

1 HB37  
2 170682-1  
3 By Representatives Williams (JD), Boyd, Coleman, Hammon,  
4 Johnson (K), Sessions, Davis, Ainsworth, South, Harper, Greer,  
5 Rich, Ledbetter, Hill (M), Sanderford, Tuggle, Clouse, Martin,  
6 Morrow, McCutcheon, Gaston, Wingo, Polizos, Williams (JW),  
7 Wilcox, Butler, Holmes (M), Whorton (I), Wadsworth, Carns,  
8 Fincher, Mooney, Faust, Hurst, Nordgren, Chesteen, Pringle,  
9 Brown, Wood, Sells, Beech, Fridy, Rowe, Farley, Whorton (R),  
10 Patterson, Pettus, Moore (B), Ingram, Ball, Hubbard, McMillan  
11 and Shedd  
12 RFD: Judiciary  
13 First Read: 03-AUG-15

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8 SYNOPSIS: This bill would provide a safe harbor  
9 provision in current law for a child who engages in  
10 the act of prostitution by providing that a  
11 sexually exploited child may not be adjudicated  
12 delinquent or convicted of a crime of prostitution,  
13 but that the child may be adjudicated a child in  
14 need of supervision or a dependent child.

15 This bill would prohibit the transfer of a  
16 case involving a sexually exploited child who  
17 commits an act of prostitution from the  
18 jurisdiction of juvenile court to any adult court.

19 This bill would provide that a juvenile  
20 court retains jurisdiction over a sexually  
21 exploited child and may issue any requisite order  
22 or conduct any hearing necessary to protect the  
23 health or safety of a sexually exploited child that  
24 is determined to be in the best interests of the  
25 child.

1           This bill would provide that certain social  
2 and community services shall be made available to  
3 sexually exploited children.

4           This bill would authorize the assessment of  
5 an additional fine of \$500 upon conviction of the  
6 crimes of promoting prostitution and certain other  
7 crimes relating to prostitution and would provide  
8 that the fine be paid to a court-certified  
9 therapeutic counselor that provides education,  
10 treatment, and prevention counseling to persons  
11 convicted of prostitution offenses.

12           This bill would also allow the detention for  
13 72 hours if the person is arrested for the crime of  
14 prostitution to ensure that the person has access  
15 to certain resources, such as health care, shelter,  
16 and counseling.

17           Amendment 621 of the Constitution of Alabama  
18 of 1901, now appearing as Section 111.05 of the  
19 Official Recompilation of the Constitution of  
20 Alabama of 1901, as amended, prohibits a general  
21 law whose purpose or effect would be to require a  
22 new or increased expenditure of local funds from  
23 becoming effective with regard to a local  
24 governmental entity without enactment by a 2/3 vote  
25 unless: it comes within one of a number of  
26 specified exceptions; it is approved by the  
27 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to  
2 the entity for the purpose.

3 The purpose or effect of this bill would be  
4 to require a new or increased expenditure of local  
5 funds within the meaning of the amendment. However,  
6 the bill does not require approval of a local  
7 governmental entity or enactment by a 2/3 vote to  
8 become effective because it comes within one of the  
9 specified exceptions contained in the amendment.

10  
11 A BILL  
12 TO BE ENTITLED  
13 AN ACT  
14

15 To add Section 13A-12-123 to the Code of Alabama  
16 1975, to provide a definition of "sexually exploited child";  
17 to prohibit a sexually exploited child from being adjudicated  
18 delinquent or convicted of a crime of prostitution; to provide  
19 that a sexually exploited child engaged in prostitution may be  
20 adjudicated a child in need of supervision or a dependent  
21 child; to prohibit the transfer of a case involving a sexually  
22 exploited child who commits an act of prostitution from the  
23 jurisdiction of juvenile court to any adult court; to  
24 authorize a juvenile court to retain jurisdiction over a  
25 sexually exploited child; to provide for certain court orders  
26 in the best interests of the child; to provide that certain  
27 social and community services will be made available to

1 sexually exploited children; to authorize an additional fine  
2 for certain crimes relating to prostitution; to require  
3 certain persons convicted of certain prostitution related  
4 crimes to attend counseling and education programs; to allow  
5 the detention of a person for 72 hours if the person is  
6 arrested for the crime of prostitution; and in connection  
7 therewith would have as its purpose or effect the requirement  
8 of a new or increased expenditure of local funds within the  
9 meaning of Amendment 621 of the Constitution of Alabama of  
10 1901, now appearing as Section 111.05 of the Official  
11 Recompilation of the Constitution of Alabama of 1901, as  
12 amended.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. This act shall be known and may be cited  
15 as the "Alabama Human Trafficking Safe Harbor Act."

16 Section 2. Section 13A-12-123 is added to Division 2  
17 of Article 3 of Chapter 12 of Title 13A, Code of Alabama 1975,  
18 to read as follows:

19 §13A-12-123.

20 A sexually exploited child, as defined in Section 3,  
21 who is alleged to have committed a violation of Section  
22 13A-12-120 or 13A-12-121, or any municipal ordinance  
23 prohibiting such acts, shall be treated pursuant to Section 4.

24 Section 3. (a) For the purposes of this section,  
25 "sexually exploited child" shall mean an individual under the  
26 age of 18 years who is under the jurisdiction of the juvenile

1 court and who has been subjected to sexual exploitation  
2 because he or she is any of the following:

3 (1) A victim of the crime of human trafficking  
4 sexual servitude as provided in Section 13A-6-150, et seq.,  
5 Code of Alabama 1975.

6 (2) Engaged in prostitution as provided in Section  
7 13A-12-120 or 13A-12-121, Code of Alabama 1975.

8 (3) A victim of the crime of promoting prostitution  
9 as provided in Section 13A-12-111, 13A-12-112, or 13A-12-113,  
10 Code of Alabama 1975.

11 (b) A sexually exploited child may not be  
12 adjudicated delinquent or convicted of a crime of prostitution  
13 as provided in Section 13A-12-120 or 13A-12-121, Code of  
14 Alabama 1975, or any municipal ordinance prohibiting such  
15 acts.

16 (c) In any proceeding based upon a child's arrest  
17 for an act of prostitution, there is a presumption that the  
18 child satisfies the definition of a sexually exploited child  
19 as provided in this section.

20 (d) If a law enforcement officer or a person seeks  
21 to file a complaint against a child for an offense of  
22 prostitution as provided in Section 13A-12-120 or 13A-12-121,  
23 Code of Alabama 1975, the juvenile court intake officer shall  
24 evaluate the complaint to determine if the child is a sexually  
25 exploited child and could have another complaint filed stating  
26 that the child is alleged to be in need of supervision or  
27 alleged to be dependent, and not a child alleged to be

1 delinquent, pursuant to Rule 12 of the Alabama Rules of  
2 Juvenile Procedure. A juvenile probation officer who is  
3 designated to be a juvenile court intake officer may determine  
4 if a child alleged to be in need of supervision is appropriate  
5 for an informal adjustment pursuant to Rule 15 of the Alabama  
6 Rules of Juvenile Procedure.

7 (e) If a petition alleging that a sexually exploited  
8 child is in need of supervision or is dependent is filed, a  
9 sexually exploited child may be adjudicated a child in need of  
10 supervision or a dependent child pursuant to Section  
11 12-15-102(4) and (8), Code of Alabama 1975. Once the sexually  
12 exploited child is adjudicated, the juvenile court shall  
13 retain jurisdiction over the sexually exploited child and may  
14 enforce prior orders requiring payment of court-ordered monies  
15 pursuant to Section 12-15-117, Code of Alabama 1975. The  
16 juvenile court may issue any requisite order or conduct any  
17 hearing necessary to protect the health or safety of a  
18 sexually exploited child that is determined to be in the best  
19 interests of the child. The juvenile court may also, on an  
20 emergency basis, enter an order of protection or restraint to  
21 protect the health or safety of a sexually exploited child.

22 (f) A sexually exploited child who commits an act of  
23 prostitution as provided in Section 13A-12-120 or 13A-12-121,  
24 Code of Alabama 1975, may not be transferred from the  
25 jurisdiction of juvenile court to any adult court pursuant to  
26 Section 12-15-203, Code of Alabama 1975, except in those cases  
27 where the child has been convicted or adjudicated a youthful

1 offender divesting the juvenile court of jurisdiction as  
2 provided in Sections 12-15-203(i) and 12-15-204(b), Code of  
3 Alabama 1975.

4 (g) A sexually exploited child who commits an act of  
5 prostitution as provided in Section 13A-12-120 or 13A-12-121,  
6 Code of Alabama 1975, shall be afforded all rights pursuant to  
7 Section 12-15-202, Code of Alabama 1975.

8 (h) All social and community services shall be made  
9 available to a sexually exploited child. Services may include,  
10 but are not limited to, any of the following:

11 (1) Forensic evidence collection.

12 (2) Forensic interviewing.

13 (3) Counseling.

14 (4) Advocacy.

15 (5) Shelter.

16 (6) Alcohol or substance abuse treatment.

17 (7) Mental health services.

18 (8) Medical treatment.

19 (9) Legal services.

20 (10) Educational tutoring, counseling, and language  
21 interpreter services.

22 (11) Crisis intervention services.

23 (12) Safety planning.

24 (13) Investigation and prosecution of the  
25 individuals subjecting the child to sexual exploitation or  
26 abuse.



1           Section 4. (a) Notwithstanding any other fines,  
2           restitution, court costs, or docket fees, upon conviction for  
3           the offense of promoting prostitution under Division 1,  
4           Article 3, Chapter 12, Title 13A, Code of Alabama 1975, or a  
5           violation of subsection (b) or (d) of Section 13A-12-121, Code  
6           of Alabama 1975, a mandatory fine of five hundred dollars  
7           (\$500) shall be assessed. The court shall order the five  
8           hundred dollar (\$500) fine to be paid to the clerk of court to  
9           be distributed to a court-certified therapeutic counseling  
10          entity that provides education, treatment, and prevention  
11          counseling to adult persons convicted of prostitution  
12          offenses.

13           (b) A court may order an adult person convicted of  
14          an offense under Division 1, Article 3, Chapter 12, Title 13A,  
15          or subsection (b) or (d) of Section 13A-12-121, Code of  
16          Alabama 1975, to successfully attend counseling or an  
17          educational training program designed to reduce recidivism  
18          rates for these violations. Attendance of such programs shall  
19          be at the cost and expense of the person convicted of the  
20          offense.

21           (c) An adult person who is charged with an offense  
22          under subsection (b) or (d) of Section 13A-12-121, Code of  
23          Alabama 1975, and has no prior arrest or convictions for an  
24          offense under Sections 13A-12-111, 13A-12-112, 13A-12-113, and  
25          13A-12-121, Code of Alabama 1975, or an offense in any other  
26          state that has the same or similar elements as those sections,  
27          may be accepted into a pretrial diversion program, provided

1 the adult person satisfied the requirements of subsections (a)  
2 and (b), as well as any other conditions imposed pursuant to  
3 the pretrial diversion program.

4 (d) Under no circumstance may an adult person be  
5 admitted into a pretrial diversion program if he or she has  
6 been previously convicted of an offense under Sections  
7 13A-12-111, 13A-12-112, 13A-12-113, and 13A-12-121, Code of  
8 Alabama 1975, or an offense in any other state which has the  
9 same or similar elements as those sections.

10 (e) A person charged with an offense defined under  
11 13A-12-120, Code of Alabama 1975, in violation of subsection  
12 (a) or (c) of Section 13A-12-121, Code of Alabama 1975, may be  
13 accepted in a pretrial diversion program, provided that he or  
14 she meets the requirements of a pretrial diversion program  
15 within the jurisdiction where the offense occurred.

16 Section 5. For the safety and well-being of a person  
17 arrested for the crime of prostitution under Division 2,  
18 Article 3, Chapter 12, Title 13A, Code of Alabama 1975, he or  
19 she may be held in custody for up to 72 hours. The person  
20 shall be brought before a court of competent jurisdiction as  
21 soon as possible within a 48-hour period to conduct an inquiry  
22 into the person's access to resources, such as, but not  
23 limited to, health care, shelter, mental health counseling, or  
24 financial aid. The court may issue an order to assist the  
25 person in obtaining the services and resources needed pursuant  
26 to the court's inquiry.

1                   Section 6. Although this bill would have as its  
2                   purpose or effect the requirement of a new or increased  
3                   expenditure of local funds, the bill is excluded from further  
4                   requirements and application under Amendment 621, now  
5                   appearing as Section 111.05 of the Official Recompilation of  
6                   the Constitution of Alabama of 1901, as amended, because the  
7                   bill defines a new crime or amends the definition of an  
8                   existing crime.

9                   Section 7. This act shall become effective on the  
10                  first day of the third month following its passage and  
11                  approval by the Governor, or its otherwise becoming law.