

Stricken language would be deleted from and underlined language would be added to present law.
Act 1003 of the Regular Session

State of Arkansas
95th General Assembly
Regular Session, 2025

As Engrossed: H4/14/25

A Bill

SENATE BILL 620

By: Senator Irvin

By: Representative Beaty Jr.

For An Act To Be Entitled

AN ACT TO PROVIDE A SAFETY VALVE FOR A MINOR
DEFENDANT WHO IS ALSO A VICTIM OF HUMAN TRAFFICKING;
TO AMEND THE HUMAN TRAFFICKING ACT OF 2013; TO CREATE
AN APPEAL RIGHT FOR A MINOR DEFENDANT WHO IS ALSO A
VICTIM OF HUMAN TRAFFICKING; AND FOR OTHER PURPOSES.

Subtitle

TO PROVIDE A SAFETY VALVE AND APPEAL
RIGHT FOR A MINOR DEFENDANT WHO IS ALSO
A VICTIM OF HUMAN TRAFFICKING; AND TO
AMEND THE HUMAN TRAFFICKING ACT OF 2013.

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

SECTION 1. DO NOT CODIFY. Legislative intent.

The General Assembly intends for courts to consider whether a minor has been a victim of human trafficking before transferring a delinquency matter to the criminal division of circuit court or imposing a sentence upon the person.

SECTION 2. Arkansas Code § 5-2-210 is amended to read as follows:

5-2-210. Human trafficking – Affirmative defense.

(a) As used in this section:

(1) "Nonviolent criminal offense" means a criminal offense that does not constitute a violent crime as defined in § 16-90-1101; and

(2) "~~victim~~ Victim of trafficking of persons" means a person who has been subjected to trafficking of persons, § 5-18-103.



(b) ~~If a person is eighteen (18) years of age or older, it is an affirmative defense to prosecution for an offense listed under subsection (c) of this section if at the time a person engaged in the conduct charged to constitute the offense the person was:~~

- (1) A victim of trafficking of persons; and
- (2) Engaged in the offense as a direct result of the trafficking of persons.

(c) The affirmative defense under this section may be raised only in a prosecution for one (1) or more of the following offenses:

- (1) Forgery, § 5-37-201;
- (2) Defrauding a prospective adoptive parent, § 5-37-216;
- (3) A prostitution offense under § 5-70-101 et seq.;
- (4) Obscene performance at a live public show, § 5-68-305; or
- (5) A controlled substance offense under ~~§ 5-64-401 et seq.~~ § 5-64-402 et seq. that is not a Class Y felony.

(d) If a person is seventeen (17) years of age or younger, it is an affirmative defense to prosecution for a nonviolent criminal offense if at the time a person engaged in the conduct charged to constitute the offense the person was:

- (1) A victim of trafficking of persons; and
- (2) Engaged in the offense as a direct result of the trafficking of persons.

SECTION 3. Arkansas Code § 5-18-103(a) and (b), concerning the offense of trafficking of persons, are amended to read as follows:

(a) A person commits the offense of trafficking of persons if he or she knowingly:

- (1) Recruits, harbors, transports, obtains, entices, solicits, isolates, provides, or maintains a person when he or she knows or reasonably should know that the person will be subjected to involuntary servitude;
- (2) Benefits financially or benefits by receiving anything of value from participation in a venture that he or she knows or reasonably should know is engaged in conduct prohibited under subdivision (a)(1) of this section;
- (3) Subjects a person to involuntary servitude;
- (4) Recruits, entices, solicits, isolates, harbors, transports,

provides, maintains, or obtains a minor for commercial sexual activity;

(5) Sells or offers to sell travel services that he or she knows or reasonably should know include an activity prohibited under subdivisions (a)(1)-(4) of this section;

(6) Recruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a pregnant woman for the purpose of causing the pregnant woman to place her unborn child for adoption by:

(A) The use of or threatened use of physical force;

(B) The physical restraint or threat of physical restraint of a person;

(C) Serious physical injury or threat of serious physical injury to a person;

(D) Abuse or threatened abuse of law or legal process;

(E) Any scheme, plan, or pattern that has a purpose to cause the pregnant woman to believe that, if the pregnant woman does not place the unborn child for adoption, a person would suffer serious physical injury or physical restraint; or

(F) Means of serious harm or threats of serious harm to a person; ~~or~~

(7) Benefits financially or benefits by receiving anything of value from participating in an act described under subdivision (a)(6) of this section; or

(8) Recruits, entices, solicits, isolates, harbors, transports, provides, maintains, or obtains a minor for the purpose of causing the minor to join or remain in a criminal organization or engage in a violation of criminal law by:

(A) The use or threatened use of physical force;

(B) The causing of serious physical harm to another person;

(C) The threat of causing serious physical harm to another person;

(D) Coercion, duress, or menace; or

(E) Any scheme, plan, or pattern that has a purpose to cause a minor to believe that, if the minor does not join or remain in the criminal organization or engage in a violation of criminal law, another person would suffer serious harm.

(b) It is not a defense to prosecution under ~~subdivision~~ subdivisions (a)(4) and (a)(8) of this section that the actor:

- (1) Did not have knowledge of a victim's age; or
- (2) Mistakenly believed a victim was not a minor.

SECTION 4. Arkansas Code § 9-27-318(g)(9), concerning factors that a court is required to consider in a hearing on the transfer of a delinquency matter to a criminal division of circuit court, is amended to read as follows:

(9) Written reports, ~~and other materials,~~ and other information relating to the juvenile's mental, physical, educational, and social history, including without limitation exposure to adverse childhood experiences, childhood trauma, involvement in the child welfare or foster care systems, status as a victim of human trafficking, sexual abuse, or rape; and

SECTION 5. Arkansas Code § 9-27-503(c)(9), concerning factors that a court is required to consider in making a determination to designate a juvenile as an extended juvenile jurisdiction offender, is amended to read as follows:

(9) Written reports, ~~and other materials,~~ and other information relating to the juvenile's mental, physical, educational, and social history, including without limitation exposure to adverse childhood experiences, childhood trauma, involvement in the child welfare or foster care systems, status as a victim of human trafficking, sexual abuse, or rape; and

SECTION 6. Arkansas Code Title 16, Chapter 90, Subchapter 1, is amended to add an additional section to read as follows:

16-90-123. Sentencing of juvenile or person convicted for offense committed as juvenile - Factors.

If a person is convicted for an offense that the person committed when he or she was less than eighteen (18) years of age, the court shall, in addition to any other factors that the court is required to consider before imposing a sentence upon the person, consider the following:

(1) The exposure of the juvenile or person who committed the offense as a juvenile to adverse childhood experiences, childhood trauma, involvement in the child welfare or foster care systems, status as a victim

of human trafficking, sexual abuse, or rape, and the impact of trauma on the juvenile's behavior; and

(2) The differences between a juvenile offender and an adult offender, including without limitation the diminished culpability of a juvenile as compared to that of an adult and the typical characteristics of youth.

/s/Irvin

APPROVED: 4/22/25