

1 HB253  
2 148178-1  
3 By Representatives Barton, Sessions, Fincher, Gaston and Henry  
4 RFD: Judiciary  
5 First Read: 12-FEB-13

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8 SYNOPSIS: Under existing law, first degree human  
9 trafficking is a Class A felony, and second degree  
10 human trafficking is a Class B felony. It also is a  
11 crime to obstruct or attempt to interfere or  
12 prevent enforcement of Alabama's human trafficking  
13 law.

14 Under existing law, a victim of human  
15 trafficking is entitled to mandatory restitution  
16 and is entitled to initiate a civil lawsuit to  
17 recover damages.

18 Also under existing law, a person convicted  
19 of human trafficking in the first degree is  
20 required to register as a sex offender, provided  
21 that the offense involves sexual servitude.

22 This bill would enhance penalties for  
23 subsequent convictions of first degree human  
24 trafficking and second degree human trafficking.

25 This bill would require that, in determining  
26 whether a minor was caused, induced, or persuaded  
27 to engage in sexual servitude, the total

1           circumstances, including the age of the victim and  
2           his or her relationship to the trafficker or agents  
3           of the trafficker, and any handicap or disability  
4           of the victim, must be considered.

5           This bill would require certain sex  
6           offenders to disclose their Internet service  
7           provider when registering.

8           This bill would require law enforcement  
9           agencies to use due diligence to identify all  
10          victims of human trafficking, regardless of the  
11          citizenship of the person and to consider certain  
12          information related to certain victims.

13          This bill also would provide for additional  
14          fines for persons convicted of first degree or  
15          second degree human trafficking and would provide  
16          for the deposit of these fines into the Alabama  
17          Crime Victims Compensation Fund, for the purpose of  
18          funding grants for services for victims of human  
19          trafficking.

20          Amendment 621 of the Constitution of Alabama  
21          of 1901, now appearing as Section 111.05 of the  
22          Official Recompilation of the Constitution of  
23          Alabama of 1901, as amended, prohibits a general  
24          law whose purpose or effect would be to require a  
25          new or increased expenditure of local funds from  
26          becoming effective with regard to a local  
27          governmental entity without enactment by a 2/3 vote

1 unless: it comes within one of a number of  
2 specified exceptions; it is approved by the  
3 affected entity; or the Legislature appropriates  
4 funds, or provides a local source of revenue, to  
5 the entity for the purpose.

6 The purpose or effect of this bill would be  
7 to require a new or increased expenditure of local  
8 funds within the meaning of the amendment. However,  
9 the bill does not require approval of a local  
10 governmental entity or enactment by a 2/3 vote to  
11 become effective because it comes within one of the  
12 specified exceptions contained in the amendment.

13  
14 A BILL  
15 TO BE ENTITLED  
16 AN ACT

17  
18 To amend Sections 13A-6-152, 13A-6-153, and Section  
19 7 of Act 2011-640, 2011 Regular Session, now appearing as  
20 Section 15-20A-7, Code of Alabama 1975, to enhance penalties  
21 for subsequent convictions of first degree human trafficking  
22 and second degree human trafficking; to require the  
23 consideration of certain factors for human trafficking of  
24 minors; to require certain sex offenders to disclose their  
25 Internet service provider when registering; to require law  
26 enforcement agencies to use due diligence to identify all  
27 victims of human trafficking; to provide for additional fines

1 for persons convicted of first degree and second degree human  
2 trafficking; to provide for deposit of fines in the Alabama  
3 Crime Victims Compensation Fund; to specify the purpose of the  
4 fund; and in connection therewith would have as its purpose or  
5 effect the requirement of a new or increased expenditure of  
6 local funds within the meaning of Amendment 621 of the  
7 Constitution of Alabama of 1901, now appearing as Section  
8 111.05 of the Official Recompilation of the Constitution of  
9 Alabama of 1901, as amended.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. This bill shall be known and may be cited  
12 as the Alabamians Against Sexual Exploitation Act.

13 Section 2. Sections 13A-6-152, 13A-6-153, and  
14 15-20A-7, Code of Alabama 1975, are amended to read as  
15 follows:

16 "§13A-6-152.

17 "(a) A person commits the crime of human trafficking  
18 in the first degree if:

19 "(1) He or she knowingly subjects another person to  
20 labor servitude or sexual servitude through use of coercion or  
21 deception.

22 "(2) He or she knowingly obtains, recruits, entices,  
23 solicits, induces, threatens, isolates, harbors, holds,  
24 restrains, transports, provides, or maintains any minor for  
25 the purpose of causing a minor to engage in sexual servitude.

26 "(3) For purposes of this section, it is not  
27 required that the defendant have knowledge of a minor victim's

1 age, nor is reasonable mistake of age a defense to liability  
2 under this section. In determining whether a minor was caused,  
3 induced, or persuaded to engage in sexual servitude, the total  
4 circumstances, including the age of the victim and his or her  
5 relationship to the trafficker or agents of the trafficker,  
6 and any handicap or disability of the victim, shall be  
7 considered.

8 "(4) A corporation, or any other legal entity other  
9 than an individual, may be prosecuted for human trafficking in  
10 the first degree for an act or omission only if an agent of  
11 the corporation or entity performs the conduct which is an  
12 element of the crime while acting within the scope of his or  
13 her office or employment and on behalf of the corporation or  
14 entity, and the commission of the crime was either authorized,  
15 requested, commanded, performed, or within the scope of the  
16 person's employment on behalf of the corporation or entity or  
17 constituted a pattern of conduct that an agent of the  
18 corporation or entity knew or should have known was occurring.

19 "(5) Any person who obstructs, or attempts to  
20 obstruct, or in any way interferes with or prevents the  
21 enforcement of this section shall be guilty of a Class C  
22 felony.

23 "(b) Human trafficking in the first degree is a  
24 Class A felony. Any person who has previously been convicted  
25 of a violation of this section shall receive an additional and  
26 consecutive term of imprisonment for each additional  
27 conviction.

1                   "§13A-6-153.

2                   "(a) A person commits the crime of human trafficking  
3 in the second degree if:

4                   "(1) A person knowingly benefits, financially or by  
5 receiving anything of value, from participation in a venture  
6 or engagement for the purpose of sexual servitude or labor  
7 servitude.

8                   "(2) A person knowingly recruits, entices, solicits,  
9 induces, harbors, transports, holds, restrains, provides,  
10 maintains, subjects, or obtains by any means another person  
11 for the purpose of labor servitude or sexual servitude.

12                   "(3) A corporation, or any other legal entity other  
13 than an individual, may be prosecuted for human trafficking in  
14 the second degree for an act or omission only if an agent of  
15 the corporation or entity performs the conduct which is an  
16 element of the crime while acting within the scope of his or  
17 her office or employment and on behalf of the corporation or  
18 entity, and the commission of the crime was either authorized,  
19 requested, commanded, performed, or within the scope of the  
20 person's employment on behalf of the corporation or entity or  
21 constituted a pattern of conduct that an agent of the  
22 corporation or entity knew or should have known was occurring.

23                   "(4) Any person who obstructs, or attempts to  
24 obstruct, or in any way interferes with or prevents the  
25 enforcement of this section shall be guilty of a Class A  
26 misdemeanor.

1           "(b) Human trafficking in the second degree is a  
2 Class B felony. Any person who has previously been convicted  
3 of a violation of this section shall receive an additional and  
4 consecutive term of imprisonment for each additional  
5 conviction.

6           "§15-20A-7.

7           "(a) The following registration information, unless  
8 otherwise indicated, shall be provided by the sex offender  
9 when registering:

10           "(1) Name, including any aliases, nicknames, ethnic,  
11 or tribal names.

12           "(2) Date of birth.

13           "(3) Social Security number.

14           "(4) Address of each residence.

15           "(5) Name and address of any school the sex offender  
16 attends or will attend. For purposes of this subdivision, a  
17 school includes an educational institution, public or private,  
18 including a secondary school, a trade or professional school,  
19 or an institution of higher education.

20           "(6) Name and address of any employer where the sex  
21 offender works or will work, including any transient or day  
22 laborer information.

23           "(7) The license plate number, registration number  
24 or identifier, description, and permanent or frequent location  
25 where all vehicles are kept for any vehicle used for work or  
26 personal use, including land vehicles, aircraft, and  
27 watercraft.



1           "(8) Any telephone number used, including land line  
2 and cell phone numbers.

3           "(9) Any email addresses or instant message address  
4 or identifiers used, including any designations or monikers  
5 used for self-identification in Internet communications or  
6 postings.

7           "(10) A current photograph.

8           "(11) A physical description of the sex offender  
9 including physical appearance, physical characteristics, and  
10 identifying marks such as scars and tattoos.

11          "(12) Fingerprints and palm prints.

12          "(13) A DNA sample. The DNA sample may be collected  
13 by the probation officer, sheriff, chief of police, or other  
14 responsible agency. Prior to collecting a DNA sample, the  
15 responsible agency shall determine if a DNA sample has already  
16 been collected for the sex offender by checking the Dru Sjodin  
17 National Sex Offender Public Registry website, the Alabama  
18 Department of Forensic Sciences DNATracker site, or with the  
19 Alabama Department of Public Safety. If a DNA sample has not  
20 been previously collected for the sex offender, the  
21 responsible agency shall coordinate for the collection of a  
22 DNA sample with the sheriff of the county in which the  
23 registration is occurring. The collection of a DNA sample  
24 should be performed using materials recommended or provided by  
25 the Alabama Department of Forensic Sciences. The DNA sample  
26 shall be immediately forwarded by the entity collecting the  
27 sample to the Department of Forensic Sciences.

1           "(14) A photocopy of the valid driver license or  
2 identification card.

3           "(15) A photocopy of any and all passport and  
4 immigration documents.

5           "(16) Any professional licensing information that  
6 authorizes the sex offender to engage in an occupation or  
7 carry out a trade or business.

8           "(17) A full criminal history of the sex offender,  
9 including dates of all arrests and convictions, status of  
10 parole, probation, or supervised release, registration status,  
11 and outstanding arrest warrants.

12           "(18) A list of any and all Internet service  
13 providers used by the sex offender.

14           "~~(18)~~(19) Any other information deemed necessary by  
15 the Director of the Department of Public Safety.

16           "(b) The registering agency is not required to  
17 obtain any of the following information each time the sex  
18 offender verifies his or her required registration information  
19 if the registering agency verifies the information has already  
20 been collected and has not been changed or altered:

21           "(1) A current photograph.

22           "(2) Fingerprints or palm prints.

23           "(3) A DNA sample.

24           "(4) A photocopy of the valid driver license or  
25 identification card.

26           "(5) A photocopy of any and all passport and  
27 immigration documents.

1           "(c) The registration information shall be  
2 transmitted to the Department of Public Safety in a manner  
3 determined by the director of the department and promulgated  
4 in rule by the director upon recommendation of an advisory  
5 board consisting of representatives of the office of the  
6 Attorney General, District Attorneys Association, Chiefs of  
7 Police Association, Sheriffs Association, and the Department  
8 of Public Safety. The advisory board members shall not receive  
9 any compensation or reimbursement for serving on the advisory  
10 board.

11           "(d) The required registration information shall  
12 include a form explaining all registration and notification  
13 duties, including any requirements and restrictions placed on  
14 the sex offender. This form shall be signed and dated by the  
15 sex offender. If the sex offender fails to sign the form, the  
16 designee of the registering agency shall sign the form stating  
17 that the requirements have been explained to the sex offender  
18 and that the sex offender refused to sign.

19           "(e) All required registration information shall be  
20 stored electronically in a manner determined by the Director  
21 of the Department of Public Safety and shall be available in a  
22 digitized format by the Department of Public Safety to anyone  
23 entitled to receive the information as provided in Section  
24 15-20A-42.

25           "(f) Any person who fails to provide the required  
26 registration information pursuant to this section shall be  
27 guilty of a Class C felony."

1           Section 3. Law enforcement agencies shall use due  
2 diligence to identify all victims of human trafficking,  
3 regardless of the citizenship of the person. When a law  
4 enforcement officer comes into contact with a person who has  
5 been deprived of his or her personal liberty, a minor who has  
6 engaged in prostitution, or a victim of a crime of domestic  
7 violence or rape sexual assault, the law enforcement officer  
8 shall consider whether the following indicators of human  
9 trafficking are present:

10           (1) Signs of trauma, fatigue, injury, or other  
11 evidence of poor care.

12           (2) The person is withdrawn, afraid to talk, or his  
13 or her communication is censored by another person.

14           (3) The person does not have freedom of movement.

15           (4) The person lives and works in one place.

16           (5) The person owes a debt to his or her employer.

17           (6) Security measures are used to control who has  
18 contact with the person.

19           (7) The person does not have control over his or her  
20 own government-issued identification or over his or her worker  
21 immigration documents.

22           Section 4. (a) Upon the conviction of any person of  
23 a violation of Section 13A-6-152 or 13A-6-153, Code of Alabama  
24 1975, the court, in addition to any other penalty, fine, or  
25 restitution imposed, may order the defendant to pay an  
26 additional fine not to exceed one million dollars  
27 (\$1,000,000). In setting the amount of the fine, the court

1 shall consider any relevant factors including, but not limited  
2 to, the seriousness and gravity of the offense and the  
3 circumstances and duration of its commission, the amount of  
4 economic gain the defendant derived as a result of the crime,  
5 and the extent to which the victim suffered losses as a result  
6 of the crime.

7 (b) Every fine imposed and collected pursuant to  
8 subsection (a) shall be deposited in the Alabama Crime Victims  
9 Compensation Fund for the purpose of funding grants for  
10 services for victims of human trafficking. Seventy percent of  
11 the fines collected and deposited shall be distributed to  
12 public agencies and nonprofit corporations that provide  
13 shelter, counseling, or other direct services for trafficked  
14 victims. Thirty percent of the fines collected and deposited  
15 shall be distributed to law enforcement and the district  
16 attorney in the jurisdiction in which the charge was filed to  
17 fund human trafficking prevention, witness protection, and  
18 rescue operations.

19 Section 5. Although this bill would have as its  
20 purpose or effect the requirement of a new or increased  
21 expenditure of local funds, the bill is excluded from further  
22 requirements and application under Amendment 621, now  
23 appearing as Section 111.05 of the Official Recompilation of  
24 the Constitution of Alabama of 1901, as amended, because the  
25 bill defines a new crime or amends the definition of an  
26 existing crime.

1                   Section 6. This act shall become effective on the  
2           first day of the third month following its passage and  
3           approval by the Governor, or its otherwise becoming law.