

1 SB428  
2 150736-2  
3 By Senators Brewbaker, Smitherman, Singleton, Ross, Bussman,  
4 Ward and Fielding  
5 RFD: Governmental Affairs  
6 First Read: 11-APR-13

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

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

19 This bill would provide that a juvenile  
20 court retains jurisdiction over a sexually  
21 exploited child and may issue any requisite order  
22 or conduct any hearing necessary to protect the  
23 health or safety of a sexually exploited child that  
24 is determined to be in the best interests of the  
25 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.

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25                                   A BILL  
26                                   TO BE ENTITLED

1 AN ACT

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

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

4           §13A-12-123.

5           A sexually exploited child, as defined in Section 3,  
6 who is alleged to have committed a violation of Section  
7 13A-12-120 or 13A-12-121, or any municipal ordinance  
8 prohibiting such acts, shall be treated pursuant to Section 3.

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

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

17           (2) Engaged in prostitution as provided in Section  
18 13A-12-120 or 13A-12-121, Code of Alabama 1975.

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

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

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

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

19           (e) If a petition alleging that a sexually exploited  
20 child is in need of supervision or is dependent is filed, a  
21 sexually exploited child may be adjudicated a child in need of  
22 supervision or a dependent child pursuant to Section  
23 12-15-102(4) and (8), Code of Alabama 1975. Once the sexually  
24 exploited child is adjudicated, the juvenile court shall  
25 retain jurisdiction over the sexually exploited child and may  
26 enforce prior orders requiring payment of court-ordered monies

1 pursuant to Section 12-15-117, Code of Alabama 1975. The  
2 juvenile court may issue any requisite order or conduct any  
3 hearing necessary to protect the health or safety of a  
4 sexually exploited child that is determined to be in the best  
5 interests of the child. The juvenile court may also, on an  
6 emergency basis, enter an order of protection or restraint to  
7 protect the health or safety of a sexually exploited child.

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

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

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

- 24 (1) Forensic evidence collection.
- 25 (2) Forensic interviewing.
- 26 (3) Counseling.

- 1 (4) Advocacy.
- 2 (5) Shelter.
- 3 (6) Alcohol or substance abuse treatment.
- 4 (7) Mental health services.
- 5 (8) Medical treatment.
- 6 (9) Legal services.
- 7 (10) Educational tutoring, counseling, and language
- 8 interpreter services.
- 9 (11) Crisis intervention services.
- 10 (12) Safety planning.
- 11 (13) Investigation and prosecution of the
- 12 individuals subjecting the child to sexual exploitation or
- 13 abuse.

14 Section 4. Although this bill would have as its  
15 purpose or effect the requirement of a new or increased  
16 expenditure of local funds, the bill is excluded from further  
17 requirements and application under Amendment 621, now  
18 appearing as Section 111.05 of the Official Compilation of  
19 the Constitution of Alabama of 1901, as amended, because the  
20 bill defines a new crime or amends the definition of an  
21 existing crime.

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