



**SB 165 –
SECTIONAL ANALYSIS**

January 27, 2020

Summary: This bill enacts a new offense series for sex trafficking in the first, second and third degrees. It enacts the new crime of “patron of a victim of sex trafficking.” The bill also amends the crime of human trafficking in the first degree and second degrees, and enacts the new crime of “human trafficking in the third degree.” The bill adds sex trafficking in the first and second degree and patron of a victim of sex trafficking to the list of registerable sex offenses. Additionally, the bill establishes a process whereby people who have been convicted of prostitution can get that conviction vacated if they are able to show that they were a victim of sex trafficking at the time that they committed the prostitution offense.

Section 1 is conforming changes to the amendments made in section 2.

Section 2 enacts a new offense series; sex trafficking in the first, second, and third degrees. In essence a person is guilty of sex trafficking in the first degree (unclassified sex felony) if the person traffics a person under the age of 20, uses force when trafficking a person, or manages a place of prostitution. A person is guilty of sex trafficking in the second degree (class A sex felony) if the person recruits, entices, or otherwise induces or causes a person to engage in commercial sexual conduct. Sex trafficking in the first and second degrees would be sentenced under the enhanced penalties for sexual felonies and the person would be required to register as a sex offender.

A person is guilty of sex trafficking in the third degree if the person provides resources in furtherance of the commission of sex trafficking. Sex trafficking in the third degree is a class B felony if the value of the resources is \$200 or more and a class C felony if the value of the resources is less than \$200. A person who commits sex trafficking in the third degree would be sentenced under the enhanced sexual felony sentences but would not be required to register as a sex offender.

This section also enacts the new crime of “patron of a victim of sex trafficking.” A person is guilty of being a patron of a victim of sex trafficking if the person solicits sexual conduct with reckless disregard that the person they are soliciting is a victim of sex trafficking. If the person solicited is under 18 years of age this offense will be a B sex felony. If the person solicited is an adult, this offense will be a C sex felony. This crime would be sentenced under then enhanced penalties for sexual felonies and the person would be required to register as a sex offender.

While there are sex trafficking crimes already in statute, these new crimes are broader and have updated language to capture the ways in which sex trafficking actually occurs. The sex trafficking statutes in current law are repealed as that offense will now appear in AS 11.41 as specified in this section.

Section 3 amends the crime of human trafficking in the first degree to be an unclassified felony when the person uses force against the victim or the victim is under the age of 20.

Section 4 denotes that human trafficking in the first degree is an unclassified felony.

Section 5 amends human trafficking in the second degree to include situations in which the perpetrator

- (1) exposes or threatens to expose confidential information or a secret, whether true or false, tending to subject a person to hatred, contempt, or ridicule;
- (2) destroys, conceals, or threatens to destroy or conceal an actual or purported passport or immigration document or another actual or purported identification document of any person;
- (3) threatens to report a person to a government agency for the purpose of arrest or deportation;
- (4) threatens to collect a debt;
- (5) instills in another person a fear that the person will withhold from any person lodging, food, clothing, or medication;
- (6) provides or withholds controlled substances from the person; or
- (7) deceives the victim.

Section 6 denotes that human trafficking in the second degree is a class A felony.

Section 7 Enacts the new crime of human trafficking in the third degree. A person is guilty of human trafficking in the third degree if the person provides resources in furtherance of human trafficking. Human trafficking in the third degree is a class B felony if the value of the resources is \$200 or more and a class C felony if the value of the resources is less than \$200.

This section also clarifies that corroboration of a victim's testimony is not necessary. This codifies current law in that a jury has the ability to convict based on a victim's testimony alone. This section is in current law and is simply relocated to AS 11.41 along with the rest of the sex trafficking statutes. This section also makes clear that any property used to commit sex or human trafficking may be forfeited.

Section 8 is the definition section for sex trafficking and human trafficking.

Section 9 clarifies that the crime of coercion is only to be used if the sex trafficking or human trafficking elements are not present.

Section 10 cleans up the references to sex trafficking in the prostitution statute.

Section 11 makes a conforming change to a provision that is repealed in the repealer section (being a patron of a prostitute under the age of 18).

Section 12 clarifies that the definition of sexual conduct used in the prostitution statutes is the same definition that is used in the sex trafficking and human trafficking statutes.

Sections 13 – 19 make conforming changes to sex trafficking and human trafficking references that appear in those statutes.

Section 20 establishes that human trafficking in the first degree, as an unclassified felony, will be sentenced between five and 99 years.

Section 21 makes conforming amendments to AS 12.55.125(i), the sex offense sentencing statutes, incorporating the new sex trafficking statutes and patron of a victim of sex trafficking statute. This ensures that these offenses will be subject to the higher sentences associated with sex offenses.

Section 22 makes conforming changes to the statutory definition of “most serious felony,” by removing sex trafficking in the first degree, which is then added to the statutory definition of “sexual felony” in section 23.

Section 23 adds sex trafficking and patron of a victim of sex trafficking to the definition of “sexual felony.”

Section 24 makes changes to the definition of “serious offense” reflecting the changes made to the sex trafficking and human trafficking statutes.

Section 25 adds sex trafficking in the first and second degree and patron of a victim of sex trafficking to the list of registerable sex offenses.

Section 26 establishes a process whereby people who have been convicted of prostitution can get that conviction vacated if they are able to show that they were a victim of sex trafficking at the time that they committed the prostitution offense. If the conviction is vacated the court system may not publish records relating to the conviction on CourtView nor may the Department of Public Safety release that information as part of an employment background check.

Sections 27 – 29 make conforming changes to the changes made to the sex trafficking statutes.

Section 30 clarifies that if a person’s prostitution conviction made them ineligible for a permanent fund dividend and that conviction was vacated under section 26 of the bill, the person would be eligible for a permanent fund dividend from the date of the vacation forward.

Sections 31-34 make conforming changes to the changes made to the sex trafficking statutes.

Section 35 is the repealer section.

Section 36 is the applicability section. The majority of this bill will apply to offenses occurring on or after the effective date.

Section 37 establishes the effective date as July 1, 2020.