

1 HB598
2 150736-2
3 By Representative Williams (J)
4 RFD: Children and Senior Advocacy
5 First Read: 10-APR-13

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SYNOPSIS: This bill would provide a safe harbor provision in current law for a child who engages in the act of prostitution by providing that a sexually exploited child may not be adjudicated delinquent or convicted of a crime of prostitution, but that the child may be adjudicated a child in need of supervision or a dependent child.

 This bill would prohibit the transfer of a case involving a sexually exploited child who commits an act of prostitution from the jurisdiction of juvenile court to any adult court.

 This bill would provide that a juvenile court retains jurisdiction over a sexually exploited child and may issue any requisite order or conduct any hearing necessary to protect the health or safety of a sexually exploited child that is determined to be in the best interests of the child.

1 This bill would also provide that certain
2 social and community services shall be made
3 available to sexually exploited children.

4 Amendment 621 of the Constitution of Alabama
5 of 1901, now appearing as Section 111.05 of the
6 Official Recompilation of the Constitution of
7 Alabama of 1901, as amended, prohibits a general
8 law whose purpose or effect would be to require a
9 new or increased expenditure of local funds from
10 becoming effective with regard to a local
11 governmental entity without enactment by a 2/3 vote
12 unless: it comes within one of a number of
13 specified exceptions; it is approved by the
14 affected entity; or the Legislature appropriates
15 funds, or provides a local source of revenue, to
16 the entity for the purpose.

17 The purpose or effect of this bill would be
18 to require a new or increased expenditure of local
19 funds within the meaning of the amendment. However,
20 the bill does not require approval of a local
21 governmental entity or enactment by a 2/3 vote to
22 become effective because it comes within one of the
23 specified exceptions contained in the amendment.

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

1
2 To add Section 13A-12-123 to the Code of Alabama
3 1975, to provide a definition of "sexually exploited child";
4 to prohibit a sexually exploited child from being adjudicated
5 delinquent or convicted of a crime of prostitution; to provide
6 that a sexually exploited child engaged in prostitution may be
7 adjudicated a child in need of supervision or a dependent
8 child; to prohibit the transfer of a case involving a sexually
9 exploited child who commits an act of prostitution from the
10 jurisdiction of juvenile court to any adult court; to
11 authorize a juvenile court to retain jurisdiction over a
12 sexually exploited child; to provide for certain court orders
13 in the best interests of the child; to provide that certain
14 social and community services will be made available to
15 sexually exploited children; and in connection therewith would
16 have as its purpose or effect the requirement of a new or
17 increased expenditure of local funds within the meaning of
18 Amendment 621 of the Constitution of Alabama of 1901, now
19 appearing as Section 111.05 of the Official Recompilation of
20 the Constitution of Alabama of 1901, as amended.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. This act shall be known and may be cited
23 as the "Alabama Human Trafficking Safe Harbor Act."

24 Section 2. Section 13A-12-123 is added to Division 2
25 of Article 3 of Chapter 12 of Title 13A, Code of Alabama 1975,
26 to read as follows:

27 §13A-12-123.

1 A sexually exploited child, as defined in Section 3,
2 who is alleged to have committed a violation of Section
3 13A-12-120 or 13A-12-121, or any municipal ordinance
4 prohibiting such acts, shall be treated pursuant to Section 3.

5 Section 3. (a) For the purposes of this section,
6 "sexually exploited child" shall mean an individual under the
7 age of 18 years who is under the jurisdiction of the juvenile
8 court and who has been subjected to sexual exploitation
9 because he or she is any of the following:

10 (1) A victim of the crime of human trafficking
11 sexual servitude as provided in Section 13A-6-150, et seq.,
12 Code of Alabama 1975.

13 (2) Engaged in prostitution as provided in Section
14 13A-12-120 or 13A-12-121, Code of Alabama 1975.

15 (3) A victim of the crime of promoting prostitution
16 as provided in Section 13A-12-111, 13A-12-112, or 13A-12-113,
17 Code of Alabama 1975.

18 (b) A sexually exploited child may not be
19 adjudicated delinquent or convicted of a crime of prostitution
20 as provided in Section 13A-12-120 or 13A-12-121, Code of
21 Alabama 1975, or any municipal ordinance prohibiting such
22 acts.

23 (c) In any proceeding based upon a child's arrest
24 for an act of prostitution, there is a presumption that the
25 child satisfies the definition of a sexually exploited child
26 as provided in this section.

1 (d) If a law enforcement officer or a person seeks
2 to file a complaint against a child for an offense of
3 prostitution as provided in Section 13A-12-120 or 13A-12-121,
4 Code of Alabama 1975, the juvenile court intake officer shall
5 evaluate the complaint to determine if the child is a sexually
6 exploited child and could have another complaint filed stating
7 that the child is alleged to be in need of supervision or
8 alleged to be dependent, and not a child alleged to be
9 delinquent, pursuant to Rule 12 of the Alabama Rules of
10 Juvenile Procedure. A juvenile probation officer who is
11 designated to be a juvenile court intake officer may determine
12 if a child alleged to be in need of supervision is appropriate
13 for an informal adjustment pursuant to Rule 15 of the Alabama
14 Rules of Juvenile Procedure.

15 (e) If a petition alleging that a sexually exploited
16 child is in need of supervision or is dependent is filed, a
17 sexually exploited child may be adjudicated a child in need of
18 supervision or a dependent child pursuant to Section
19 12-15-102(4) and (8), Code of Alabama 1975. Once the sexually
20 exploited child is adjudicated, the juvenile court shall
21 retain jurisdiction over the sexually exploited child and may
22 enforce prior orders requiring payment of court-ordered monies
23 pursuant to Section 12-15-117, Code of Alabama 1975. The
24 juvenile court may issue any requisite order or conduct any
25 hearing necessary to protect the health or safety of a
26 sexually exploited child that is determined to be in the best
27 interests of the child. The juvenile court may also, on an

1 emergency basis, enter an order of protection or restraint to
2 protect the health or safety of a sexually exploited child.

3 (f) A sexually exploited child who commits an act of
4 prostitution as provided in Section 13A-12-120 or 13A-12-121,
5 Code of Alabama 1975, may not be transferred from the
6 jurisdiction of juvenile court to any adult court pursuant to
7 Section 12-15-203, Code of Alabama 1975, except in those cases
8 where the child has been convicted or adjudicated a youthful
9 offender divesting the juvenile court of jurisdiction as
10 provided in Sections 12-15-203(i) and 12-15-204(b), Code of
11 Alabama 1975.

12 (g) A sexually exploited child who commits an act of
13 prostitution as provided in Section 13A-12-120 or 13A-12-121,
14 Code of Alabama 1975, shall be afforded all rights pursuant to
15 Section 12-15-202, Code of Alabama 1975.

16 (h) All social and community services shall be made
17 available to a sexually exploited child. Services may include,
18 but are not limited to, any of the following:

- 19 (1) Forensic evidence collection.
- 20 (2) Forensic interviewing.
- 21 (3) Counseling.
- 22 (4) Advocacy.
- 23 (5) Shelter.
- 24 (6) Alcohol or substance abuse treatment.
- 25 (7) Mental health services.
- 26 (8) Medical treatment.
- 27 (9) Legal services.

1 (10) Educational tutoring, counseling, and language
2 interpreter services.

3 (11) Crisis intervention services.

4 (12) Safety planning.

5 (13) Investigation and prosecution of the
6 individuals subjecting the child to sexual exploitation or
7 abuse.

8 Section 4. Although this bill would have as its
9 purpose or effect the requirement of a new or increased
10 expenditure of local funds, the bill is excluded from further
11 requirements and application under Amendment 621, now
12 appearing as Section 111.05 of the Official Recompilation of
13 the Constitution of Alabama of 1901, as amended, because the
14 bill defines a new crime or amends the definition of an
15 existing crime.

16 Section 5. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.