**A** **BILL**

TO AMEND SECTION 16-3-2020(G) OF THE 1976 CODE, RELATING TO TRAFFICKING VICTIMS WHO ARE MINORS, TO PROVIDE THAT MINORS ENGAGED IN COMMERCIAL SEXUAL ACTIVITY OR TRAFFICKING ARE PRESUMED TO BE DOING SO UNDER COERCION OR AS THE RESULT OF A REASONABLE FEAR OF A THREAT, TO PROVIDE FOR AN AFFIRMATIVE DEFENSE OF THESE VICTIMS, AND TO PROVIDE FOR EXPUNGEMENT FOR THESE VICTIMS.

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

SECTION 1. Section 16-3-2020(G) of the 1976 Code is amended to read:

“(G)(1) A minor under the age of eighteen who is engaged in commercial sexual activity or sex trafficking is presumed to be doing so under coercion or a reasonable fear of a threat. If the victim was a minor at the time of the offense, the victim of trafficking in persons may not be prosecuted in court pursuant to this article or a prostitution offense, if it is determined after investigation that the victim committed the offense as a direct result of, or incidental or related to, trafficking.

(2) In a prosecution of a minor who is a victim of trafficking in persons, it is an affirmative defense that he was under duress or coerced into committing other nonviolent offenses for which he is subject to prosecution or adjudication, if the offenses were committed as a direct result of, or incidental or related to, trafficking. For the purposes of this subsection, ‘nonviolent offenses’ means all offenses not listed in Section 16‑1‑60.

(3) A minor who is a victim of trafficking in persons convicted or adjudicated delinquent of a violation of this article or any other nonviolent offense committed as a direct result of, or incidental or related to, trafficking may motion a court to vacate the conviction or adjudication and expunge the record of the conviction. The court may grant the motion on a finding by a preponderance of the evidence that the person’s participation in the offense was a direct result of, or incidental or related to, being a victim.”

SECTION 2. This act takes effect upon approval by the Governor.

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