**A** **BILL**

TO AMEND SECTIONS 16‑15‑90 AND 16‑15‑100, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PROSTITUTION, SO AS TO ADD PROHIBITED CONDUCT AND TO INCREASE THE PENALTIES FOR, AMONG OTHER PROHIBITIONS, 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 FOR CERTAIN DEFENDANTS, TO INCREASE CERTAIN PENALTIES WHEN THE PROSTITUTE HAS A MENTAL DISABILITY, AND FOR OTHER PURPOSES; AND TO REPEAL SECTION 16‑15‑110 RELATING TO PROSTITUTION.

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 prohibited in this section; 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. Notwithstanding the provisions of Sections 22‑3‑540, 22‑3‑545, 22‑3‑550, and 14‑25‑65, a first offense charged for this item may be tried in magistrate or municipal court;

(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. 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 5. 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 6. This act takes effect upon approval by the Governor.

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