

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas *As Engrossed: H3/8/13 H3/20/13*
89th General Assembly **A Bill**
Regular Session, 2013

HOUSE BILL 1581

By: Representatives Leding, D. Meeks

By: Senators Rapert, Elliott, Irvin

For An Act To Be Entitled

AN ACT CONCERNING VICTIMS OF THE OFFENSE OF HUMAN
TRAFFICKING; CONCERNING POSTING A NOTICE OF THE
NATIONAL HUMAN TRAFFICKING RESOURCE CENTER HOTLINE;
TO PROVIDE FOR THE EXPUNGEMENT OF CERTAIN CRIMINAL
CONVICTIONS; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING VICTIMS OF THE OFFENSE OF
HUMAN TRAFFICKING; CONCERNING POSTING A
NOTICE OF THE NATIONAL HUMAN TRAFFICKING
RESOURCE CENTER HOTLINE; AND TO PROVIDE
FOR THE EXPUNGEMENT OF CERTAIN CRIMINAL
CONVICTIONS.

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

SECTION 1. Arkansas Code Title 3, Chapter 9, Subchapter 2, is amended to add a new section to read as follows:

3-9-241. Private clubs - Posting information about the National Human Trafficking Resource Center Hotline.

An entity governed by this subchapter shall post information about the National Human Trafficking Resource Center Hotline as required under § 12-19-102.

SECTION 2. Arkansas Code § 5-5-201(a), concerning crimes for which the state may forfeit certain conveyances, is amended to read as follows:



(a) Upon conviction, any conveyance, including an aircraft, motor vehicle, or vessel, ~~that is subject to forfeiture under this subchapter if it is used in the commission or attempt of: a burglary, robbery, theft, or arson, or an attempt to commit a burglary, robbery, theft, or arson, is subject to forfeiture as provided in this subchapter.~~

- (1) A burglary;
- (2) A robbery;
- (3) A theft;
- (4) An arson; or
- (5) Trafficking of persons, § 5-18-103.

SECTION 3. Arkansas Code § 5-5-202(b)(2), concerning the seizure of conveyances, is amended to read as follows:

(2) Any law enforcement agent has probable cause to believe that the conveyance was used in the commission or attempt of ~~a burglary, robbery, theft, or arson, or an attempt to commit a burglary, robbery, theft, or arson.:~~

- (A) A burglary;
- (B) A robbery;
- (C) A theft;
- (D) An arson; or
- (E) Trafficking of persons, § 5-18-103.

SECTION 4. Arkansas Code § 5-70-103(a)(1), concerning the elements of the criminal offense of sexual solicitation, is amended to read as follows:

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

SECTION 5. Arkansas Code Title 12, Chapter 19, as amended by Acts 2013, No. 132, is amended to add two new sections to read as follows:

12-19-102. Posting information about the National Human Trafficking Resource Center Hotline.

(a) The following establishments shall post in a conspicuous place near the entrance of the establishment, or where posters and notices of this type customarily are posted, a poster described in subsection (b) of this section measuring at least eight and one-half inches by eleven inches (8 1/2"

x 11") in size:

(1) A hotel, motel, or other establishment that has been cited as a public nuisance for prostitution under § 20-27-401;

(2) A strip club or other sexually oriented business;

(3) A private club that has a liquor permit for on-premises consumption and does not hold itself out to be a food service establishment;

(4) An airport;

(5) A train station that serves passengers;

(6) A bus station; and

(7) A privately owned and operated facility that provides food, fuel, shower or other sanitary facilities, and overnight parking.

(b)(1) The poster shall read:

"If you or someone you know is being forced to engage in any activity and cannot leave – whether it is commercial sex, housework, farm work, or any other activity – call the National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services. Victims of human trafficking are protected under United States and Arkansas state law.

The Hotline is:

- Available 24 hours a day, 7 days a week
- Toll-free
- Operated by a non-profit, non-governmental organization
- Anonymous and confidential
- Accessible in 170 languages
- Able to provide help, referral to services, training, and general information"

(2) The poster shall be printed in English, Spanish, and any other language mandated by the Voting Rights Act of 1965, 42 U.S.C. § 1973, as it existed on January 1, 2013, in the county where the poster will be posted.

(c) The poster shall be available on the websites of all of the following:

(1) The Alcoholic Beverage Control Board where documents associated with obtaining a liquor license or alcoholic beverage license are customarily located;

(2) The Department of Labor; and

(3) The Arkansas State Highway and Transportation Department.

(d)(1) To obtain a copy of the poster required to be posted under this section, the owners or operators of an establishment required to post the notice under this section shall:

(A) Print the poster from any of the Internet websites in subsection (c) of this section; or

(B) Request that the poster be mailed for the cost of printing and first-class postage.

(2) The owner or operator shall post the sign in compliance with subsection (a) of this section.

(e)(1) If the regulatory agency that licenses or permits an establishment under this section finds that the establishment has failed to post the information required under this section, the owner or operator shall receive:

(A) For a first violation, a warning; and

(B) For a second or subsequent violation, a fine not to exceed five hundred dollars (\$500).

(2) The violation of or noncompliance with this section, and each day's continuance thereof, shall constitute a separate and distinct violation.

(f) The civil fines in subsection (e) of this section do not apply to establishments that are owned or operated by the State of Arkansas.

12-19-103. Development of a state plan.

The Department of Human Services shall develop a state protocol for assisting victims of human trafficking with applying for federal and state benefits and services to which they may be entitled.

SECTION 6. Arkansas Code Title 14, Chapter 1, Subchapter 3, is amended to add a new section to read as follows:

14-1-308. Posting information about the National Human Trafficking Resource Center Hotline.

An entity governed by this subchapter shall post information about the National Human Trafficking Resource Center Hotline as required under § 12-19-102.

SECTION 7. Arkansas Code Title 16, Chapter 90, Subchapter 1, is

amended to add a new section to read as follows:

16-90-123. Sealing certain convictions.

(a) As used in this section, "victim of human trafficking" means a person who has been subjected to trafficking of persons, § 5-18-103, or any former law of this state, law of another state, or federal law that is substantially similiar.

(b)(1) A person convicted of prostitution, § 5-70-102, may file a petition to seal the conviction under this section if it was obtained as a result of the person having been a victim of human trafficking.

(2) A petition under this section may be filed at any time and may be filed for a conviction imposed before, on, or after the effective date of this act.

(3)(A) The court shall hold a hearing on the petition under this section as provided in § 16-90-904.

(B) The court may dismiss the petition without a hearing if the court finds that the petition fails to assert a claim for which relief may be granted.

(4) The court shall grant the petition under this section if it finds by a preponderance of the evidence that:

(A) The petitioner was convicted of prostitution, § 5-70-102; and

(B) The conviction was obtained as a result of the petitioner's having been a victim of human trafficking.

(5) If the petition under this section is granted, the court shall:

(A) Issue an order to seal the conviction; and

(B) With respect to the conviction for prostitution, § 5-70-102, redact the petitioner's name from all records and files related to the petitioner's:

(i) Arrest;

(ii) Citation;

(iii) Criminal investigation;

(iv) Criminal charge;

(v) Adjudication of guilt;

(vi) Criminal proceedings; and

(vii) Probation for the offense.

(6)(A) Official documentation by a federal, state, or local government agency verifying that at the time of the conviction for prostitution, § 5-70-102, the petitioner was a victim of human trafficking creates a presumption under this section that the person's prostitution conviction was obtained as a result of having been a victim of human trafficking.

(B) Documentation under this subdivision (b)(6) is not required to grant a petition under this section.

(C) Documentation under this subdivision (b)(6) may include without limitation:

(i) Certified records of federal or state court proceedings that demonstrate that the defendant was a victim of a trafficker charged with a trafficking offense under state law or the Victims of Trafficking and Violence Protection Act of 2000, 22 U.S.C. § 7101 et seq., as it existed on January 1, 2013; or

(ii) Certified records of "approval notices" or "law enforcement certifications" generated from federal immigration proceedings available to victims of human trafficking.

SECTION 8. Arkansas Code Title 20, Chapter 26, Subchapter 2, is amended to add a new section to read as follows:

20-26-207. Posting information about the National Human Trafficking Resource Center Hotline.

An entity governed by this subchapter shall post information about the National Human Trafficking Resource Center Hotline as required under § 12-19-102.

SECTION 9. Arkansas Code Title 23, Chapter 12, Subchapter 6, is amended to add a new section to read as follows:

23-12-614. Posting information regarding National Human Trafficking Resource Center Hotline.

A passenger train station governed by this subchapter shall post information about the National Human Trafficking Resource Center Hotline as required under § 12-19-102.

SECTION 10. Arkansas Code § 27-115-108(a), concerning the duties of

the Arkansas Department of Aeronautics, is amended to add a new subdivision to read as follows:

(14) Establish posting requirements for compliance with § 12-19-102, concerning the posting of information about the National Human Trafficking Resource Center Hotline.

/s/Leding