**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; 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, LAW ENFORCEMENT, AND SCHOOL PERSONNEL; 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(F) and (G) of the 1976 Code, as last amended by Act 238 of 2018, is further amended to read:

“(F) In a prosecution or adjudication 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 or adjudication, 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, or any other nonviolent offense may motion the court to vacate the conviction or adjudication and expunge the record of the conviction or adjudication committed as a direct result of, or incidental or related to, trafficking. 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~~ by a preponderance of the evidence that the person’s participation in the offense was a direct result of, or incidental to, being a victim of trafficking.

(G) If the victim was a minor at the time of the offense, the victim of trafficking in persons may not be prosecuted in court or adjudicated delinquent 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~~.”

SECTION 3. 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 Human Trafficking Task Force 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 task force shall 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 task force also must ensure that any special advocate for a minor victim is trained in handling trafficking in person cases.”

SECTION 4. 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, other relevant officials, and school personnel including, but not limited to, teachers, school counselors, bus drivers, school resource officers, and school administrators, 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 5. 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 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, 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 8. This act takes effect upon approval by the Governor.

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