

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 19-0892.01 Jerry Barry x4341

SENATE BILL 19-185

SENATE SPONSORSHIP

Fields and Lundeen,

HOUSE SPONSORSHIP

Landgraf and Roberts,

Senate Committees
State, Veterans, & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTIONS FOR MINOR HUMAN TRAFFICKING**
102 **VICTIMS, AND, IN CONNECTION THEREWITH, REQUIRING A**
103 **POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF THIS**
104 **ACT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill clarifies definitions in the "Colorado Children's Code" concerning victims of human trafficking of a minor for involuntary servitude and for sexual servitude.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The bill creates immunity for a violation of a prostitution-related offense if probable cause exists to believe that a minor was a victim of either human trafficking of a minor for involuntary servitude or for sexual servitude.

The bill establishes an affirmative defense for all criminal violations, except class 1 felonies, if a minor proves that he or she was:

- ! A victim of human trafficking of a minor for involuntary servitude or sexual servitude; and
- ! Forced or coerced into engaging in the criminal acts.

The bill also requires a minor who engages in prostitution-related conduct to be referred to the county department of human or social services or the child abuse and that if a law enforcement officer encounters such a minor and there is probable cause to believe that the minor was a victim of human trafficking of a minor for sexual servitude, the officer shall report the suspected violation to the county department of human or social services or the child abuse hotline.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Human trafficking is a serious problem in Colorado and across
5 the nation;

6 (b) Among the diverse populations affected by human trafficking,
7 minors, especially homeless and runaway youth, are particularly at risk of
8 being trafficked for sex and involuntary labor;

9 (c) Minors who are forced into involuntary servitude and
10 commercial sexual activity are more properly identified as victims and not
11 as criminals; and

12 (d) Human trafficking in all forms creates a cycle of violence and
13 impacts victims, families, and communities.

14 (2) The general assembly further finds and declares that:

15 (a) As a result of the diverse systems that touch these minors'
16 lives, professionals in the child welfare, law enforcement, treatment,

1 nonprofit, and faith-based communities must collaborate to develop a
2 multidisciplinary approach to protect children and youth who are victims
3 of human trafficking. This multidisciplinary approach needs to emphasize
4 prevention, protection, prosecution, and partnerships.

5 (b) Protecting minors who are victims of human trafficking from
6 further trauma by recognizing them as victims rather than criminals is
7 beneficial for the minors involved and therefore in the public interest.

8 (3) It is therefore the intent of the general assembly to:

9 (a) Offer pathways that direct victimized minors away from
10 juvenile delinquency by making available to those minors appropriate and
11 comprehensive rehabilitative services;

12 (b) Offer protection and provide consistency in the treatment,
13 care, and support of minors who are victims of human trafficking so they
14 may continue to heal from the traumatic environment of being trafficked
15 in a restorative justice manner; and

16 (c) Help create a safe haven for minors who are victims of human
17 trafficking to come forward without fear and identify their traffickers and
18 perpetrators.

19 (4) Therefore, the general assembly declares that the general
20 assembly joins the federal government and other states around the nation
21 in passing legislation to further combat human trafficking and protect
22 minors who are victims of human trafficking.

23 **SECTION 2.** In Colorado Revised Statutes, 19-1-103, **amend**
24 (1)(a) introductory portion, (1)(a)(VIII), and (23.5); and **add** (62.5) and
25 (62.6) as follows:

26 **19-1-103. Definitions.** As used in this title 19 or in the specified
27 portion of this title 19, unless the context otherwise requires:

4 (VIII) Any case in which a child is subjected to HUMAN
5 TRAFFICKING OF A MINOR FOR INVOLUNTARY SERVITUDE, AS DESCRIBED
6 IN SECTION 18-3-503, OR human trafficking of a minor for sexual
7 servitude, as described in ~~section 18-3-504, C.R.S.~~ SECTION 18-3-504(2).

8 (23.5) "Commercial sexual exploitation of ~~children~~" involves
9 ~~crimes~~ A CHILD" MEANS A CRIME of a sexual nature committed against
10 ~~juvenile victims~~ A CHILD for financial or other economic reasons.

11 (62.5) "HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY
12 SERVITUDE" MEANS AN ACT AS DESCRIBED IN SECTION 18-3-503.

13 (62.6) "HUMAN TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE"
14 MEANS AN ACT AS DESCRIBED IN SECTION 18-3-504 (2)

15 **SECTION 3.** In Colorado Revised Statutes, 18-3-503, **add** (3) as
16 follows:

17 **18-3-503. Human trafficking for involuntary servitude -**

18 **human trafficking of a minor for involuntary servitude.** (3) IF

19 PROBABLE CAUSE EXISTS TO BELIEVE THAT A MINOR CHARGED WITH A

20 PROSTITUTION-RELATED ACTIVITY PURSUANT TO SECTION 18-7-201,

21 18-7-202, 18-7-203, 18-7-204, OR 18-7-207 OR A PROSTITUTION-RELATED

22 OFFENSE PURSUANT TO A COUNTY OR MUNICIPAL ORDINANCE WAS A

23 VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR INVOLUNTARY

24 SERVITUDE AT THE TIME OF THE OFFENSE BEING CHARGED, PURSUANT TO

25 SUBSECTION (2) OF THIS SECTION, THE MINOR IS IMMUNE FROM CRIMINAL

26 LIABILITY OR JUVENILE DELINQUENCY PROCEEDINGS FOR SUCH OFFENSE.

27 SECTION 4. In Colorado Revised Statutes, 18-3-504, amend

1 (1)(a), (2)(a), and (2.5) as follows:

2 **18-3-504. Human trafficking for sexual servitude - human**
3 **trafficking of a minor for sexual servitude.** (1) (a) A person who
4 COMMITS HUMAN TRAFFICKING FOR SEXUAL SERVITUDE IF THE PERSON
5 knowingly sells, recruits, harbors, transports, transfers, isolates, entices,
6 provides, receives, or obtains by any means another person for the
7 purpose of coercing the person to engage in commercial sexual activity.
8 **commits human trafficking for sexual servitude.**

9 (2) (a) A person ~~who~~ COMMITS HUMAN TRAFFICKING OF A MINOR
10 FOR SEXUAL SERVITUDE IF THE PERSON:

11 (I) Knowingly sells, recruits, harbors, transports, transfers,
12 isolates, entices, provides, receives, obtains by any means, maintains, or
13 makes available a minor for the purpose of commercial sexual activity;
14 **commits human trafficking of a minor for sexual servitude.** OR

15 (II) ~~A person who~~ Knowingly advertises, offers to sell, or sells
16 travel services that facilitate an activity prohibited pursuant to subsection
17 (2)(a)(I) of this section. ~~commits human trafficking of a minor for sexual~~
18 **servitude.**

19 (2.5) (a) It is an affirmative defense to a charge pursuant to
20 subsection (2) of this section if the person being charged can demonstrate
21 by a preponderance of the evidence that, at the time of the offense, he or
22 she was a victim of human trafficking for sexual servitude who was
23 forced or coerced into engaging in the human trafficking of minors for
24 sexual servitude pursuant to subsection (2) of this section.

25 (b) IF PROBABLE CAUSE EXISTS TO BELIEVE THAT A MINOR
26 CHARGED WITH A PROSTITUTION-RELATED ACTIVITY PURSUANT TO
27 SECTION 18-7-201, 18-7-202, 18-7-203, 18-7-204, OR 18-7-207 OR A

1 PROSTITUTION-RELATED OFFENSE PURSUANT TO A COUNTY OR MUNICIPAL
2 ORDINANCE WAS A VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR
3 SEXUAL SERVITUDE AT THE TIME OF THE OFFENSE BEING CHARGED,
4 PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE MINOR IS IMMUNE
5 FROM CRIMINAL LIABILITY OR JUVENILE DELINQUENCY PROCEEDINGS FOR
6 SUCH OFFENSE.

7 **SECTION 5.** In Colorado Revised Statutes, **add** 18-1-708.5 as
8 follows:

9 **18-1-708.5. Victims of human trafficking of a minor for
10 involuntary servitude or sexual servitude - affirmative defenses.**
11 (1) EXCEPT AS PROVIDED IN SECTIONS 18-3-503 (3) AND 18-3-504 (2.5),
12 IT IS AN AFFIRMATIVE DEFENSE TO ANY CHARGE, OTHER THAN A CLASS 1
13 FELONY, IF THE MINOR BEING CHARGED PROVES, BY A PREPONDERANCE OF
14 THE EVIDENCE, THAT HE OR SHE WAS:

15 (a) A VICTIM OF HUMAN TRAFFICKING OF A MINOR FOR
16 INVOLUNTARY SERVITUDE PURSUANT TO SECTION 18-3-503 OR HUMAN
17 TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE PURSUANT TO SECTION
18 18-3-504; AND

19 (b) FORCED OR COERCED INTO ENGAGING IN THE CRIMINAL ACT
20 CHARGED.

21 **SECTION 6.** In Colorado Revised Statutes, **add** 18-7-201.4 as
22 follows:

23 **18-7-201.4. Victim of human trafficking of a minor for sexual
24 servitude - provision of services - reporting.** (1) ANY PERSON UNDER
25 EIGHTEEN YEARS OF AGE WHO ENGAGES IN CONDUCT THAT WOULD
26 CONSTITUTE AN OFFENSE PURSUANT TO SECTION 18-7-201, 18-7-202,
27 18-7-203, 18-7-204, OR 18-7-207 OR A PROSTITUTION-RELATED OFFENSE

1 PURSUANT TO A COUNTY OR MUNICIPAL ORDINANCE IF SUCH PERSON WERE
2 AN ADULT MUST BE REFERRED TO THE APPROPRIATE COUNTY DEPARTMENT
3 OF HUMAN OR SOCIAL SERVICES OR THE CHILD ABUSE REPORTING HOTLINE
4 SYSTEM CREATED PURSUANT TO SECTION 26-5-111. THE COUNTY
5 DEPARTMENT OF HUMAN OR SOCIAL SERVICES SHALL SUBSEQUENTLY
6 FOLLOW THE REPORTING REQUIREMENTS SET FORTH IN SECTION 19-3-308
7 (4)(c).

8 (2) IF A LAW ENFORCEMENT OFFICER ENCOUNTERS A PERSON WHO
9 IS UNDER EIGHTEEN YEARS OF AGE AND WHO IS ENGAGING IN ANY
10 CONDUCT THAT WOULD BE A VIOLATION OF SECTION 18-7-201, 18-7-202,
11 18-7-203, 18-7-204, OR 18-7-207 OR A PROSTITUTION-RELATED OFFENSE
12 PURSUANT TO A COUNTY OR MUNICIPAL ORDINANCE AND THERE IS
13 PROBABLE CAUSE TO BELIEVE THAT THE MINOR IS A VICTIM OF HUMAN
14 TRAFFICKING OF A MINOR FOR SEXUAL SERVITUDE PURSUANT TO SECTION
15 18-3-504, THE LAW ENFORCEMENT OFFICER OR AGENCY SHALL
16 IMMEDIATELY REPORT A SUSPECTED VIOLATION OF HUMAN TRAFFICKING
17 OF A MINOR FOR SEXUAL SERVITUDE TO THE APPROPRIATE COUNTY
18 DEPARTMENT OF HUMAN OR SOCIAL SERVICES OR THE CHILD ABUSE
19 REPORTING HOTLINE SYSTEM CREATED PURSUANT TO SECTION 26-5-111.
20 THE COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES SHALL
21 SUBSEQUENTLY FOLLOW THE REPORTING REQUIREMENTS SET FORTH IN
22 SECTION 19-3-308 (4)(c).

23 **SECTION 7. Accountability.** Five years after this act becomes
24 law and in accordance with section 2-2-1201, Colorado Revised Statutes,
25 the legislative service agencies of the Colorado general assembly shall
26 conduct a post-enactment review of the implementation of this act
27 utilizing the information contained in the legislative declaration set forth

1 in section 1 of this act.

2 **SECTION 8. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, and safety.