

1 HB433  
2 175848-3  
3 By Representatives Williams (JD), Coleman, Boyd and Ball  
4 RFD: Public Safety and Homeland Security  
5 First Read: 17-MAR-16

1  
2 ENROLLED, An Act,

3 To add Section 13A-12-123 to the Code of Alabama  
4 1975, to provide a definition of "sexually exploited child";  
5 to prohibit a sexually exploited child from being adjudicated  
6 delinquent or convicted of a crime of prostitution; to provide  
7 that a sexually exploited child engaged in prostitution may be  
8 adjudicated a child in need of supervision or a dependent  
9 child; to prohibit the transfer of a case involving a sexually  
10 exploited child who commits an act of prostitution from the  
11 jurisdiction of juvenile court to any adult court; to  
12 authorize a juvenile court to retain jurisdiction over a  
13 sexually exploited child; to provide for certain court orders  
14 in the best interests of the child; to provide that certain  
15 social and community services will be made available to  
16 sexually exploited children; to authorize an additional fine  
17 for certain crimes relating to prostitution; to require  
18 certain persons convicted of certain prostitution related  
19 crimes to attend counseling and education programs; to allow  
20 the detention of a person for 72 hours if the person is  
21 arrested for the crime of prostitution; to require a domestic  
22 or interstate business engaging in an escort business of  
23 companionship in this state to register with the Secretary of  
24 State; to amend Section 15-5-61, Code of Alabama 1975, to  
25 subject certain misdemeanor offenses relating to prostitution

1 to criminal forfeiture; and in connection therewith would have  
2 as its purpose or effect the requirement of a new or increased  
3 expenditure of local funds within the meaning of Amendment 621  
4 of the Constitution of Alabama of 1901, now appearing as  
5 Section 111.05 of the Official ReCompilation of the  
6 Constitution of Alabama of 1901, as amended.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

13 §13A-12-123.

14 A sexually exploited child, as defined in Section 3,  
15 who is alleged to have committed a violation of Section  
16 13A-12-120 or 13A-12-121, or any municipal ordinance  
17 prohibiting such acts, shall be treated pursuant to Section 4.

18 Section 3. (a) For the purposes of this section,  
19 "sexually exploited child" shall mean an individual under the  
20 age of 18 years who is under the jurisdiction of the juvenile  
21 court and who has been subjected to sexual exploitation  
22 because he or she is any of the following:

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

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

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

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

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

15           (d) If a law enforcement officer or a person seeks  
16 to file a complaint against a child for an offense of  
17 prostitution as provided in Section 13A-12-120 or 13A-12-121,  
18 Code of Alabama 1975, the juvenile court intake officer shall  
19 evaluate the complaint to determine if the child is a sexually  
20 exploited child and could have another complaint filed stating  
21 that the child is alleged to be in need of supervision or  
22 alleged to be dependent, and not a child alleged to be  
23 delinquent, pursuant to Rule 12 of the Alabama Rules of  
24 Juvenile Procedure. A juvenile probation officer who is  
25 designated to be a juvenile court intake officer may determine

1 if a child alleged to be in need of supervision is appropriate  
2 for an informal adjustment pursuant to Rule 15 of the Alabama  
3 Rules of Juvenile Procedure.

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

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

1 provided in Sections 12-15-203(i) and 12-15-204(b), Code of  
2 Alabama 1975.

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

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

- 10 (1) Forensic evidence collection.
- 11 (2) Forensic interviewing.
- 12 (3) Counseling.
- 13 (4) Advocacy.
- 14 (5) Shelter.
- 15 (6) Alcohol or substance abuse treatment.
- 16 (7) Mental health services.
- 17 (8) Medical treatment.
- 18 (9) Legal services.
- 19 (10) Educational tutoring, counseling, and language  
20 interpreter services.
- 21 (11) Crisis intervention services.
- 22 (12) Safety planning.
- 23 (13) Investigation and prosecution of the  
24 individuals subjecting the child to sexual exploitation or  
25 abuse.

1           Section 4. (a) (1) 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           (2) Any fine imposed by the court for a second or  
14          subsequent conviction under subdivision (1) shall increase by  
15          50 percent for each subsequent conviction through a fourth  
16          conviction.

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

1           (c) An adult person who is charged with an offense  
2 under subsection (b) or (d) of Section 13A-12-121, Code of  
3 Alabama 1975, and has no prior arrest or convictions for an  
4 offense under Sections 13A-12-111, 13A-12-112, 13A-12-113, and  
5 13A-12-121, Code of Alabama 1975, or an offense in any other  
6 state that has the same or similar elements as those sections,  
7 may be accepted into a pretrial diversion program, provided  
8 the adult person satisfied the requirements of subsections (a)  
9 and (b), as well as any other conditions imposed pursuant to  
10 the pretrial diversion program.

11           (d) Under no circumstance may an adult person be  
12 admitted into a pretrial diversion program if he or she has  
13 been previously convicted of an offense under Sections  
14 13A-12-111, 13A-12-112, 13A-12-113, and 13A-12-121, Code of  
15 Alabama 1975, or an offense in any other state which has the  
16 same or similar elements as those sections.

17           (e) A person charged with an offense defined under  
18 13A-12-120, Code of Alabama 1975, in violation of subsection  
19 (a) or (c) of Section 13A-12-121, Code of Alabama 1975, may be  
20 accepted in a pretrial diversion program, provided that he or  
21 she meets the requirements of a pretrial diversion program  
22 within the jurisdiction where the offense occurred.

23           Section 5. Notwithstanding Section 12-14-1, Code of  
24 Alabama 1975, a misdemeanor offense under Article 3, Chapter  
25 12, Title 13A, Code of Alabama 1975, relating to prostitution



1 offenses, including the attempt of any of the misdemeanor  
2 offenses included in Article 13, shall be prosecuted in the  
3 district court in the county where the offense occurred.

4 Section 6. (a) For the safety and well-being of a  
5 person arrested for the crime of prostitution under Division  
6 2, Article 3, Chapter 12, Title 13A, Code of Alabama 1975, he  
7 or she may be held in custody for up to 72 hours. The person  
8 shall be brought before a court of competent jurisdiction as  
9 soon as possible within a 48-hour period to conduct an inquiry  
10 into the person's access to resources, such as, but not  
11 limited to, health care, shelter, mental health counseling, or  
12 financial aid. The court may issue an order to assist the  
13 person in obtaining the services and resources needed pursuant  
14 to the court's inquiry.

15 (b) A photograph of a person taken by a law  
16 enforcement agency upon the arrest of a person for the crime  
17 of prostitution under Division 2, Article 3, Chapter 12, Title  
18 13A, Code of Alabama 1975, is not a public record and may not  
19 be published in any printed or electronic media or provided to  
20 any person without an order of a district court judge with  
21 jurisdiction over the person's criminal case.

22 Section 7. (a) Within 30 days from the effective  
23 date of this act, a domestic or interstate business engaging  
24 in an escort business of companionship in this state must  
25 register with the Secretary of State.

1           (b) (1) A violation of subsection (a) is a Class ~~B~~ A  
 2 misdemeanor.

3           (2) A second or subsequent violation of subsection  
 4 (a) is a Class D felony.

5           Section 8. Section 15-5-61, Code of Alabama 1975, is  
 6 amended to read as follows:

7           "§15-5-61.

8           "(a) Any property, proceeds, or instrumentality of  
 9 every kind, used or intended for use in the course of, derived  
 10 from, or realized through the commission of a felony offense,  
 11 as defined in this article, or a misdemeanor offense under  
 12 Article 3, Chapter 12, Title 13A, relating to prostitution  
 13 offenses, or as inducement or attempt or conspiracy to commit  
 14 such offenses, is subject to civil forfeiture.

15           "(b) This article does not apply to or limit  
 16 forfeiture under Sections 20-2-93, 13A-11-84, 13A-12-30, or  
 17 13A-12-198."

18           Section 9. Although this bill would have as its  
 19 purpose or effect the requirement of a new or increased  
 20 expenditure of local funds, the bill is excluded from further  
 21 requirements and application under Amendment 621, now  
 22 appearing as Section 111.05 of the Official Recompilation of  
 23 the Constitution of Alabama of 1901, as amended, because the  
 24 bill defines a new crime or amends the definition of an  
 25 existing crime.

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

