



**SB 189 CRIME OF SEX/HUMAN TRAFFICKING –
SECTIONAL ANALYSIS**

February 14, 2022

Section 1. This section is a conforming change to the amendments made in sections 2-9.

Section 2. This section 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 they recruit, entice, or otherwise induce or cause 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 they solicit 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 The sex trafficking statutes in current law are repealed as those offenses will now appear in AS 11.41 as specified in this section.

Section 3. This section 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. This section denotes that this offense is an unclassified felony.

Section 5. This section 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 actor 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. This section denotes that this offense is a class A felony.

Section 7. This section enacts the new crime of human trafficking in the third degree. A person is guilty of human trafficking in the third degree if they provide 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. This section is the definition section for sex and human trafficking.

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

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

Section 11. This section increases the penalty for being a “John” from a class B misdemeanor to a class A misdemeanor. Upon a third conviction within five years the offense is again elevated to a class C felony.

Section 12. This section states that if a “John” is convicted under the class C felony provision in sec. 11, any property used in order to commit the offense may be forfeited. This section also 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.

Section 13. This section makes a conforming change related to the changes made in secs. 2-9.

Sections 14 - 19. These sections make conforming changes to sex trafficking and human trafficking references that appear in those statutes.

Section 20. This section establishes that human trafficking, as an unclassified felony, will be sentenced between five and 99 years.

Section 21. This section 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. This section also corrects an error in the citation of unlawful exploitation of a minor under AS 11.41.455(c)(1) and indecent viewing of a picture under AS 11.61.123.

Section 22. This section establishes mandatory minimum terms of imprisonment for “Johns.” Upon the first conviction the person will be subject to a mandatory minimum term of 72 hours and upon the second and subsequent conviction, the person will be subject to a mandatory minimum term of 20 days. The 20 day mandatory minimum term will not apply if the person is convicted three times within 5 years and is, therefore, subject to the class C felony sentencing provisions.

Section 23. This section makes conforming changes to the definition of “most serious felony” reflecting the new sex trafficking statutes.

Section 24. This section adds sex trafficking and patron of a victim of sex trafficking to the definition of “sexual felony” and corrects the citation to indecent viewing of a picture under AS 11.61.123.

Section 25. This section makes changes to the definition of “serious offense” reflecting the new sex trafficking and human trafficking statutes.

Section 26. This section adds sex trafficking in the first and second degrees and patron of a victim of sex trafficking to the list of registerable sex offenses. This section also corrects the citation to indecent viewing of a picture under AS 11.61.123.

Section 27. This section establishes a process whereby a person who has 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.

Section 28. This section amends the Violent Crime Compensation Board statutes to include an applicant who was a victim of sex trafficking.

Section 29– 30. These sections make conforming changes to the changes made to the sex trafficking statutes.

Section 31. This section makes a person who has had their conviction for prostitution vacated eligible for a permanent fund dividend.

Section 32-35. These sections make conforming changes to the changes made to the sex trafficking statutes.

Section 36. This section is the repealer section.

Section 37. This section is the applicability section. The majority of this bill will apply to offenses occurring on or after the effective date.

Section 38. This section establishes the effective date as July 1, 2022.