

1 HB305
2 193665-4
3 By Representatives Williams (JD), Coleman, Hall and Boyd
4 RFD: Judiciary
5 First Read: 25-JAN-18

1
2 ENROLLED, An Act,

3 Relating to human trafficking and offenses against
4 minors; to amend Sections 13A-6-151 and 13A-6-152, Code of
5 Alabama 1975, to provide further for the definition of sexual
6 servitude and to provide further for the crime of human
7 trafficking in the first degree; to amend Section 13A-6-157,
8 Code of Alabama 1975, to provide further for the private right
9 of action of a victim of human trafficking; to add Section
10 13A-6-157.1 to the Code of Alabama 1975, to provide a right of
11 action by the Attorney General to enforce the human
12 trafficking laws and to recover damages for victims of human
13 trafficking; to amend Section 13A-6-158, Code of Alabama 1975,
14 to provide that the limitations period does not apply to the
15 Attorney General; to add Sections 13A-6-161 and 13A-6-162 to
16 the Code of Alabama 1975, to authorize the issuance of and
17 enforcement of subpoenas when investigating allegations of
18 human trafficking and to provide a civil penalty for
19 violations; to add Section 13A-12-121.1 to the Code of Alabama
20 1975, to establish the crime of engaging in an act of
21 prostitution with a minor; to amend Section 13A-12-122, Code
22 of Alabama 1975, to provide further criminal penalties for
23 human trafficking; to add Sections 13A-12-124 and 13A-12-125
24 to the Code of Alabama 1975, to prohibit a defendant accused
25 of engaging in an act of prostitution with a minor from

1 asserting a mistake of age defense and to provide an
2 additional fine; to amend Sections 15-27-1 and 15-27-2, Code
3 of Alabama 1975, to provide further for the expungement of
4 certain crimes committed by victims of human trafficking under
5 certain conditions; to provide that human trafficking offenses
6 and certain prostitution offenses may only be prosecuted in
7 circuit or district court; to amend Sections 34-43-12,
8 34-43-13, 34-43-14, 34-43-15, Code of Alabama 1975, to require
9 the Alabama Board of Massage Therapy to conduct criminal
10 history background checks under certain circumstances and to
11 set the fee for the background check; to further provide for
12 the suspension or revocation of a license issued under the
13 Alabama Massage Therapy Licensure Act; to provide that a
14 massage therapist licensee who allows an individual to remain
15 in a massage therapy establishment overnight is misconduct
16 subject to disciplinary action; to require the reporting of
17 certain misconduct by certain persons; and in connection
18 therewith would have as its purpose or effect the requirement
19 of a new or increased expenditure of local funds within the
20 meaning of Amendment 621 of the Constitution of Alabama of
21 1901, now appearing as Section 111.05 of the Official
22 Recompilation of the Constitution of Alabama of 1901, as
23 amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 13A-6-151, 13A-6-152, and
2 13A-6-157, Code of Alabama 1975, are amended to read as
3 follows:

4 "§13A-6-151.

5 "As used in this article, the following terms shall
6 have the following, or any combination of the following,
7 meanings ascribed to them by this section:

8 "(1) COERCION. Any of the following:

9 "a. Causing or threatening to cause physical injury
10 or mental suffering to any person, physically restraining or
11 confining any person, or threatening to physically restrain or
12 confine any person or otherwise causing the person performing
13 or providing labor or services to believe that the person or
14 another person will suffer physical injury or mental
15 suffering.

16 "b. Implementing any scheme, plan, or pattern
17 intended to cause a person to believe that failure to perform
18 an act would result in physical injury, mental suffering, or
19 physical restraint of any person.

20 "c. Destroying, concealing, removing, confiscating,
21 or withholding from the person or another person, or
22 threatening to destroy, conceal, remove, confiscate, or
23 withhold from the person or another person, the person's or
24 any person's actual or purported government records,

1 immigration documents, identifying information, or personal or
2 real property.

3 "d. Exposing or threatening to expose any fact or
4 information that if revealed would tend to subject a person to
5 criminal prosecution, criminal or immigration proceedings,
6 hatred, contempt, or ridicule.

7 "e. Threatening to report the person or another
8 person to immigration officials or to other law enforcement
9 officials or otherwise blackmailing or extorting the person or
10 another person.

11 "f. Controlling a person's access to a controlled
12 substance, as the term is defined in Section 20-2-2.

13 "g. Rape or sodomy or threatened rape or sodomy of
14 any person, as defined in Title 13A.

15 "(2) DECEPTION. Any of the following:

16 "a. Creating or confirming an impression of any
17 existing fact or past event which is false and which the
18 accused knows or believes to be false.

19 "b. Exerting financial control over the person or
20 another person by placing the person or another person under
21 the actor's control as a security or payment of a debt, if the
22 value of the services as reasonably assessed is not applied
23 toward the liquidation of the debt or the length and nature of
24 those services are not respectively limited and defined or the
25 principal amount of the debt does not reasonably reflect the

1 value of the items or services for which debt was incurred or
2 by preventing a person from acquiring information pertinent to
3 the disposition of the debt, referenced in this paragraph.

4 "c. Promising benefits or the performance of
5 services which the accused does not intend to be delivered.
6 Evidence of failure to deliver benefits or perform services
7 standing alone shall not be sufficient to authorize a
8 conviction under this article.

9 "d. Using any scheme, plan, or pattern, whether
10 overt or subtle, intended to cause any person to believe that,
11 if the person did not perform such labor, services, acts, or
12 performances, the person or another person would suffer
13 physical injury or mental suffering.

14 "(3) LABOR SERVITUDE. Work or service of economic or
15 financial value which is performed or provided by another
16 person and is induced or obtained by coercion or deception.

17 "(4) MENTAL SUFFERING. A high degree of mental pain
18 or emotional disturbances, such as distress, anxiety, public
19 humiliation, or psychosomatic physical symptoms. It is more
20 than mere disappointment, anger, resentment, wounded pride, or
21 embarrassment and must be a direct result of the crime of
22 human trafficking.

23 "(5) MINOR. A person under the age of ~~18~~ 19.

24 "(6) PHYSICAL INJURY. Impairment of physical
25 condition or substantial pain.

1 "(7) SEXUAL CONDUCT. Any of the following acts:

2 "a. Sexual intercourse. This term shall have its
3 ordinary meaning and occurs upon a penetration, however
4 slight; emission is not required.

5 "b. Sexual contact. Any known touching for the
6 purpose of sexual arousal, gratification, or abuse of the
7 following:

8 "1. The sexual or other intimate parts of the victim
9 by the actor.

10 "2. The sexual or other intimate part of the actor
11 by the victim.

12 "3. The clothing covering the immediate area of the
13 sexual or other intimate parts of the victim or actor.

14 "c. Sexual explicit performances, meaning an act or
15 show intended to arouse, satisfy the sexual desires of, or
16 appeal to the prurient interests of patrons or viewers,
17 whether public or private, live, photographed, recorded,
18 videotaped, or projected over the Internet.

19 "d. Commercial sex acts, meaning any sex act on
20 account of which anything of value is given, promised to, or
21 received, directly or indirectly, by any person.

22 ~~"(7) (8) SEXUAL SERVITUDE. Any of the following:~~

23 ~~"a. Any sexual conduct as defined in subdivision (3)~~
24 ~~of Section 14-11-30, for which anything of value is directly~~
25 ~~or indirectly given, promised to, or received by any person,~~

1 which conduct is induced or obtained by coercion or deception
2 from a person; provided, however, that if the sexual conduct
3 is with a minor, no coercion or deception is required.

4 ~~"b. Sexual conduct includes:~~

5 ~~"1. Sexually explicit performances, meaning an act~~
6 ~~or show intended to arouse, satisfy the sexual desires of, or~~
7 ~~appeal to the prurient interests of patrons or viewers,~~
8 ~~whether public or private, live, photographed, recorded,~~
9 ~~videotaped, or projected over the Internet.~~

10 ~~"2. Commercial sex acts, meaning any sex act on~~
11 ~~account of which anything of value is given, promised to, or~~
12 ~~received, directly or indirectly, by any person.~~

13 ~~"3. Acts defined in subdivision (3) of Section~~
14 ~~14-11-30.~~

15 ~~"(8) (9) TRAFFICKING VICTIM. Any person, including~~
16 ~~minors, subjected to labor servitude, sexual servitude, or~~
17 ~~involuntary servitude.~~

18 ~~"§13A-6-152.~~

19 ~~"(a) A person commits the crime of human trafficking~~
20 ~~in the first degree if:~~

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

24 ~~"(2) He or she knowingly obtains, recruits, entices,~~
25 ~~solicits, induces, threatens, isolates, harbors, holds,~~

1 restrains, transports, provides, or maintains any minor for
2 the purpose of causing a minor to engage in sexual servitude.

3 "(3) He or she knowingly gives monetary
4 consideration or any other thing of value to engage in any
5 sexual conduct with a minor or an individual he or she
6 believes to be a minor.

7 "~~(3)~~ (b) For purposes of this section, it is not
8 required that the defendant have knowledge of a minor victim's
9 age, nor is reasonable mistake of age a defense to liability
10 under this section.

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

23 "~~(5)~~ (d) Any person who obstructs, or attempts to
24 obstruct, or in any way interferes with or prevents the

1 enforcement of this section shall be guilty of a Class C
2 felony.

3 ~~"(b)~~ (e) Human trafficking in the first degree is a
4 Class A felony."

5 "§13A-6-157.

6 "(a) An individual who is a victim of human
7 trafficking may bring a civil action in the appropriate state
8 court ~~against any and all persons or entities, whether in a~~
9 ~~personal or corporate capacity, who meets the description of~~
10 ~~those purveyors of human trafficking as described in Alabama~~
11 ~~Code §13A-6-152(a). It shall not be a prerequisite to any such~~
12 ~~civil action that the defendant must first have been charged~~
13 ~~and/or convicted of the crime of human trafficking.~~

14 "(b) Venue for any action brought under this section
15 shall be in the county in which the offense was committed or
16 in any other county into or through which the person upon whom
17 it was committed may have been carried in the commission of
18 the offense. If venue is proper in more than one county, venue
19 shall be in either county.

20 "(c) The court may award actual damages,
21 compensatory damages, punitive damages, injunctive relief, and
22 any other appropriate relief. A prevailing plaintiff shall
23 also be awarded attorney's fees and costs. Treble damages
24 shall be awarded on proof of actual damages where defendant's
25 acts were willful and malicious.

1 "(d) The court shall award a prevailing plaintiff
 2 attorney's fees and costs.

3 "(e) Upon commencement of any action brought under
 4 this section, the clerk of the court shall mail a copy of the
 5 complaint or other initial pleading to the office of the
 6 Attorney General and, upon entry of any injunction, judgment,
 7 or decree in the action, shall mail a copy of the injunction,
 8 judgment, or decree to the office of the Attorney General.

9 "(f) This section does not preclude any other remedy
 10 available to the victim under federal law or the laws of this
 11 state."

12 Section 2. Section 13A-6-157.1 is added to the Code
 13 of Alabama 1975, to read as follows:

14 §13A-6-157.1.

15 (a) In addition to any other remedy under this
 16 article, if the Attorney General has reason to believe that
 17 any person, corporation, or any other legal entity is engaging
 18 in, has engaged in, or is about to engage in any act or
 19 practice declared to be unlawful by this article, the Attorney
 20 General may bring an action in the name of the state in the
 21 appropriate state court against the person, corporation, or
 22 entity to restrain by temporary restraining order, or
 23 temporary or permanent injunction, the acts or practices.

24 (b) In addition to any other remedy under this
 25 article, the Attorney General may bring a civil action on

1 behalf of the state in the appropriate state court to recover
2 actual damages for victims of acts or practices performed in
3 violation of this article.

4 (c) Venue for any action brought under this section
5 is in the county in which the offense was committed or in any
6 other county into or through which the person upon whom it was
7 committed may have been carried in the commission of the
8 offense. If venue is proper in more than one county, venue
9 shall be in either county.

10 Section 3. Section 13A-6-158, Code of Alabama 1975,
11 is amended to read as follows:

12 "§13A-6-158.

13 "(a) (1) ~~An~~ Except as provided in subsection (c), an
14 action for an offense defined by this article where the victim
15 is not a minor shall be brought within five years from the
16 date the victim was removed or escaped from the human
17 trafficking situation.

18 "(2) Any statute of limitations that would otherwise
19 preclude prosecution for an offense involving the trafficking
20 of a minor, or the physical or sexual abuse of a minor, shall
21 be tolled until such time as the victim has reached the age of
22 ~~18~~ 19 years.

23 "(3) The running of the statute of limitations shall
24 be suspended where a person entitled to bring a claim of an
25 offense defined by this article could not have reasonably

1 discovered the crime due to circumstances resulting from the
2 human trafficking situation, such as psychological trauma,
3 cultural and linguistic isolation, and the inability to access
4 services.

5 "(b) Any statute of limitation period imposed for
6 the filing of a civil action under this article will not begin
7 to run until the plaintiff discovers both that the sex trade
8 act occurred and that the defendant caused, was responsible
9 for, or profited from the sex trade act.

10 "(1) If the plaintiff is a minor, then the
11 limitation period will not commence running until he or she
12 has reached the age of majority.

13 "(2) If the plaintiff is under a disability at the
14 time the cause of action accrues, so that it is impossible or
15 impractical for him or her to bring an action, then the time
16 of the disability is not part of the time limited for the
17 commencement of the action. Disability includes, but is not
18 limited to, insanity, imprisonment, or other incapacity or
19 incompetence.

20 "(3) If the plaintiff's injury is caused by two or
21 more acts that are part of a continuing series of sex trade
22 acts by the same defendant, then the limitation period will
23 not commence running until the last sex trade act in the
24 continuing series occurs.

1 "(4) If the plaintiff is subject to threats,
2 intimidation, manipulation, or fraud perpetrated by the
3 defendant or by any person acting in the interest of the
4 defendant, then the time when these acts occur will not be
5 part of the time limited for the commencement of this action.

6 "(c) There shall be no limitation period for civil
7 actions brought under this article by the Attorney General."

8 Section 4. Sections 13A-6-161 and 13A-6-162 are
9 added to the Code of Alabama 1975, to read as follows:

10 §13A-6-161.

11 Before the Attorney General commences any action
12 under this article, the Attorney General may issue subpoenas
13 to any person to appear and produce relevant papers,
14 documents, and physical evidence, and administer an oath or
15 affirmation to any person, in aid of any investigation or
16 inquiry into possible violations of this article. The
17 subpoenas shall be served in accordance with the appropriate
18 Alabama Rules of Civil Procedure. Upon failure of a person
19 without lawful excuse to obey such subpoena, the Attorney
20 General may apply to a court of competent jurisdiction for an
21 order compelling compliance. After an action is commenced,
22 discovery may proceed in accordance with the Alabama Rules of
23 Civil Procedure.

24 §13A-6-162.

1 (a) Any person, corporation, or other legal entity
2 who engages in any act or practice that violates this article
3 is liable for a civil penalty of up to fifty thousand dollars
4 (\$50,000) for each violation.

5 (b) Any person, corporation, or other legal entity
6 who violates the terms of an injunction or order issued under
7 this article shall forfeit and pay a civil penalty of not more
8 than seventy-five thousand dollars (\$75,000) per violation and
9 shall be adjudged in contempt. For the purpose of this
10 section, any court issuing an injunction or order under this
11 article shall retain jurisdiction, and in such cases the
12 Attorney General may petition for recovery of civil penalties.

13 (c) Upon a second or continuing violation of an
14 injunction after imposition of the sanctions in subsection
15 (b), and upon petition by the Attorney General, the circuit
16 court of general jurisdiction of a county may order the
17 dissolution or suspension or forfeiture of the franchise of
18 any corporation, partnership, or sole proprietorship that
19 willfully violates the terms of any injunction issued pursuant
20 to this article.

21 (d) In any successful action brought by the Attorney
22 General under this section, the court shall award the office
23 of the Attorney General reasonable attorney's fees and costs.

24 (e) All penalties recovered in actions brought under
25 this section shall be deposited into the State Treasury to the

1 credit of the Attorney General's Special Revenue Account for
2 the purpose of implementing and enforcing this article.
3 Amounts deposited into the Special Revenue Account shall be
4 budgeted and allotted in accordance with Sections 41-4-80
5 through 41-4-96 and Sections 41-19-1 through 41-19-12, Code of
6 Alabama 1975.

7 Section 5. Section 13A-12-121.1 is added to the Code
8 of Alabama 1975, to read as follows:

9 §13A-12-121.1.

10 (a) No person shall commit an act of prostitution,
11 as defined in Section 13A-12-120, with a minor.

12 (b) No person shall solicit, compel, or coerce any
13 minor to have sexual intercourse or participate in any natural
14 or unnatural sexual act, deviate sexual intercourse, or sexual
15 contact for monetary consideration or other thing of
16 marketable value.

17 (c) No person shall agree to engage in sexual
18 intercourse, deviate sexual intercourse, or sexual contact
19 with a minor or participate in the act for monetary
20 consideration or other thing of marketable value and give or
21 accept monetary consideration or other thing of value in
22 furtherance of the agreement.

23 (d) No person shall knowingly do any of the
24 following:

1 (1) Cause or aid a minor to commit or engage in
2 prostitution.

3 (2) Procure or solicit a minor for prostitution.

4 (3) Provide premises for the prostitution of a
5 minor.

6 (4) Receive or accept money or other thing of value
7 pursuant to a prior agreement with a minor where the minor
8 participates or is to participate in the proceeds of any
9 prostitution activity.

10 (5) Operate or assist in the operation of a house of
11 prostitution or a prostitution enterprise where minors
12 participate in prostitution.

13 (6) Sell or offer to sell travel services that
14 include or facilitate travel for the purpose of engaging in
15 sexual intercourse, sexual acts, deviate sexual intercourse,
16 or any other sexual contact with a minor.

17 Section 6. Section 13A-12-122, Code of Alabama 1975,
18 is amended to read as follows:

19 "§13A-12-122.

20 "(a) Each violation of ~~this division~~ Section
21 13A-12-121 is a Class A misdemeanor.

22 "(b) A violation of Section 13A-12-121.1 is a Class
23 B felony."

24 Section 7. Sections 13A-12-124 and 13A-12-125 are
25 added to the Code of Alabama 1975, to read as follows:

1 §13A-12-124.

2 (a) As used in this section, the term minor victim
3 means a person who committed, or was solicited to commit, an
4 act of prostitution while the person was a minor.

5 (b) Evidence of any of the following facts or
6 conditions does not constitute a defense in a prosecution
7 under Section 13A-12-121.1, Code of Alabama 1975, nor shall
8 the evidence preclude a finding of a violation:

9 (1) A minor victim's sexual history or history of
10 commercial sexual activity.

11 (2) A minor victim's connection by blood or marriage
12 to a defendant in the case or to anyone involved in the minor
13 victim's prostitution.

14 (3) Consent of or permission by a minor victim or
15 anyone else on the minor victim's behalf to any commercial sex
16 act or sexually explicit performance.

17 (4) Age of consent to engage in sexual activity.

18 (5) Mistake as to the minor victim's age, even if
19 the mistake is reasonable.

20 §13A-12-125.

21 In addition to all other fines and penalties
22 prescribed by law, a person convicted of violating Section
23 13A-6-152, Section 13A-6-153, Section 13A-12-111, Section
24 13A-12-112, Section 13A-12-121, or Section 13A-12-121.1 shall
25 pay a fine of five hundred dollars (\$500) which shall be used

1 to compensate victims of prostitution and human trafficking.
2 The fine shall be deposited into the State Treasury to the
3 credit of the Alabama Crime Victims Compensation Fund under
4 Section 15-23-16. Amounts deposited into the Alabama Crime
5 Victims Compensation Fund shall be budgeted and allotted in
6 accordance with Sections 41-4-80 through 41-4-96 and Sections
7 41-19-1 through 41-19-12.

8 Section 8. Sections 15-27-1 and 15-27-2, Code of
9 Alabama 1975, are amended to read as follows:

10 "§15-27-1.

11 "(a) A person who has been charged with a
12 misdemeanor criminal offense, a violation, a traffic
13 violation, or a municipal ordinance violation may file a
14 petition in the criminal division of the circuit court in the
15 county in which the charges were filed, to expunge records
16 relating to the charge in any of the following circumstances:

17 "(1) When the charge is dismissed with prejudice.

18 "(2) When the charge has been no billed by a grand
19 jury.

20 "(3) When the person has been found not guilty of
21 the charge.

22 "(4) When the charge was dismissed without prejudice
23 more than two years ago, has not been refiled, and the person
24 has not been convicted of any other felony or misdemeanor

1 crime, any violation, or any traffic violation, excluding
 2 minor traffic violations, during the previous two years.

3 "(5) When the person proves by a preponderance of
 4 the evidence that the person is a victim of human trafficking,
 5 that the person committed the misdemeanor criminal offense,
 6 violation, traffic violation, or municipal ordinance violation
 7 during the period the person was being trafficked, and that
 8 the person would not have committed the offense or violation
 9 but for being trafficked. Evidence that a person is a victim
 10 of human trafficking may include, but is not limited to,
 11 evidence that the person's trafficker was convicted of
 12 trafficking the person under Section 13A-6-152 or Section
 13 13A-6-153.

14 "(b) The circuit court shall have exclusive
 15 jurisdiction of a petition filed under subsection (a).

16 "§15-27-2.

17 "(a) A person who has been charged with a felony
 18 offense, except a violent offense as defined in Section
 19 12-25-32, may file a petition in the criminal division of the
 20 circuit court in the county in which the charges were filed,
 21 to expunge records relating to the charge in any of the
 22 following circumstances:

23 "(1) When the charge is dismissed with prejudice.

24 "(2) When the charge has been no billed by a grand
 25 jury.

1 "(3)a. The charge was dismissed after successful
2 completion of a drug court program, mental health court
3 program, diversion program, veteran's court, or any
4 court-approved deferred prosecution program after one year
5 from successful completion of the program.

6 "b. Expungement may be a court-ordered condition of
7 a program listed in paragraph a.

8 "(4) The charge was dismissed without prejudice more
9 than five years ago, has not been refiled, and the person has
10 not been convicted of any other felony or misdemeanor crime,
11 any violation, or any traffic violation, excluding minor
12 traffic violations, during the previous five years.

13 "(5) Ninety days have passed from the date of
14 dismissal with prejudice, no-bill, acquittal, or nolle
15 prosequi and the charge has not been refiled.

16 "(6) When the person proves by a preponderance of
17 the evidence that the person is a victim of human trafficking,
18 that the person committed the felony offense during the period
19 the person was being trafficked, and that the person would not
20 have committed the felony offense but for being trafficked.
21 Evidence that a person is a victim of human trafficking may
22 include, but is not limited to, evidence that the person's
23 trafficker was convicted of trafficking the person under
24 Section 13A-6-152 or Section 13A-6-153.

1 "(b) Subsection (a) notwithstanding, convictions for
2 the following offenses, which are defined as a violent offense
3 under subdivision (15) of Section 13A-25-32, may be expunged
4 upon a showing that the person committed the felony offense
5 during the period the person was trafficked, and that the
6 person would not have committed the felony offense but for
7 being trafficked:

8 "(1) Promoting prostitution in the first degree
9 pursuant to Section 13A-12-111.

10 "(2) Domestic violence in the third degree pursuant
11 to subsection (d) of Section 13A-6-132.

12 "(3) Production of obscene matter involving a person
13 under the age of 17 years pursuant to Section 13A-12-197.

14 ~~"(b) (1)~~ (c) (1) A person who has been charged with
15 any felony offense, including a violent offense as defined in
16 Section 12-25-32, may file a petition in the criminal division
17 of the circuit court in the county in which the charges were
18 filed to expunge records relating to the charge if the person
19 has been found not guilty of the charge.

20 "(2) Records related to violent offenses as defined
21 in Section 12-25-32 may be disclosed to law enforcement agency
22 for criminal investigation purposes as provided in Section
23 15-27-7.

1 "~~(c)~~ (d) The circuit court shall have exclusive
2 jurisdiction of a petition filed under subsection (a) or
3 subsection (b)."

4 Section 9. (a) Any violation of Article 8 of Chapter
5 6 of Title 13A, Code of Alabama 1975, or any violation of
6 Section 13A-12-111, 13A-12-112, 13A-12-113, 13A-12-121, or
7 13A-12-121.1, Code of Alabama 1975, may only be prosecuted in
8 circuit or district court.

9 (b) Notwithstanding any provision of law to the
10 contrary, this section supersedes any law or ordinance that
11 provides for the prosecution of the offenses included in
12 subsection (a) in municipal court.

13 Section 10. ~~The Legislature finds and declares the~~
14 ~~following:~~

15 ~~(1) There are an estimated 21 million people in~~
16 ~~forced or coerced human trafficking worldwide.~~

17 ~~(2) According to the United States State Department,~~
18 ~~600,000 to 800,000 people are trafficked across international~~
19 ~~borders every year, of which 80 percent are female and half~~
20 ~~are children.~~

21 ~~(3) Between 14,500 and 17,500 people are trafficked~~
22 ~~into the United States each year.~~

23 ~~(4) In 2017, more than 32,000 cases of human~~
24 ~~trafficking were reported through the National Human~~
25 ~~Trafficking Hotline. Trafficking related to illicit massage~~

1 ~~therapy establishments accounted for 2,949 cases, which was~~
2 ~~second in prevalence only to trafficking in escort services.~~

3 ~~(5) More than 9,000 massage therapy establishments~~
4 ~~are currently operating in the United States. There is strong~~
5 ~~evidence suggesting that thousands of women are being~~
6 ~~trafficked in these establishments in the United States on any~~
7 ~~given day.~~

8 ~~(6) Further regulating massage therapy~~
9 ~~establishments will help eliminate massage parlor trafficking~~
10 ~~while ensuring the health and safety of customers and~~
11 ~~employees of legitimate massage therapy establishments.~~

12 Section 11. Sections 34-43-12, 34-43-13, 34-43-14,
13 and 34-43-15, Code of Alabama 1975, are amended to read as
14 follows:

15 "§34-43-12.

16 "(a) Applications for licensure or renewal shall be
17 on forms provided by the board and shall be accompanied by the
18 proper fee. The application shall be legible, either printed
19 in black ink or typed. Applications sent by facsimile shall
20 not be accepted. A two-by-two photograph, taken no more than
21 six months earlier, showing a frontal view of the head and
22 shoulders of the applicant, shall be submitted with the
23 application. All documents shall be submitted in English.

24 "(b) Each applicant for licensure shall be subject
25 to a criminal history check. Refusal to consent to a criminal

1 history check constitutes grounds for the board to deny the
2 applicant's application for licensure.

3 ~~"(b)~~ (c) The board shall issue a license to each
4 person who qualifies to be a massage therapist and to each
5 qualified massage therapy establishment. To be qualified for a
6 license as a massage therapist the applicant shall
7 successfully pass the examination, pay the examination fee,
8 pass the criminal history check pursuant to rules adopted by
9 the board, pay the criminal history check fee, and pay the
10 license fee. A license grants all professional rights, honors,
11 and privileges relating to the practice of massage therapy.

12 ~~"(c)~~ (d) Each licensed therapist shall display his
13 or her license in the manner specified by the board. Each
14 establishment shall post its license in plain sight and the
15 license of each massage therapist who practices in the
16 establishment.

17 ~~"(d)~~ (e) A license is the property of the board and
18 shall be surrendered upon demand of the board.

19 "§34-43-13.

20 "(a) Each license shall be renewed biennially, on or
21 before the anniversary date, by forwarding to the board a
22 renewal application accompanied by the renewal fee. Each
23 applicant for renewal for licensure shall be subject to a
24 criminal history check. Any license not renewed biennially on
25 or before the anniversary date shall expire.

1 "(b) Each licensee, upon application for renewal of
2 a license, shall do both of the following:

3 (1) ~~submit~~ Submit evidence of satisfactory
4 completion of the continuing education requirements contained
5 in Section 34-43-21.

6 "(2) Consent to a criminal history check. Refusal to
7 consent to a criminal history check constitutes grounds for
8 the board to deny the licensee's application for renewal of
9 the license.

10 "(c) Licenses are valid for two years from the date
11 of issuance. An individual whose license has expired and who
12 has ceased to practice massage therapy for a period of not
13 longer than five years may have his or her license reinstated
14 upon payment of a renewal fee and a late fee and submission of
15 a renewal application and evidence satisfactory to the board
16 that the applicant has fulfilled continuing education
17 requirements, passed a criminal history check pursuant to
18 rules adopted by the board, paid the criminal history check
19 fee, and passed the examination.

20 "(d) Subsequent to an official complaint, the board
21 may request a criminal background check of the licensee
22 through the district attorney of the circuit in which the
23 licensee is located.

24 "§34-43-14.

1 "(a) By rule, the board shall initially assess and
2 collect the following fees not to exceed:

3 "(1) One hundred sixty dollars (\$160) for the
4 examination.

5 "(2) One hundred dollars (\$100) for the initial
6 massage therapist license which shall be issued for one year.
7 The initial licensing fee shall be assessed in the month when
8 the applicant is notified that the license has been approved.

9 "(3) One hundred dollars (\$100) for all biennial
10 license renewals postmarked or received at the office of the
11 board by the date in which the license expires.

12 "(4) Twenty-five dollars (\$25) for the initial
13 application for licensure or the resubmission of the initial
14 application.

15 "(5) One hundred dollars (\$100) for the initial
16 establishment license.

17 "(6) Fifty dollars (\$50) for the biennial renewal of
18 the establishment license.

19 "(7) Fifty dollars (\$50) for the initial
20 registration as a massage therapy school in this state.

21 "(8) Ten dollars (\$10) to renew the registration as
22 a massage therapy school.

23 "(9) Ten dollars (\$10) to register as a massage
24 therapy instructor in this state. This is a one-time fee and
25 does not have to be renewed.

1 "(10) Seventy-five dollars (\$75) to reactivate an
2 inactive license.

3 "(11) Twenty-five dollars (\$25) shall be added to
4 all license fees not post-marked or received by the board
5 before the expiration date of the license.

6 "(12) Fifteen dollars (\$15) to verify a license.

7 "(13) Ten dollars (\$10) for a duplicate license
8 certificate or a name change on a license certificate. The
9 board may issue a duplicate certificate only after receiving a
10 sworn letter from the massage therapist that the original
11 certificate was lost, stolen, or destroyed. The records of the
12 board shall reflect that a duplicate certificate was issued.

13 "(14) A fee, set by the board, for the criminal
14 history check.

15 "(b) Necessary administrative fees may be charged by
16 the board, including, but not limited to, reasonable costs for
17 copying, labels, and lists. Examination and license fees may
18 be adjusted as the board shall deem appropriate.

19 "(c) There is hereby established a separate special
20 revenue trust fund in the State Treasury to be known as the
21 Alabama Board of Massage Therapy Fund. All receipts collected
22 by the board under the provisions of this chapter are to be
23 deposited in this fund and used only to carry out the
24 provisions of this chapter. Such receipts shall be disbursed
25 only by warrant of the state Comptroller, upon itemized

1 vouchers approved by the chair of the board; provided that no
2 funds shall be withdrawn except as budgeted and allotted
3 according to the provisions of Sections 41-4-80 to 41-4-96,
4 inclusive, 41-19-1, and 41-19-12, as amended, and only in
5 amounts as stipulated in the general appropriations bill or
6 other appropriations bills."

7 "§34-43-15.

8 "(a) Any person may file with the board a written
9 and signed complaint regarding an allegation of impropriety by
10 a licensee, establishment, or person. Complaints shall be made
11 in the manner prescribed by the board. Complaints received by
12 the board shall be referred to a standing investigative
13 committee consisting of a board member, the Executive
14 Director, the board attorney, and the board investigator. If
15 no probable cause is found, the investigative committee may
16 dismiss the charges and prepare a statement, in writing, of
17 the reasons for the decision.

18 "~~(a) The~~ (b) If probable cause is found, the board
19 shall initiate an administrative proceeding. Upon a finding
20 that the licensee has committed any of the following instances
21 of misconduct, the board may suspend, revoke, or refuse to
22 issue or renew a license or impose a civil penalty after
23 notice and opportunity for a hearing pursuant to the
24 Administrative Procedure Act, upon proof of any of the
25 following:

1 "(1) The license was obtained by means of fraud,
2 misrepresentation, or concealment of material facts, including
3 making a false statement on an application or any other
4 document required by the board for licensure.

5 "(2) The licensee sold or bartered or offered to
6 sell or barter a license for a massage therapist or a massage
7 therapy establishment.

8 "(3) The licensee has engaged in unprofessional
9 conduct that has endangered or is likely to endanger the
10 health, safety, and welfare of the public, as defined by the
11 rules of the board. As used in this subdivision,
12 unprofessional conduct includes, but is not limited to,
13 allowing any individual to remain in a massage therapy
14 establishment overnight.

15 "(4) The licensee has been convicted of a felony or
16 of any crime arising out of or connected with the practice of
17 massage therapy.

18 "(5) The licensee has violated or aided and abetted
19 in the violation of this chapter.

20 "(6) The licensee is adjudicated as mentally
21 incompetent by a court of law.

22 "(7) The licensee uses controlled substances or
23 habitually and excessively uses alcohol.

24 "(8) The licensee engaged in false, deceptive, or
25 misleading advertising.

1 "(9) The licensee engaged in or attempted to or
 2 offered to engage a client in sexual activity, including but
 3 not limited to genital contact, within the client-massage
 4 therapist relationship.

5 "(10) The licensee has knowingly allowed the massage
 6 therapy establishment to be used as an overnight sleeping
 7 accommodation.

8 ~~"(9)~~ (11) The licensee had a license revoked,
 9 suspended, or denied in any other territory or jurisdiction of
 10 the United States for any act described in this section.

11 "(c) (1) A person governed by this chapter who has a
 12 reasonable belief that another massage therapist has engaged
 13 in or attempted to or offered to engage a client in sexual
 14 activity, as provided in subdivision (9) of subsection (b),
 15 shall inform the board in writing within 30 calendar days from
 16 the date the person discovers this activity. Upon finding that
 17 a person has violated this subsection, the board may do any of
 18 the following:

19 "a. Impose an administrative fine of not more than
 20 ten thousand dollars (\$10,000).

21 "b. Suspend or revoke the person's license to
 22 practice massage therapy.

23 "(2) Upon a finding that a person has violated this
 24 subsection three or more times, the board shall impose a

1 mandatory license suspension for a period of no less than
2 three years and a fine of ten thousand dollars (\$10,000).

3 ~~"(b)~~ (d) Any person who has been convicted of, or
4 entered a plea of nolo contendere to, a crime or offense
5 involving prostitution or other sexual offenses is ineligible
6 to hold a license as a massage therapist for a period of at
7 least three years after the entry of the conviction or plea.
8 The board retains the right to revoke a license indefinitely
9 if the licensee is proven guilty of a crime or of sexual
10 misconduct. Reinstatement of licensure is contingent upon
11 proof of weekly counseling by a licensed professional
12 counselor.

13 ~~"(c)~~ (e) Any person who has been convicted of, or
14 entered a plea of nolo contendere to, an offense involving
15 prostitution or any other type of sexual offense may not
16 receive a license for a massage therapy establishment for a
17 period of three years after the date of conviction or entry of
18 the plea. The board shall revoke the establishment license of
19 any establishment which the board determines is a sexually
20 oriented business. The board may revoke an establishment
21 license if a person is convicted of, or enters a plea of nolo
22 contendere to, any crime involving prostitution or any other
23 sexual offense against a client which occurred on the premises
24 of the establishment.

1 "~~(d) (1)~~ (f) (1) Upon finding a person, governed by
2 this chapter, performing massage therapy without having
3 obtained a license, the board may do any of the following:

4 "a. Impose an administrative fine of not more than
5 ten thousand dollars (\$10,000).

6 "b. Issue a cease and desist order.

7 "c. Petition the circuit court of the county where
8 the act occurred to enforce the cease and desist order and
9 collect the assessed fine.

10 "(2) Any person aggrieved by any adverse action of
11 the board must appeal the action to the Circuit Court of
12 Montgomery County in accordance with the Alabama
13 Administrative Procedure Act.

14 "(g) The board shall present any incident of
15 misconduct to the local district attorney for review and
16 appropriate action.

17 "(h) The board may adopt rules to implement and
18 administer this section."

19 Section 12. 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

1 bill defines a new crime or amends the definition of an
2 existing crime.

3 Section 13. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 13-MAR-18, as amended.

Jeff Woodard
Clerk

Senate	27-MAR-18	Amended and Passed
House	28-MAR-18	Concurred in Senate Amendment