

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: H3/1/17
A Bill

HOUSE BILL 1417

By: Representative Sturch

For An Act To Be Entitled

AN ACT CONCERNING THE OFFENSE OF SEXUAL SOLICITATION;
CONCERNING HUMAN TRAFFICKING; PROVIDING FOR
IMPOUNDMENT OF A MOTOR VEHICLE WHEN A PERSON IS
ARRESTED FOR AN OFFENSE INVOLVING SEXUAL
SOLICITATION; PROVIDING FOR HUMAN TRAFFICKING
AWARENESS EDUCATION FOR EDUCATORS; AND FOR OTHER
PURPOSES.

Subtitle

CONCERNING THE OFFENSE OF SEXUAL
SOLICITATION; PROVIDING FOR IMPOUNDMENT
OF A MOTOR VEHICLE; AND PROVIDING FOR
HUMAN TRAFFICKING AWARENESS EDUCATION FOR
EDUCATORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 5, Chapter 5, is amended to add an
additional subchapter to read as follows:

Subchapter 5 – Impoundment of Motor Vehicle Due to Prostitution Offense

5-5-501. Motor vehicle impoundment.

(a) An arresting law enforcement officer may impound the motor vehicle
of a person arrested if:

(1) The motor vehicle was used in the commission of an offense
under § 5-70-101 et seq. by the person arrested;

(2) The person arrested is the owner of the motor vehicle or the



motor vehicle is being rented and the person arrested is the lessee; and

(3) Either:

(A) The person arrested has previously been convicted of an offense under § 5-70-101 et seq.; or

(B) An ordinance under subsection (b) of this section is in effect and the offense was committed within an area designated under subsection (b) of this section.

(b)(1) A local government may designate by ordinance an area within which a motor vehicle is subject to impoundment if a person using a motor vehicle is arrested for an offense under § 5-70-101 et seq.

(2) The designation must be based on evidence indicating that the area has a disproportionately higher number of arrests for an offense under § 5-70-101 et seq. as compared to other areas within the same jurisdiction.

(3) The local government shall post signs at the boundaries of the area to indicate that the area has been designated under this subsection.

(c)(1) An impoundment of a motor vehicle under this section shall be in accordance with state law and the impoundment shall be indicated as a "prostitution hold".

(2)(A) Before redeeming the impounded motor vehicle, and in addition to all applicable impoundment, towing, and storage fees paid to the towing company as provided by law, an owner of an impounded motor vehicle shall pay an impoundment fee of five hundred dollars (\$500) to the impounding law enforcement agency.

(B)(i) Upon receipt of the impoundment fee paid under subdivision (c)(2) of this section, the impounding law enforcement agency shall issue a written receipt to the owner of the impounded motor vehicle, which the owner shall provide the towing company.

(ii) The written receipt issued under subdivision (c)(2)(B) of this section authorizes the towing company to release the impounded motor vehicle upon payment of all impoundment, towing, and storage fees.

(iii) A towing company that relies on a forged receipt to release a motor vehicle impounded under this section is not liable to the impounding law enforcement agency for any unpaid impoundment fee under this subsection.

(d) An impoundment fee assessed under this section shall be collected by the impounding law enforcement agency and remitted to the Human Trafficking Victim Support Fund on the first business day of each month.

(e)(1) In a legal proceeding to contest the validity of an impoundment under this section in which the person substantially prevails, in which the person is found not guilty at trial for the offense or offenses for which the motor vehicle was impounded, or in which the charges for which the motor vehicle was impounded are dismissed, the person is entitled to a full refund of the impoundment, towing, and storage fees paid and the impounding fee paid under subsection (c) of this section.

(2) A refund made under this subsection shall be paid by the impounding law enforcement agency.

(3) Before receiving a refund under this subsection, the person must provide proof of payment of the fee for which he or she is claiming a refund.

SECTION 2. Arkansas Code § 5-70-103 is amended to read as follows:

5-70-103. Sexual solicitation.

(a) A person commits the offense of sexual solicitation if he or she:

(1) Offers or agrees to pay a fee to a person to engage in sexual activity with him or her or another person; or

(2) Solicits or requests a person to engage in sexual activity with him or her in return for a fee.

(b) Sexual solicitation is a ~~a~~ an unclassified misdemeanor with the following sentences:

(1) ~~Class B misdemeanor for the~~ For a first offense:

(A) No more than ninety (90) days imprisonment;

(B) A fine of no more than two thousand dollars (\$2,000);

or

(C) Both imprisonment and a fine; and

(2) ~~Class A misdemeanor for~~ For a second or subsequent offense:

(A) No more than one (1) year of imprisonment;

(B) A fine of no more than three thousand five hundred dollars (\$3,500); or

(C) Both imprisonment and a fine.

(c) It is an affirmative defense to prosecution under this section

that the person engaged in an act of sexual solicitation as a result of being a victim of trafficking of persons, § 5-18-103.

(d) In addition to any other sentence authorized by this section, a person who violates this section by offering to pay, agreeing to pay, or paying a fee to engage in sexual activity upon conviction shall be ordered to pay a fine of two hundred fifty dollars (\$250) to be deposited into the Safe Harbor Fund for Sexually Exploited Children.

SECTION 3. Arkansas Code Title 6, Chapter 17, Subchapter 7, is amended to add an additional section to read as follows:

6-17-710. Human trafficking professional development.

(a) Each year, a school district shall make available to licensed personnel thirty (30) minutes of professional development on:

(1) Recognizing the warning signs that a child is a victim of human trafficking; and

(2) Reporting a suspicion that a child is a victim of human trafficking.

(b) The Department of Education or another person, firm, or corporation designated by the department shall develop and administer the professional development under subsection (a) of this section.

(c) The professional development under this section shall count toward the satisfaction of requirements for professional development in the Standards for Accreditation of Arkansas Public Schools and School Districts and for licensure requirements for licensed personnel.

SECTION 4. Arkansas Code Title 19, Chapter 5, Subchapter 12, is amended to add an additional section to read as follows:

19-5-1258. Human Trafficking Victim Support Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Human Trafficking Victim Support Fund".

(b) The fund shall consist of fees collected under § 5-5-501(d) and any other revenues authorized by law.

(c)(1) The fund shall be administered by the Attorney General.

(2) The Attorney General shall use the fund to provide:

(A) Grants to nonprofit, religious, and other third-party

organizations that provide services and treatment, such as securing residential housing, health services, and social services for victims of human trafficking; and

(B) For the management and operation of the fund.

(d) As used in this section, "victim of human trafficking" means a person who has been subject to sexual exploitation because the person:

(1) Is a victim of trafficking of persons under § 5-18-103;

(2) Is a victim of child sex trafficking under 18 U.S.C. § 1591, as it existed on January 1, 2017; or

(3) Engages in an act of prostitution under § 5-70-102 or sexual solicitation under § 5-70-103.

/s/Sturch

APPROVED: 03/30/2017