

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

State of Arkansas
95th General Assembly
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As Engrossed: S4/1/25
A Bill

SENATE BILL 442

By: Senator J. Bryant
By: Representative McAlindon

For An Act To Be Entitled

AN ACT TO AMEND THE LAW CONCERNING HUMAN TRAFFICKING;
TO PROVIDE FOR FORFEITURE OF ASSETS USED TO CONDUCT
HUMAN TRAFFICKING; TO CREATE THE OFFENSE OF HARBORING
AN ENDANGERED RUNAWAY CHILD; TO CREATE THE ARKANSAS
HUMAN TRAFFICKING COUNCIL SUPPORT FUND; TO AMEND THE
FINE PAYMENTS FOR HUMAN TRAFFICKING OFFENSES AND
PROSTITUTION OFFENSES; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE LAW CONCERNING HUMAN
TRAFFICKING; TO PROVIDE FOR FORFEITURE
OF ASSETS USED TO CONDUCT HUMAN
TRAFFICKING; AND TO CREATE THE OFFENSE
OF HARBORING AN ENDANGERED RUNAWAY
CHILD.

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

SECTION 1. Arkansas Code § 5-5-201(a), concerning certain asset
forfeiture proceedings, is amended to read as follows:

(a) Upon conviction, any conveyance, including an aircraft, motor
vehicle, or vessel, is subject to forfeiture under this subchapter if it is
used in the commission or attempt of:

- (1) A burglary;
- (2) A robbery;
- (3) A theft; or
- (4) An arson; ~~or~~



~~(5) Trafficking of persons, § 5-18-103.~~

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

(2) Any law enforcement officer has probable cause to believe that the conveyance was used in the commission or attempt of:

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

SECTION 3. Arkansas Code § 5-5-501(d), concerning the impoundment of a motor vehicle used in a prostitution offense and the assessment of the impoundment fee, is amended to read as follows:

(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~~ Arkansas Human Trafficking Council Support Fund on the first business day of each month.

SECTION 4. Arkansas Code Title 5, Chapter 5, is amended to add an additional subchapter to read as follows:

Subchapter 6 – Forfeiture of Property used in Human Trafficking

5-5-601. Forfeiture of assets and disposition of proceeds.

(a) In addition to any other civil or criminal penalties provided by law, real or personal property used in the commission of a violation of the Human Trafficking Act of 2013, § 5-18-101 et seq., shall be forfeited as provided in this subchapter.

(b) Upon conviction for a violation of the Human Trafficking Act of 2013, § 5-18-101 et seq., the following real or personal property is subject to forfeiture under this subchapter:

- (1) A conveyance, including an aircraft, a vehicle, or vessel;
- (2) A book, record, telecommunication equipment, or computer;
- (3) Money;

(4) A negotiable instrument or security;

(5) A weapon;

(6) Anything of value furnished, or intended to be furnished, in exchange for a violation of the Human Trafficking Act of 2013, § 5-18-101 et seq.;

(7) Any real or personal property acquired or received in a violation of or as an inducement to violate the Human Trafficking Act of 2013, § 5-18-101 et seq.;

(8) Any real or personal property traceable to proceeds from a violation of the Human Trafficking Act of 2013, § 5-18-101 et seq.; and

(9) Any real property, including any right, title, and interest in the whole of or any part of any lot or tract of land used in furtherance of a violation of the Human Trafficking Act of 2013, § 5-18-101 et seq.

5-5-602. Real or personal property not subject to forfeiture.

(a)(1) Real or personal property used in furtherance of a violation of the Human Trafficking Act of 2013, § 5-18-101 et seq., shall not be forfeited under this section unless the real or personal property was used with the owner's knowledge.

(2) If the confiscating authority has reason to believe that the real or personal property is leased or rented, the confiscating authority shall notify the owner of the real or personal property within five (5) days of the confiscation or within five (5) days of learning that the real or personal property is leased or rented.

(3) Forfeiture of real or personal property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party did not have knowledge of nor consented to the act or omission in violation of the Human Trafficking Act of 2013 § 5-18-101 et seq.

(b) No property used by any person as a common carrier in the course of business as a common carrier is subject to forfeiture under this subchapter unless it appears that the owner or other person in charge of the property is a consenting party or privy to a violation of the Human Trafficking Act of 2013, § 5-18-101 et seq.

5-5-603. Seizure of real or personal property.

(a) Real or personal property subject to forfeiture under this

subchapter may be seized by any law enforcement agent upon process issued by any circuit court having jurisdiction over the real or personal property on petition filed by the prosecuting attorney of the judicial circuit.

(b) Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The real or personal property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this subchapter;

(3) The seizing law enforcement agency has probable cause to believe that the real or personal property is directly or indirectly dangerous to health or safety; or

(4) The seizing law enforcement agency has probable cause to believe that the real or personal property was used in the commission or attempt of a violation of the Human Trafficking Act of 2013, § 5-18-101 et seq.

5-5-604. Transfer of real or personal property seized by state or local agency to federal agency.

(a) A state or local law enforcement agency shall not transfer real or personal property seized by the state or local agency to any federal entity for forfeiture under federal law unless the circuit court having jurisdiction over the property enters an order, upon petition by the prosecuting attorney, authorizing the property to be transferred to the federal entity.

(b) A transfer under subsection (a) of this section shall not be approved unless it reasonably appears that the activity giving rise to the investigation or seizure involves more than one (1) state or the nature of the investigation or seizure would be better pursued under federal law.

5-5-605. Custody of real or personal property pending disposition.

(a) Real or personal property seized for forfeiture under this subchapter is not subject to replevin, but is deemed to be in the custody of the seizing law enforcement agency subject only to an order or decree of the circuit court having jurisdiction over the property seized.

(b) Subject to any need to retain the real or personal property as evidence, when real or personal property is seized under this subchapter the

seizing law enforcement agency shall:

(1) Remove the personal property to a place designated by the circuit court;

(2) Place the real property under constructive seizure by posting notice of pending forfeiture on it, by giving notice of pending forfeiture to its owners and interest holders, or by filing notice of pending forfeiture in any appropriate public record relating to the real property;

(3) Remove the personal property to a storage area for safekeeping or, if the personal property is a negotiable instrument or money, or is not needed for evidentiary purposes, deposit it in an interest-bearing account; or

(4) Provide for another agency or custodian, including an owner, secured party, mortgagee, or lienholder, to take custody of the real or personal property and service, maintain, and operate it as reasonably necessary to maintain its value in any appropriate location within the jurisdiction of the court.

(c)(1) In any transfer of real or personal property under § 5-5-604, a transfer receipt shall be prepared by the transferring law enforcement agency.

(2) The transfer receipt shall:

(A) List a detailed and complete description of the real or personal property being transferred;

(B) State to which federal agency the real or personal property is being transferred and the source or authorization for the transfer; and

(C) Be signed by both the transferor and the transferee.

(3) Both transferor and transferee shall maintain a copy of the transfer receipt.

(d) A person who acts as custodian of real or personal property under this section is not liable to any person on account of an act done in a reasonable manner in compliance with an order under this subchapter.

5-5-606. Inventory of real or personal property seized – Referral to prosecuting attorney – Failure to file confiscation report.

(a) Real or personal property seized by a state or local law enforcement officer who is attached to, deputized or commissioned by, or

working in conjunction with a federal agency remains subject to the provisions of this section.

(b)(1) When real or personal property is seized for forfeiture by a law enforcement agency, the seizing law enforcement officer shall prepare and sign a confiscation report.

(2)(A) The person from whom the real or personal property is seized shall sign the confiscation report if present and shall immediately receive a copy of the confiscation report.

(B) If the person refuses to sign the confiscation report, the confiscation report shall be signed by one (1) additional law enforcement officer, stating that the person refused to sign the confiscation report.

(3)(A) The original confiscation report shall be filed with the seizing law enforcement agency within forty-eight (48) hours after the seizure and maintained in a separate file.

(B) One (1) copy of the confiscation report shall be retained by the seizing law enforcement officer.

(4) The confiscation report shall contain the following information:

(A) A detailed description of the real or personal property seized including without limitation any serial number, model number, and odometer reading or hour reading of a vehicle or equipment;

(B) The date of seizure;

(C) The name and address of the person from whom the real or personal property was seized;

(D) The reason for the seizure;

(E) Where the personal property will be held;

(F) The seizing law enforcement officer's name; and

(G) A signed statement by the seizing law enforcement officer stating that the confiscation report is true and complete.

(5) Within three (3) business days of receiving the confiscation report, the seizing law enforcement agency shall forward a copy of the confiscation report to the prosecuting attorney for the district where the real or personal property was seized and to the Human Trafficking Coordinator.

(c)(1) Arkansas Legislative Audit shall notify the Human Trafficking Coordinator and a circuit court in the county of a law enforcement agency,

prosecuting attorney, or other public entity that the law enforcement agency, prosecuting attorney, or public entity is ineligible to receive any forfeited funds, forfeited real or personal property, or any grants from the Arkansas Human Trafficking Council Support Fund, if Arkansas Legislative Audit determines, by its own investigation or upon written notice from the Human Trafficking Coordinator, that:

(A) The law enforcement agency has failed to complete and file the confiscation report as required by this section; or

(B) The law enforcement agency, prosecuting attorney, or public entity has not properly accounted for any seized real or personal property.

(2) After the notice by Arkansas Legislative Audit under subdivision (c)(1) of this section, the circuit court shall not issue any order distributing seized real or personal property to that law enforcement agency, prosecuting attorney, or public entity nor shall any grant be awarded by the Human Trafficking Operations Unit of the Division of Arkansas State Police to that law enforcement agency, prosecuting attorney, or public entity until:

(A) The appropriate officials of the law enforcement agency, prosecuting attorney, or public entity have appeared before the Legislative Joint Auditing Committee; and

(B) The Legislative Joint Auditing Committee has adopted a motion authorizing subsequent transfers of forfeited real or personal property to the law enforcement agency, prosecuting attorney, or public entity.

(3)(A) While a law enforcement agency, prosecuting attorney, or other public entity is ineligible to receive forfeited real or personal property, the circuit court shall order any money that would have been distributed to that law enforcement agency, prosecuting attorney, or public entity to be transmitted to the Treasurer of State for deposit into the Arkansas Human Trafficking Council Support Fund.

(B) If the real or personal property is not cash, the circuit court shall order the real or personal property converted to cash by selling the real or personal property under § 5-5-608(a)(2) and the proceeds transmitted to the Treasurer of State for deposit into the Arkansas Human Trafficking Council Support Fund.

(4) Moneys deposited into the Arkansas Human Trafficking Council Support Fund pursuant to subdivision (c)(3) of this section are not subject to recovery or retrieval by the ineligible law enforcement agency, prosecuting attorney, or other public entity.

(d) The Human Trafficking Coordinator shall make available a standardized confiscation report form to be used by all law enforcement agencies with specific instructions and guidelines concerning the type and monetary value of all real or personal property, including weapons, to be included in the confiscation report and forwarded to the office of the local prosecuting attorney and the Human Trafficking Coordinator under subdivision (b)(5) of this section.

5-5-607. Initiation of forfeiture proceedings – Notice to claimants – Judicial proceedings.

(a)(1) A prosecuting attorney shall initiate a forfeiture proceeding under this subchapter by filing a complaint with the circuit clerk of the county where the real or personal property was seized and by serving the complaint on all known owners and interest holders of the seized property in accordance with the Arkansas Rules of Civil Procedure.

(2) The complaint may be based on in rem or in personam jurisdiction but shall not be filed in such a way as to avoid the distribution requirements set forth in § 5-5-609.

(3) The prosecuting attorney shall mail a copy of the complaint to the Human Trafficking Coordinator within five (5) calendar days after filing the complaint.

(4) The complaint shall include a copy of the confiscation report and shall be filed within sixty (60) days after receiving a copy of the confiscation report from the seizing law enforcement agency.

(5) In a case involving real property, the complaint shall be filed within sixty (60) days of the defendant's conviction on the charge giving rise to the forfeiture.

(6)(A) The complaint may be filed after the expiration of the time set forth in subdivision (b)(1) of this section only if the complaint is accompanied by a statement of good cause for the late filing.

(B) However, in no event shall the complaint be filed more than one hundred twenty (120) days after either the date of the seizure or,

in a case involving real property, the date of the defendant's conviction.

(C)(i) If the circuit court determines that good cause has not been established, the circuit court shall order that the seized real or personal property be returned to the owner or interest holder.

(ii) In addition to the requirements in subdivision (a)(6)(C)(i) of this section, real or personal property seized but not subject to forfeiture under this subchapter or subject to disposition pursuant to law or the Arkansas Rules of Criminal Procedure may be ordered returned to the owner or interest holder.

(iii) If the owner or interest holder cannot be determined, the court may order disposition of the real or personal property as provided in § 5-5-608.

(b)(1) Subject to the Arkansas Rules of Civil Procedure, a defendant who was arrested for an offense in violation of the Human Trafficking Act of 2013, § 5-18-101 et seq. shall file with the circuit clerk an answer to the complaint that shall include:

(A) A statement describing the seized real or personal property and the owner's or interest holder's interest in the seized real or personal property, with supporting documents to establish the owner's or interest holder's interest;

(B) A certification by the owner or interest holder stating that he or she has read the answer and that it is not filed for any improper purpose;

(C) A statement setting forth any defense to forfeiture;
and

(D) The address at which the owner or interest holder accepts mail.

(2) Subject to the Arkansas Rules of Civil Procedure, a defendant who is a third party who was not arrested for an offense giving rise to a forfeiture action under this subchapter shall file an answer to the complaint with the circuit clerk within forty-five (45) days of service of process.

(c)(1) If the owner or interest holder fails to file an answer as required by subsection (b) of this section, the prosecuting attorney may move for default judgment pursuant to the Arkansas Rules of Civil Procedure.

(2) If a timely answer is filed:

(A) By a defendant who was arrested for an offense giving rise to the forfeiture action under this section, the prosecuting attorney shall prove by a preponderance of the evidence that the seized real or personal property should be forfeited; or

(B) By a third party who was not arrested for an offense giving rise to the forfeiture action, the prosecuting attorney shall prove by clear and convincing evidence that the seized real or personal property should be forfeited.

(3)(A) After the prosecuting attorney has presented proof under subdivision (c)(2) of this section, any owner or interest holder of the real or personal property seized may present evidence why the seized real or personal property should not be forfeited.

(B) If the circuit court determines that grounds for forfeiting the seized real or personal property exist and that no defense to forfeiture has been established by the owner or interest holder, the circuit court shall enter an order under § 5-5-608.

(C) If the circuit court determines that the prosecuting attorney has failed to establish that grounds for forfeiture of the seized real or personal property exist or that the owner or interest holder has established a defense to the forfeiture, the court shall order that the seized real or personal property be immediately returned to the owner or interest holder.

5-5-608. Final disposition.

(a) When a circuit court having jurisdiction over real or personal property seized under this subchapter finds that grounds for a forfeiture exist and the burden of proof has been met under § 5-5-607, the circuit court shall enter an order:

(1) Permitting the law enforcement agency or prosecuting attorney to retain the seized personal property for law enforcement or prosecutorial purposes subject to subsection (b) of this section;

(2) Directing the retaining law enforcement agency or prosecuting attorney to sell at public sale, under § 5-5-101(e) and (f), the seized real or personal property that is not required by law to be destroyed and that is not harmful to the public; or

(3) Transferring a motor vehicle to a school district for use in

a driver education course.

(b)(1) Seized personal property that is retained by the law enforcement agency or prosecuting attorney under subdivision (a)(1) of this section shall not be retained for official use for more than two (2) years, unless the circuit court finds that the seized property has been used for law enforcement or prosecutorial purposes and authorizes continued use for those purposes on an annual basis.

(2) Except as provided in subdivision (b)(1) of this section, no later than two (2) years after entry of an order under subdivision (a)(1) of this section, the seized personal property shall be sold as provided in subdivision (a)(2) of this section, and the proceeds shall be deposited:

(A) Eighty percent (80%) into the human trafficking control fund of the retaining law enforcement agency or prosecuting attorney; and

(B) Twenty percent (20%) into the State Treasury as special revenues to be credited to the Arkansas Human Trafficking Council Support Fund.

(3) The retaining law enforcement agency or prosecuting attorney may sell the retained seized personal property at any time during the time allowed for retention, and the proceeds of the sale shall be distributed as set forth in subdivisions (b)(2)(A) and (B) of this section.

(4) If the circuit court determines that retained seized personal property has been used for personal use or by non-law enforcement personnel for non-law enforcement purposes, the circuit court shall order the seized personal property to be sold at public sale under § 5-5-101(e) and (f), and the proceeds shall be deposited into the State Treasury as special revenues to be credited to the Arkansas Human Trafficking Council Support Fund.

(5)(A) A law enforcement agency may use seized personal property or money if the circuit court's order specifies that the seized personal property or money may be retained for official use by the prosecuting attorney, county sheriff, chief of police, Division of Arkansas State Police, or Arkansas Highway Police Division of the Arkansas Department of Transportation.

(B) If the circuit court's order specifies that the seized personal property or money may be retained for official use, the prosecuting

attorney, county sheriff, chief of police, Division of Arkansas State Police, or Arkansas Highway Police Division of the Arkansas Department of Transportation shall:

- (i) Maintain an inventory of the seized personal property or money;
- (ii) Be accountable for the seized personal property or money; and
- (iii) Be subject to the provisions of § 5-5-606(c) with respect to the seized personal property or money.

(6) Any weapon not retained for official use shall be disposed of in accordance with state and federal law.

(c) Disposition of seized real or personal property under this section is subject to the need to retain the seized real or personal property as evidence in any related proceeding.

(d) Within three (3) business days of the entry of an order, the circuit clerk shall forward to the Human Trafficking Coordinator copies of the confiscation report, the circuit court's order, and any other documentation detailing the disposition of the seized real or personal property.

5-5-609. Disposition of moneys received.

(a)(1) Subject to the provisions of § 5-5-606, the proceeds of sales conducted pursuant to § 5-5-608 and any moneys forfeited or obtained by judgment or settlement under this subchapter shall be deposited and distributed in the manner set forth in this section.

(2) Moneys received from a federal forfeiture shall be deposited and distributed under subsection (f) of this section.

(b) The proceeds of any sale and any moneys forfeited or obtained by judgment or settlement under this subchapter shall be deposited into the asset forfeiture fund of the prosecuting attorney and is subject to the following provisions:

(1) During a calendar year, if the the aggregate amount of moneys deposited into the asset forfeiture fund exceeds twenty thousand dollars (\$20,000) per county, within fourteen (14) days of the time of the excess the prosecuting attorney shall notify the circuit judges in the judicial district and the Human Trafficking Coordinator;

(2) After the notification required under subdivision (b)(1) of this section, twenty percent (20%) of the proceeds of any additional sale and any additional moneys forfeited or obtained by judgment or settlement under this subchapter in the same calendar year shall be deposited into the State Treasury as special revenues to be credited to the Arkansas Human Trafficking Council Support Fund, and the remainder shall be deposited into the asset forfeiture fund of the prosecuting attorney;

(3) Failure of the prosecuting attorney to comply with the notification requirement under subdivision (b)(1) of this section renders the prosecuting attorney and any entity eligible to receive forfeited moneys or property from the prosecuting attorney ineligible to receive forfeited moneys or property, except as provided in § 5-5-606; and

(4) Twenty percent (20%) of any moneys in excess of twenty thousand dollars (\$20,000) that have been retained but not reported as required by subdivision (b)(1) of this section are subject to recovery for deposit into the State Treasury as special revenues to be credited to the Arkansas Human Trafficking Council Support Fund.

(c)(1) The prosecuting attorney shall administer expenditures from the asset forfeiture fund, which is subject to audit by Arkansas Legislative Audit.

(2) Moneys distributed from the asset forfeiture fund shall only be used for law enforcement and prosecutorial purposes and moneys in the asset forfeiture fund shall be distributed in the following order:

(A) For satisfaction of any bona fide security interest or lien;

(B) For payment of any proper expense of the proceeding for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;

(C) Any balance under two hundred fifty thousand dollars (\$250,000) shall be distributed proportionally to reflect generally the contribution of the appropriate local or state law enforcement or prosecutorial agency's participation in any activity that led to the seizure or forfeiture of the property or deposit of moneys under this subchapter; and

(D) Any balance over two hundred fifty thousand dollars (\$250,000) resulting from the seizure or forfeiture of property or deposit of moneys under this subchapter shall be forwarded to the Human Trafficking

Coordinator to be transferred to the State Treasury for deposit into the Arkansas Human Trafficking Support Fund.

(d)(1) For a forfeiture in an amount greater than two hundred fifty thousand dollars (\$250,000) from which expenses are paid for a proceeding for forfeiture and sale under subdivision (c)(2)(B) of this section, an itemized accounting of the expenses shall be delivered to the Human Trafficking Coordinator within ten (10) calendar days after the payment of the expenses.

(2) The itemized accounting shall include the expenses paid, to whom paid, and for what purposes the expenses where paid.

(e)(1)(A) There is created on the books of each law enforcement agency and prosecuting attorney a human trafficking control fund.

(B) The human trafficking control fund shall consist of any moneys obtained under subsection (b) of this section and any other revenue as may be provided by law or ordinance.

(C) Moneys in the human trafficking control fund:

(i) May not supplant other local, state, or federal funds;

(ii) Are appropriated on a continuing basis and are not subject to the Revenue Stabilization Law, § 19-5-101 et seq.; and

(iii) Shall only be used for law enforcement and prosecutorial purposes, including without limitation to provide a grant of up to one thousand dollars (\$1,000) to the family of a law enforcement officer who dies in the prosecuting attorney's jurisdiction.

(D) The human trafficking control fund is subject to audit by Arkansas Legislative Audit.

(2) A law enforcement agency and prosecuting attorney shall submit to the Human Trafficking Coordinator on or before January 1 and July 1 of each year a report detailing any moneys received and expenditure made from the human trafficking control fund during the preceding six-month period.

(f)(1) Any moneys received by a prosecuting attorney or law enforcement agency from a federal forfeiture shall be deposited and maintained in a separate account subject to the following provisions:

(A) Any balance over two hundred fifty thousand dollars (\$250,000) in the separate account shall be distributed as set forth in subdivision (f)(2) of this section;

(B) No other moneys maybe maintained in the separate

account except for any interest income generated by the separate account;

(C) Moneys in the separate account shall only be used for law enforcement and prosecutorial purposes consistent with governing federal law; and

(D) The separate account is subject to audit by Arkansas Legislative Audit.

(2) Any balance over two hundred fifty thousand dollars (\$250,000) shall be forwarded to the Division of Arkansas State Police to be transferred to the State Treasury for deposit into the Human Trafficking Council Support Fund in which the balance shall be maintained separately and distributed consistent with governing federal law.

5-5-610. In personam proceedings.

(a) In personam jurisdiction may be based on a defendant's presence in the state, or on his or her conduct in the state, as set out in § 16-4-101(B), and is subject to the provisions of subsection (b) of this section.

(b)(1) A temporary restraining order under this section may be entered ex parte on application of the state, upon a showing that:

(A) There is probable cause to believe that the property with respect to which the order is sought is subject to forfeiture under this section; and

(B) Notice of the action would jeopardize the availability of the property for forfeiture.

(2) Notice of the entry of a temporary restraining order and an opportunity for a hearing shall be afforded to a person known to have an interest in the real or personal property.

(3) A hearing under subdivision (b)(2) of this section shall be held at the earliest possible date consistent with Rule 65 of the Arkansas Rules of Civil Procedure and is limited to the issues of whether:

(A) There is a probability that the state will prevail on the issue of forfeiture and that failure to enter the temporary restraining order will result in the real or personal property being destroyed, conveyed, alienated, encumbered, disposed of, received, removed from the jurisdiction of the circuit court, concealed, or otherwise made unavailable for forfeiture; and

(B) The need to preserve the availability of real or

personal property through the entry of the temporary restraining order outweighs the hardship on any owner or interest holder against whom the temporary restraining order is to be entered.

(c) The state has the burden of proof by a preponderance of the evidence to show that the defendant's real or personal property is subject to forfeiture.

(d)(1) After a determination of liability of a person for conduct giving rise to forfeiture under this subchapter, the circuit court shall enter a judgment of forfeiture of the real or personal property subject to forfeiture as alleged in the complaint and may authorize the prosecuting attorney or any law enforcement officer to seize any real or personal property subject to forfeiture under § 5-5-601 not previously seized or not then under seizure.

(2) The order of forfeiture shall be consistent with § 5-5-608.

(3) In connection with the judgment, on application of the state, the circuit court may enter any appropriate order to protect the interest of the state in the forfeited property.

(e) Subsequent to the finding of liability and order of forfeiture, the following procedures apply:

(1) The prosecuting attorney shall give notice of pending forfeiture, in the manner provided in Rule 4 of the Arkansas Rules of Civil Procedure, to any owner or interest holder who has not previously been given notice;

(2) An owner of or interest holder in the real or personal property that has been ordered forfeited and whose claim is not precluded may file a claim within thirty (30) days after initial notice of pending forfeiture or after notice under Rule 4 of the Arkansas Rules of Civil Procedure, whichever is earlier; and

(3) The circuit court may amend the in personam order of forfeiture if the circuit court determines that a claimant has established that he or she has an interest in the real or personal property and that the interest is exempt under § 5-5-602.

5-5-611. Forfeiture of absent, encumbered, or indivisible real or personal property.

The circuit court shall order the forfeiture of any other real or

personal property of an owner or defendant up to the value of the owner's or defendant's real or personal property found by the circuit court to be subject to forfeiture under this subchapter if any of the forfeitable real or personal property had remained under the control or custody of the owner or defendant and the forfeitable real or personal property:

- (1) Cannot be located;
- (2) Was transferred or conveyed to, sold to, or deposited with a third party;
- (3) Is beyond the jurisdiction of the circuit court;
- (4) Substantially diminished in value while not in the actual physical custody of the seizing law enforcement agency;
- (5) Was commingled with other property that cannot be divided without difficulty; or
- (6) Is subject to any interest exempted from forfeiture under § 5-5-602.

5-5-612. Conviction required – Exceptions.

(a) There shall be no civil judgment under this subchapter and no property shall be forfeited unless the person from whom the property is seized is convicted of a felony offense under the Human Trafficking Act of 2013, § 5-18-101 et seq., that related to the property being seized and that permits the forfeiture of the property.

(b) The court may waive the conviction requirement under this section if the prosecuting attorney shows by clear and convincing evidence that, before a conviction, the person from whom the property was seized:

- (1) Died;
- (2) Was deported by the United States Government;
- (3) Was granted immunity or reduced punishment in exchange for testifying or assisting a law enforcement agency or prosecution;
- (4) Fled the jurisdiction or failed to appear on the underlying criminal charge;
- (5) Failed to answer the complaint for civil asset forfeiture under § 5-64-505 as specified in the Arkansas Rules of Civil Procedure;
- (6) Abandoned or disclaimed his or her ownership interest in the real or personal property seized; or
- (7) Agreed in writing with the prosecuting attorney and other

parties as to the disposition of the real or personal property.

SECTION 5. Arkansas Code § 5-18-103(d)(2), concerning the additional fine payment upon conviction for trafficking of persons, is amended to read as follows:

(2) Fine payments received under subdivision (d)(1) of this section shall be deposited ~~as follows:~~

~~(A) Fifty percent (50%) into the Safe Harbor Fund for Sexually Exploited Children; and~~

~~(B) Fifty percent (50%) into the Human Trafficking Victim Support Fund~~ into the Arkansas Human Trafficking Council Support Fund.

SECTION 6. Arkansas Code § 5-18-104(c)(2), concerning the additional fine payment upon conviction for patronizing a victim of human trafficking, is amended to read as follows:

(2) Fine payments received under subdivision (c)(1) of this section shall be deposited ~~as follows:~~

~~(A) Fifty percent (50%) into the Safe Harbor Fund for Sexually Exploited Children; and~~

~~(B) Fifty percent (50%) into the Human Trafficking Victim Support Fund~~ into the Arkansas Human Trafficking Council Support Fund.

SECTION 7. Arkansas Code § 5-18-106(c)(2), concerning the additional fine payment upon conviction for grooming a minor for future sex trafficking, is amended to read as follows:

(2) Fine payments received under subdivision (c)(1) of this section shall be deposited ~~as follows:~~

~~(A) Fifty percent (50%) into the Safe Harbor Fund for Sexually Exploited Children; and~~

~~(B) Fifty percent (50%) into the Human Trafficking Victim Support Fund~~ into the Arkansas Human Trafficking Council Support Fund.

SECTION 8. Arkansas Code § 5-18-107(f)(2), concerning the additional fine payment upon conviction for traveling for the purpose of an unlawful sex act with a minor, is amended to read as follows:

(2) Fine payments received under subdivision (f)(1) of this

section shall be deposited as follows:

~~(A) Fifty percent (50%) into the Safe Harbor Fund for Sexually Exploited Children; and~~

~~(B) Fifty percent (50%) into the Human Trafficking Victim Support Fund~~ into the Arkansas Human Trafficking Council Support Fund.

SECTION 9. Arkansas Code Title 5, Chapter 27, Subchapter 2, is amended to add an additional section to read as follows:

5-27-234. Harboring an endangered runaway minor.

(a) A person commits the offense of harboring an endangered runaway minor if he or she knowingly harbors a minor who is an endangered runaway minor for a period of at least seventy-two (72) hours.

(b) Harboring an endangered runaway minor is a:

(1) Class A misdemeanor for a first offense; and

(2) Class D felony for a second or subsequent offense.

(c)(1) In addition to any other sentence authorized by this section, a person who violates this section upon conviction shall be ordered to pay a fine of one thousand dollars (\$1,000).

(2) Fine payments received under subdivision (c)(1) of this section shall be deposited one hundred percent (100%) into the Arkansas Human Trafficking Council Support Fund.

(d) As used in this section, "endangered runaway minor" means an unemancipated minor who is voluntarily absent from his or her home for at least seventy-two (72) hours without a compelling reason and without the consent of his or her custodial parent, guardian, or legal custodian.

(e) It is an affirmative defense to prosecution under this section that a person acted in good faith to protect the welfare, safety, or health of the minor, and that he or she:

(1) Promptly notified law enforcement, child protective services, or another relevant authority upon discovering that the minor was an endangered runaway minor;

(2) Provided temporary care or shelter solely to protect the minor from imminent harm; or

(3) Did not have a purpose to interfere with the lawful custody or rights of a custodial parent or legal guardian of the minor.

SECTION 10. Arkansas Code § 5-70-102(e)(2), concerning the additional fine payment upon conviction for prostitution, is amended to read as follows:

(2) Fine payments received under subdivision (e)(1) of this section shall be deposited ~~as follows:~~

~~(A) Fifty percent (50%) into the Safe Harbor Fund for Sexually Exploited Children; and~~

~~(B) Fifty percent (50%) into the Human Trafficking Victim Support Fund~~ into the Arkansas Human Trafficking Council Support Fund.

SECTION 11. 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 ~~an unclassified misdemeanor with the following sentences:~~ a:

~~(1) 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) 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.~~

(1) Class A misdemeanor for a first offense; and

(2) Class D felony for a second or subsequent offense.

(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)(1) 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 thousand five hundred dollars (\$2,500).

(2) Fine payments received under subdivision (d)(1) of this section shall be deposited ~~as follows:~~

~~(A) Fifty percent (50%) into the Safe Harbor Fund for Sexually Exploited Children; and~~

~~(B) Fifty percent (50%) into the Human Trafficking Victim Support Fund~~ into the Arkansas Human Trafficking Council Support Fund.

SECTION 12. Arkansas Code § 5-70-104(c)(2), concerning the additional fine payment upon conviction for promoting prostitution in the first degree, is amended to read as follows:

(2) Fine payments received under subdivision (c)(1) of this section shall be deposited ~~as follows:~~

~~(A) Fifty percent (50%) into the Safe Harbor Fund for Sexually Exploited Children; and~~

~~(B) Fifty percent (50%) into the Human Trafficking Victim Support Fund~~ into the Arkansas Human Trafficking Council Support Fund.

SECTION 13. Arkansas Code § 5-70-105(c)(2), concerning the additional fine payment upon conviction for promoting prostitution in the second degree, is amended to read as follows:

(2) Fine payments received under subdivision (c)(1) of this section shall be deposited ~~as follows:~~

~~(A) Fifty percent (50%) into the Safe Harbor Fund for Sexually Exploited Children; and~~

~~(B) Fifty percent (50%) into the Human Trafficking Victim Support Fund~~ into the Arkansas Human Trafficking Council Support Fund.

SECTION 14. Arkansas Code § 5-70-106(c)(2), concerning the additional fine payment upon conviction for promoting prostitution in the third degree, is amended to read as follows:

(2) Fine payments received under subdivision (c)(1) of this section shall be deposited ~~as follows:~~

~~(A) Fifty percent (50%) into the Safe Harbor Fund for Sexually Exploited Children; and~~

~~(B) Fifty percent (50%) into the Human Trafficking Victim~~

~~Support Fund~~ into the Arkansas Human Trafficking Council Support Fund.

SECTION 15. Arkansas Code § 5-70-107(e)(2), concerning the additional fine payment upon conviction for sexual solicitation of a minor, is amended to read as follows:

(2) Fine payments received under subdivision (e)(1) of this section shall be deposited ~~as follows:~~

~~(A) Fifty percent (50%) into the Safe Harbor Fund for Sexually Exploited Children; and~~

~~(B) Fifty percent (50%) into the Human Trafficking Victim Support Fund~~ into the Arkansas Human Trafficking Council Support Fund.

SECTION 16. Arkansas Code § 5-70-107, concerning the offense of sexual solicitation of a minor, is amended to add an additional subsection to read as follows:

(f) A person who violates this section upon conviction shall be ordered to attend an education or treatment program for the prevention of sex offenses and rehabilitation of sex offenders approved by the Human Trafficking Operations Unit of the Division of Arkansas State Police.

Section 17. Arkansas Code § 12-19-101 is repealed.

~~12-19-101. State Task Force for the Prevention of Human Trafficking.~~

~~(a)(1) The Attorney General may establish a State Task Force for the Prevention of Human Trafficking.~~

~~(2) The task force shall address all aspects of human trafficking, including sex trafficking and labor trafficking of both United States citizens and foreign nationals.~~

~~(b) If established, representatives on the task force shall be appointed by the Attorney General and may include representatives from:~~

~~(1) The office of the Attorney General;~~

~~(2) The office of the Governor;~~

~~(3) The Department of Labor and Licensing;~~

~~(4) The Department of Health;~~

~~(5) The Department of Human Services;~~

~~(6) The Arkansas Association of Chiefs of Police;~~

~~(7) The Arkansas Sheriffs' Association;~~

~~(8) The Division of Arkansas State Police;~~
~~(9) The Arkansas Prosecuting Attorneys Association;~~
~~(10) Local law enforcement; and~~
~~(11) Nongovernmental organizations such as:~~
~~(A) Those specializing in the problems of human trafficking;~~
~~(B) Those representing diverse communities disproportionately affected by human trafficking;~~
~~(C) Agencies devoted to child services and runaway services; and~~
~~(D) Academic researchers dedicated to the subject of human trafficking.~~

~~(c) If the task force is created by the Attorney General, he or she may invite federal agencies that operate in the state to be members of the task force, including without limitation:~~

- ~~(1) The Federal Bureau of Investigation;~~
- ~~(2) United States Immigration and Customs Enforcement; and~~
- ~~(3) The United States Department of Labor.~~

~~(d) If the task force is created by the Attorney General, the task force shall:~~

- ~~(1) Develop a state plan;~~
- ~~(2) Coordinate the implementation of the state plan;~~
- ~~(3) Coordinate the collection and sharing of human trafficking data among government agencies in a manner that ensures that the privacy of victims of human trafficking is protected and that the data collection shall respect the privacy of victims of human trafficking;~~
- ~~(4) Coordinate the sharing of information between agencies to detect individuals and groups engaged in human trafficking;~~
- ~~(5) Explore the establishment of state policies for time limits for the issuance of law enforcement agency endorsements as described in 8 C.F.R. § 214.11(f)(1), as it existed on January 1, 2013;~~
- ~~(6) Establish policies to enable state government to work with nongovernmental organizations and other elements of the private sector to prevent human trafficking and provide assistance to victims of human trafficking who are United States citizens or foreign nationals;~~
- ~~(7) Evaluate various approaches used by state and local~~

~~governments to increase public awareness of human trafficking, including trafficking of United States citizens and foreign national victims;~~

~~(8) Develop curriculum and train law enforcement agencies, prosecutors, public defenders, judges, and others involved in the criminal and juvenile justice systems on:~~

~~(A) Offenses under the Human Trafficking Act of 2013, § 5-18-101 et seq.;~~

~~(B) Methods used in identifying victims of human trafficking who are United States citizens or foreign nationals, including preliminary interview techniques and appropriate questioning methods;~~

~~(C) Methods for prosecuting human traffickers;~~

~~(D) Methods of increasing effective collaboration with nongovernmental organizations and other relevant social service organizations in the course of investigating and prosecuting a human trafficking case;~~

~~(E) Methods for protecting the rights of victims of human trafficking, taking into account the need to consider human rights and special needs of women and minors;~~

~~(F) The necessity of treating victims of human trafficking as crime victims rather than criminals; and~~

~~(G) Methods for promoting the safety of victims of human trafficking; and~~

~~(9) Submit a report of its findings and recommendations to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate.~~

SECTION 18. Arkansas Code Title 12, Chapter 19, is amended to add an additional subchapter to read as follows:

Subchapter 2 – Human Trafficking Operations Unit

12-19-201. Human Trafficking Operations Unit – Creation – Duties.

(a) There is established a Human Trafficking Operations Unit within the Division of Arkansas State Police.

(b) The Human Trafficking Operations Unit shall:

(1) Consist of commissioned officers and analysts of the division;

(2) Support and initiate criminal investigations of human trafficking, including sex trafficking and forced labor; and

(3) Support and initiate investigations involving missing children that are considered high-risk victims.

12-19-202. Human Trafficking Coordinator – Creation – Duties.

(a) There is created the position of Human Trafficking Coordinator within the Division of Arkansas State Police.

(b) The Human Trafficking Coordinator shall:

(1) Coordinate the implementation of this subchapter;

(2) Serve as a commissioned officer within the Division of Arkansas State Police and perform duties as assigned;

(3) Supervise the Human Trafficking Operations Unit and Human Trafficking Analyst;

(4) Evaluate state efforts to combat human trafficking and identify areas for improvement;

(5) Collect data on human trafficking activity within the state on an ongoing basis, including types of activities reported, efforts to combat human trafficking, and impact on victims and on the state;

(6) Redact identifying information of any victim and his or her family from all publicly released portions of the collected data;

(7) Promote public awareness about human trafficking, remedies and services for victims, and hotline information;

(8) Create and maintain a website to publicize human trafficking prevention efforts;

(9) Prepare and submit the annual report of the Human Trafficking Operations Unit to the Game and Fish/State Police Subcommittee of the Legislative Council, the Senate Interim Committee on Children and Youth, and the House Committee on Aging, Children and Youth, Legislative and Military Affairs;

(10) Develop and implement policies pertaining to the use of the Arkansas Human Trafficking Council Support Fund to support investigations and services for victims of human trafficking in the state;

(11) Assist in the creation and operations of local human trafficking task forces or working groups around the state, including serving on a task force or a multidisciplinary child protection team;

(12) Prepare and submit applications for relevant available grants that may enhance the investigation and prosecution of trafficking

offenses or to improve victim services to combat human trafficking within this state; and

(13) Perform any other duties as required by the division.

(c)(1) The Human Trafficking Coordinator may seek input and assistance from state agencies, nongovernmental agencies, service providers, and other individuals in the performance of the duties of the Human Trafficking Coordinator.

(2) Each state agency, board, and commission shall be required to fully cooperate with the Human Trafficking Coordinator when assistance is requested under subdivision (c)(1) of this section.

(3) Every investigation of a human trafficking offense shall be reported to the Human Trafficking Coordinator by the initiating law enforcement agency under guidelines established by the Human Trafficking Coordinator.

(4) A state agency, nongovernmental agency, service provider, or local or state law enforcement agency providing information to the Human Trafficking Coordinator under this subchapter may disclose identifying information regarding a minor victim to the Human Trafficking Coordinator for the purposes of evaluating and collecting data regarding trafficking offenses in the state.

12-19-203. Human Trafficking Analyst – Creation – Duties.

(a) There is created the position of Human Trafficking Analyst within the Division of Arkansas State Police.

(b) The Human Trafficking Analyst shall:

(1) Provide the Human Trafficking Operations Unit with objective, reliable, comparable, current data, and information in the field of human trafficking;

(2) Direct support to a law enforcement officer investigating human trafficking on all tips, reports of possible human trafficking, and undercover operations; and

(3) Assist the Human Trafficking Coordinator with carrying out the functions of the Human Trafficking Operations Unit.

SECTION 19. Arkansas Code § 19-5-1252(b) concerning the Safe Harbor Fund for Sexually Exploited Children, is amended to read as follows:

~~(b) The fund shall consist of fines collected under § 5-18-103(d), § 5-18-104(e), § 5-18-106(e), § 5-18-107(f), § 5-70-102(e), § 5-70-103(d), § 5-70-104(e), § 5-70-105(e), § 5-70-106(e), and § 5-70-107(e) and any other general revenues as may be authorized by law.~~

SECTION 20. Arkansas Code § 19-5-1261 is repealed.

~~19-5-1261. Human Trafficking Victim Support Fund — Definition.~~

~~(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), fines collected under § 5-18-103(d), § 5-18-104(e), § 5-18-106(e), § 5-18-107(f), § 5-70-102(e), § 5-70-103(d), § 5-70-104(e), § 5-70-105(e), § 5-70-106(e), and § 5-70-107(e), 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;~~

~~(B) Training and education related to human trafficking to law enforcement; and~~

~~(C) 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 or § 5-70-107.~~

SECTION 21. Arkansas Code Title 19, Chapter 5, Subchapter 12, is amended to add an additional section to read as follows:

19-5-1288. Arkansas Human Trafficking Council Support Fund — Definition.

(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 miscellaneous fund to be known as the "Arkansas Human Trafficking Council Support Fund".

(b) The fund shall consist of:

(1) Fees collected under § 5-5-501(d) and fines collected under §§ 5-18-103(d), 5-18-104(c), 5-18-106(c), 5-18-107(f), 5-27-234(c), 5-70-102(e), 5-70-103(d), 5-70-104(c), 5-70-105(c), 5-70-106(c), and 5-70-107(e);

(2) Moneys appropriated by the General Assembly;

(3) The interest accruing to the fund;

(4) Donations to the fund; and

(5) Any other revenues authorized by law.

(c)(1) The fund shall be administered by the Division of Arkansas State Police.

(2) The division shall use the fund to provide:

(A) Services and treatment, such as securing residential housing, advocacy and coordination, legal services, health services, and social services for victims of human trafficking;

(B) Grants to nonprofit, religious, and other third-party organizations that provide services and treatment, securing residential housing, advocacy and coordination, legal services, health services, and social services for victims of human trafficking;

(C) Training for the Human Trafficking Operations Unit;

(D) Equipment and supplies for the unit;

(E) Software and subscription licensing for the unit;

(F) Travel reimbursement and reconciliation for the unit;

(G) Outreach material for the unit; and

(H) Support for other duties of the unit prescribed by law.

(3) The fund shall not be used to purchase motor vehicles or emergency equipment for motor vehicles.

(d) As used in the section, "victim of human trafficking" means the same as defined in § 5-18-102.

SECTION 22. DO NOT CODIFY. Temporary language.

(a) Any fund balance that remains in the Human Trafficking Victim Support Fund, § 19-5-1261, shall be transferred to the Arkansas Human Trafficking Council Support Fund.

(b) Any fund balance that remains in the Safe Harbor Fund for Sexually Exploited Children, § 19-5-1252, shall be transferred to the Arkansas Human Trafficking Council Support Fund.

/s/J. Bryant