECTION 2, by deleting the item in its entirety and inserting:

/ ~~(2)~~(3) ~~Cause~~ cause, induce, persuade, or encourage by promise~~, threat, violence, or by any scheme or device~~ a ~~female~~ person to become a prostitute or to remain an inmate of a house of prostitution; /

Renumber sections to conform.

Amend title to conform.

PETER M. MCCOY, JR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 8, 2019**

**State Expenditure**

This bill increases fines for conviction of certain crimes related to prostitution. Generally, the bill increases the punishment for procuring or soliciting prostitution, causing or inducing a person to become a prostitute, establishing and keeping a house of prostitution, and transporting a person for the purposes of prostitution. The bill also establishes the affirmative defense of being a victim of human trafficking.

**Judicial Department.** This bill increases the penalties for solicitation of prostitution, establishing or keeping a brothel or house of prostitution, or causing or inducing another to participate in prostitution. In addition, it establishes an affirmative defense of being a victim of human trafficking and increases the penalties for soliciting, causing, or inducing another for or into prostitution when the prostitute has a mental disability. Prostitution and indecent exposure for purposes of prostitution or indecency will retain the existing penalty schedule, where a first offense is a misdemeanor triable in magistrate and municipal courts, and a second or subsequent offense will be heard in general sessions court. The bill also consolidates elements of the noted offenses to provide that all violations of combined statutes would be triable only in general sessions court. This would result in a decrease in the number of cases heard in magistrate and municipal courts, as well as an increase in the number of cases heard in general sessions courts. The department expects to manage any costs associated with increased caseloads using current general fund resources.

**Commission on Prosecution Coordination.** This bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact on the general fund, other funds, or federal funds.

**Commission on Indigent Defense.** This bill requires the agency to perform activities that will be conducted in the normal course of agency business. As a result, this bill does not have an expenditure impact on the general fund, other funds, or federal funds.

**Department of Corrections.** This bill increases the penalties for solicitation of prostitution, establishing or keeping a brothel or house of prostitution, or causing or inducing another to participate in prostitution. In addition, it establishes an affirmative defense of being a victim of human trafficking and increases the penalties for soliciting, causing, or inducing another for or into prostitution when the prostitute has a mental disability. As the bill clarifies language within existing statutes, it may result in additional arrests, convictions, and imprisonment of offenders at state correctional facilities. In FY 2018-19, there were only three people admitted to state correctional facilities for these offenses. As such, the department believes that any increase in the prison population resulting from enactment of the bill will not be substantial. Therefore, the department expects to manage any costs associated with an increase in the prison population using current general fund resources.

**State Revenue**

This bill increases the punishment for conviction of certain crimes related to prostitution. The bill provides judges sentencing discretion including fines, imprisonment, or both. Revenue generated by the courts from fines, assessments, and surcharges imposed on persons convicted of prostitution activities would be distributed to the general fund, specified state agencies and programs, and local governments in accordance with existing law. Given the judicial discretion permitted in this bill in choosing the amount of fines, imprisonment, or both for these prostitution convictions, we are unable to determine the revenue impact of this bill on the general fund and other funds.

**Local Revenue**

The amount of local government revenue from fines, assessments, and surcharges imposed on persons convicted of prostitution activities is undetermined, given the judicial discretion permitted in this bill in choosing the amount of fines, imprisonment, or both for these prostitution convictions.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTIONS 16-15-90 AND 16-15-100, RELATING TO PROSTITUTION, TO INCREASE THE PENALTIES FOR SOLICITATION OF PROSTITUTION, ESTABLISHING OR KEEPING A BROTHEL OR HOUSE OF PROSTITUTION, OR CAUSING OR INDUCING ANOTHER TO PARTICIPATE IN PROSTITUTION; TO ESTABLISH THE AFFIRMATIVE DEFENSE OF BEING A VICTIM OF HUMAN TRAFFICKING; AND TO INCREASE THE PENALTIES FOR SOLICITING, CAUSING, OR INDUCING ANOTHER FOR OR INTO PROSTITUTION WHEN THE PROSTITUTE HAS A MENTAL DISABILITY.

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

SECTION 1. Section 16-15-90 of the 1976 Code is amended to read:

“Section 16-15-90. (A) It shall be unlawful to:

(1) ~~Engage~~ engage in prostitution or offer oneself for the purpose of prostitution; or

(2) ~~Aid or abet prostitution knowingly;~~

~~(3)~~ ~~Procure or solicit for the purpose of prostitution;~~

~~(4)~~ ~~Expose~~ expose indecently the private person for the purpose of prostitution or other indecency~~;~~

~~(5)~~ ~~Reside in, enter or remain in any place, structure, building, vehicle, trailer or conveyance for the purpose of lewdness, assignation or prostitution;~~

~~(6)~~ ~~Keep or set up a house of ill fame, brothel or bawdyhouse;~~

~~(7)~~ ~~Receive any person for purposes of lewdness, assignation or prostitution into any vehicle, conveyance, trailer, place, structure or building;~~

~~(8)~~ ~~Permit any person to remain for the purpose of lewdness, assignation or prostitution in any vehicle, conveyance, trailer, place, structure or building;~~

~~(9)~~ ~~Direct, take or transport, offer or agree to take or transport or aid or assist in transporting any person to any vehicle, conveyance, trailer, place, structure or building or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation;~~

~~(10) Lease or rent or contract to lease or rent any vehicle, conveyance, trailer, place, structure or building or part thereof believing or having reasonable cause to believe that it is intended to be used for any of the purposes herein prohibited; or~~

~~(11)~~ ~~Aid, abet, or participate knowingly in the doing of any of the acts herein prohibited~~.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction:

(1) for a first offense, must be fined not more than two hundred dollars or imprisoned not more than thirty days, or both;

(2) for a second offense, must be fined not more than one thousand dollars or imprisoned not more than six months, or both;

(3) for a third or subsequent offense, must be fined not more than three thousand dollars or imprisoned not more than one year, or both.

(C) It is an affirmative defense to a prosecution for a violation of this section subject to the requirements of Section 16-3-2020(F),that, during the commission of the offense, the defendant was a victim of trafficking in persons as defined by Section 16-3-2010(9).

(D) Notwithstanding the other provisions of this section, a minor under the age of eighteen at the time of the incident may not be prosecuted pursuant to this section.”

SECTION 2. Section 16-15-100 of the 1976 Code is amended to read:

“Section 16-15-100. (A) It shall ~~further~~ be unlawful to:

(1) procure or solicit a person for the purpose of prostitution;

~~(1)~~(2) ~~Procure~~ procure a ~~female~~ person to be an inmate for a house of prostitution;

~~(2)~~(3) ~~Cause~~ cause, induce, persuade, or encourage by promise, threat, violence, or by any scheme or device a ~~female~~ person to become a prostitute or to remain an inmate of a house of prostitution;

~~(3)~~(4) ~~Induce~~ induce, persuade, or encourage a ~~female~~ person to come into or leave this State for the purpose of prostitution or to become an inmate in a house of prostitution;

~~(4)~~(5) ~~Receive~~ receive or give or agree to receive or give any money or thing of value for procuring or attempting to procure ~~any female~~ a person to become a prostitute or an inmate in a house of prostitution;

~~(5)~~(6) ~~Accept~~ accept or receive knowingly any money or other thing of value without consideration from a prostitute; ~~or~~

(7) reside in, enter, or remain in a place, structure, building, vehicle, trailer, or conveyance for the purpose of lewdness, assignation, or prostitution;

(8) keep or set up a house of ill fame, brothel, or bawdyhouse;

(9) receive a person for purposes of lewdness, assignation, or prostitution into a vehicle, conveyance, trailer, place, structure, or building;

(10) permit a person to remain for the purpose of lewdness, assignation, or prostitution in a vehicle, conveyance, trailer, place, structure, or building;

(11) direct, take, or transport, offer or agree to take or transport, or aid or assist in transporting a person to a vehicle, conveyance, trailer, place, structure, or building, or to another person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation;

(12) lease, rent, or contract to lease or rent a vehicle, conveyance, trailer, place, structure, building, or part thereof believing or having reasonable cause to believe that it is intended to be used for any of the purposes herein prohibited; or

~~(6)~~(13) ~~Aid~~ knowingly aid, abet, or participate ~~knowingly~~ in the doing of any of the acts ~~herein~~ prohibited in this section.

(B)(1) A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, must be fined not less than two hundred fifty dollars and not more than one thousand dollars or imprisoned not more than thirty days, or both;

(b) for a second offense, must be fined not less than five hundred dollars and not more than three thousand dollars or imprisoned not more than six months, or both;

(c) for a third or subsequent offense, must be fined not less than one thousand five hundred dollars and not more than five thousand dollars or imprisoned not more than one year, or both.

(2) A person who violates a provision of this section where the prostitute has been adjudicated or meets the definition to be found severely or profoundly mentally disabled beyond a reasonable doubt, is guilty of a felony and, upon conviction, must be fined not less than one thousand five hundred dollars and not more than five thousand dollars or imprisoned not more than two years, or both.”

SECTION 3. Section 16-15-110 of the 1976 Code is repealed.

SECTION 4. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑