



**HB 68 CRIME OF SEX/HUMAN TRAFFICKING
SECTIONAL ANALYSIS**

February 8, 2023

Section 1. This section makes a conforming change to reflect the amendments made in section 4.

Section 2. This section makes confidential communications between a victim of sex trafficking and a victim counselor privileged.

Section 3. This section makes a conforming change to reflect the amendments made in section 4.

Section 4. 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 (1) uses force or the threat of force to coerce someone to engage in a commercial sexual acts; (2) traffics a person under the age of 20 or who is in the person's legal custody; or (3) manages, supervises, or controls a prostitution enterprise or a place of prostitution.

A person is guilty of *sex trafficking in the second degree* (class A sex felony) if the person induces or causes another person to engage in commercial sexual acts.

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 provided in furtherance of trafficking is \$200 or more or a class C felony if the value of the resources is less than \$200. Sex trafficking in the third degree is sentenced as a class B or C sex felony and is not a registerable sex offense.

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 commercial sexual

acts with reckless disregard that the person they are soliciting is a victim of sex trafficking, or if they solicit sexual acts from a person under the age of 18. If the person solicited is under 18 years of age, this offense will be a class B sex felony. If the person solicited is an adult, this offense will be a class C sex felony. This crime would be sentenced under the enhanced penalties for sexual felonies and the person would be required to register as a sex offender.

Section 5. This section amends the crime of human trafficking in the first degree to be an unclassified felony when the person induces or causes a person to engage in adult entertainment or labor through the use of force against the victim or if the victim is under the age of 20.

Section 6. This section denotes that human trafficking in the first degree is an unclassified felony.

Section 7. This section amends human trafficking in the second degree to include situations in which the person induces or causes another person to engage in adult entertainment or labor by

- (1) exposing or threatening to expose confidential information or a secret, whether true or false, tending to subject a person to hatred, contempt, or ridicule;
- (2) destroying, concealing, or threatening to destroy or conceal an actual or purported passport or immigration document or another actual or purported identification document of any person;
- (3) threatening to report a person to a government agency for the purpose of arrest or deportation;
- (4) threatening to collect a debt;
- (5) instilling in another person a fear that the actor will withhold from any person lodging, food, clothing, or medication;
- (6) providing or withholding controlled substances from the person; or
- (7) deceiving the victim.

Under this section, human trafficking in the second degree is a class A felony.

Section 8. 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.

The section also clarifies that human trafficking does not include normal caretaker interactions with a minor (for example, asking a child to shovel the driveway in exchange for an item of clothing etc.).

The section also clarifies current law that corroboration of a victim's testimony is not necessary. A jury has the ability to convict based on a victim's testimony alone. This language is simply relocated to AS 11.41 along with the rest of the sex trafficking statutes.

The section also makes clear that any property used to commit sex or human trafficking may be forfeited.

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 is a conforming change which references the new sex trafficking statutes 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 for being a "John", 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 section 11, any property used in order to commit the offense may be forfeited.

Sections 13 and 14. These sections make conforming changes related to the amendments made in section 4 - 9.

Section 15. This section adds the definitions that apply to the prostitution statutes and the sex trafficking statutes to the general definition statute in Title 11 (AS 11.81.900).

Section 16. This section establishes that there is no statute of limitations for sex trafficking and human trafficking in the first and second degrees. However, the statute of limitations for sex trafficking in the third degree and human trafficking in the third degree is ten years.

Section 17. This section makes conforming changes reflecting the amendments to sex trafficking and human trafficking.

Section 18. This section makes confidential communications between a victim of sex trafficking and a victim counselor privileged.

Sections 19 - 21. These sections make conforming changes to sex trafficking and human trafficking references that appear in those statutes.

Section 22. This section establishes that human trafficking, as an unclassified felony, will be sentenced between 5 and 99 years.

Section 23. This section amends 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 24. This section establishes mandatory minimum terms of imprisonment for repeat “Johns.” Upon the second conviction with five years, the person will be subject to a class A misdemeanor with a mandatory minimum of 72 hours to serve. If the person is convicted three times within five years, the person is subject to the class C felony sentencing provisions.

Section 25. This section makes conforming changes to the definition of “most serious felony” reflecting the new sex trafficking statutes.

Section 26. 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 27. This section makes changes to the definition of “serious offense” reflecting the new sex trafficking and human trafficking statutes.

Section 28. 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 or production of a picture under AS 11.61.123.

Section 29. This section establishes a process whereby a person who has been convicted of prostitution can get that conviction or a conviction for possession of a controlled substance vacated if they are able to show that they were a victim of sex trafficking at the time that they committed the 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 30 - 32. These sections add the prevention of sex trafficking to the subjects that the Council on Domestic Violence and Sexual Assault should consider and develop educational materials and programs for.

Sections 33 and 34. These sections make conforming changes to the limitations on privileged communications and add a victim of sex trafficking to the definition of “victim.”

Section 35. This section adds victims of sex trafficking to the list of victims whom a crisis intervention and prevention program is designed to assist.

Section 36. This section adds victims of sex trafficking to the list of victims who can receive assistance from the Violent Crimes Compensation Board.

Section 37. This section allows the public defender to represent an indigent person during a vacation of judgment proceeding.

Sections 38 and 39. These sections make conforming changes referencing the changes made to the sex trafficking statutes.

Section 40. This section makes a person who has had their conviction for prostitution vacated eligible for a permanent fund dividend.

Section 41. This section authorizes administrative subpoenas for sex trafficking in the first, second, and third degrees.

Sections 42 - 45. These sections make conforming changes referencing the changes made to the sex trafficking statutes.

Section 46. This section is the repealer section.

Section 47. This section is the applicability section. The majority of this bill will apply to offenses occurring on or after the effective date.

Section 48. This section makes the vacation of judgment sections of the bill effective on January 1, 2024.

Section 49. This section makes the remainder of the bill effective July 1, 2023.