

Regular Session, 2014

HOUSE BILL NO. 1025

BY REPRESENTATIVES ABRAMSON, ADAMS, ANDERS, ARMES, ARNOLD, BADON, BARRAS, BARROW, BERTHELOT, BILLIOT, STUART BISHOP, WESLEY BISHOP, BROADWATER, BROSSETT, BROWN, BURFORD, HENRY BURNS, TIM BURNS, BURRELL, CARMODY, CARTER, CHAMPAGNE, CHANEY, CONNICK, COX, CROMER, DANAHAY, DIXON, DOVE, EDWARDS, FANNIN, FOIL, FRANKLIN, GAINES, GAROFALO, GEYMANN, GISCLAIR, GREENE, GUILLORY, GUINN, HARRIS, HARRISON, HAVARD, HAZEL, HENRY, HENSGENS, HILL, HODGES, HOFFMANN, HOLLIS, HONORE, HOWARD, HUNTER, HUVAL, IVEY, KATRINA JACKSON, JAMES, JEFFERSON, JOHNSON, JONES, KLECKLEY, LAMBERT, NANCY LANDRY, TERRY LANDRY, LEBAS, LEGER, LEOPOLD, LOPINTO, LORUSSO, MACK, MILLER, MONTOUCET, MORENO, JAY MORRIS, NORTON, ORTEGO, PEARSON, PIERRE, PONTI, POPE, PRICE, PUGH, PYLANT, REYNOLDS, RICHARD, RITCHIE, ROBIDEAUX, SCHEXNAYDER, SCHRODER, SEABAUGH, SHADOIN, SIMON, SMITH, ST. GERMAIN, STOKES, TALBOT, THIBAUT, THIERRY, THOMPSON, WHITNEY, PATRICK WILLIAMS, WILLMOTT, AND WOODRUFF AND SENATOR LONG

CRIMINAL/VICTIMS: Provides relative to human trafficking, trafficking of children for sexual purposes, and commercial sexual exploitation

1 AN ACT

2 To amend and reenact R.S. 14:46.2(A)(1), (C)(2), and (D), 46.3(A)(1), (C)(3), and (E),

3 81.1(B)(3), (4), (5), (6), (7), and (8), 81.3(A)(3) and (D), 82(G), 83.3(D), 83.4(C),

4 86(C), 89(C), and 89.2(D)(1), R.S. 15:539.1(A) and (E)(introductory paragraph),

5 539.2(B), 539.3(A)(introductory paragraph), 541(2)(o), (12)(b), (24)(a), and (25)(c)

6 through (n), and 1352(A)(introductory paragraph), R.S. 46:1802(10)(a), 1805(A),

7 1809(B)(4)(a), and 1844(W)(introductory paragraph), (1)(a) and (b), (2), and (3),

8 Code of Evidence Article 412(A), (B), (C)(1), and (E)(1), Code of Criminal

9 Procedure Articles 851 and 853, and Children's Code Articles 603(2)(b) and (c) and

10 725.2, to enact R.S. 14:46.2(C)(3) and (4) and (F), 81.1(B)(9), (10), and (11),

11 81.3(A)(4), 82.1(D)(4) and (F), 82.2, 83(B)(4), 83.1(B)(4), 83.2(B)(4), 84(B)(4),

12 85(B)(4), 89.2(D)(5), 104(B)(4), 105(B)(4), and 282(B)(4), R.S. 15:243, 541(2)(p)

1 and (q), 1308(A)(2)(s), and 1352(A)(52), (53), (54), (55), (56), (57), (58), (59), (60),  
2 (61), and (62), R.S. 40:2405.7, R.S. 46:1805(B)(3), 2161(C), and 2161.1, Code of  
3 Evidence Article 412.3, Code of Criminal Procedure Article 855.1, and Children's  
4 Code Articles 603(9.1) and 606(A)(7), and to repeal R.S. 15:541(25)(o), relative to  
5 human trafficking, trafficking of children for sexual purposes, and commercial  
6 sexual exploitation; to provide relative to the crimes of human trafficking and  
7 trafficking of children for sexual purposes; to provide relative to crimes involving  
8 the commercial sexual exploitation of persons; to create the crime of unlawful  
9 purchase of commercial sexual activity; to provide penalties for the offense; to  
10 require certain persons convicted of the offense to register and provide notification  
11 as a sex offender; to amend provisions relative to the registration and notification  
12 requirements for persons convicted of certain offenses involving commercial sexual  
13 exploitation; to clarify the definition of "coercion" relative to human trafficking,  
14 pornography involving juveniles, and computer-aided solicitation of a minor; to  
15 expand the definition of human trafficking and trafficking of children for sexual  
16 purposes; to provide relative to the confidentiality of victims of human trafficking-  
17 related offense; to provide relative to the admissibility of evidence of the past sexual  
18 behavior of a victim of human trafficking or trafficking of children for sexual  
19 purposes; to provide relative to statements made by a victim of human trafficking or  
20 trafficking of children for sexual purposes during the course of an investigation; to  
21 authorize victims of trafficking to file a motion for a new trial for certain offenses;  
22 to provide relative to a victim's access to and eligibility for services; to expand  
23 eligibility for services to certain child victims; to provide for a special effective date  
24 for such expansion; to require private service providers who contract with the state  
25 to provide annual reports on their operations; to provide relative to victims of  
26 trafficking referred to the Department of Children and Family Services; to expand  
27 the definition of "racketeering activity" to include certain offenses involving  
28 commercial sexual exploitation; to provide for an affirmative defense to prosecution  
29 for victims of human trafficking; to provide that such victims are eligible for

1 services; to expand the crime of computer-aided solicitation of a minor to include  
 2 soliciting the person to engage in commercial sexual activity; to clarify the definition  
 3 of "victim" for purposes of victim's reparations; to authorize the interception of wire,  
 4 electronic, or oral communications in investigations of offenses involving  
 5 commercial sexual exploitation; to provide relative to the forfeiture of assets used  
 6 in the commission of certain trafficking-related offenses; to provide relative to the  
 7 uses of monies deposited into the Exploited Children's Special Fund; to provide for  
 8 law enforcement training; to require mandatory restitution for persons convicted of  
 9 certain offenses involving commercial sexual exploitation; to authorize the  
 10 establishment of certain diversion programs; to provide relative to the monies  
 11 collected from such programs; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 14:46.2(A)(1), (C)(2), and (D), 46.3(A)(1), (C)(3), and (E),  
 14 81.1(B)(3), (4), (5), (6), (7), and (8), 81.3(A)(3) and (D), 82(G), 83.3(D), 83.4(C), 86(C),  
 15 89(C), and 89.2(D)(1) are hereby amended and reenacted and R.S. 14:46.2(C)(3) and (4) and  
 16 (F), 81.1(B)(9), (10), and (11), 81.3(A)(4), 82.1(D)(4) and (F), 82.2, 83(B)(4), 83.1(B)(4),  
 17 83.2(B)(4), 84(B)(4), 85(B)(4), 89.2(D)(5), 104(B)(4), 105(B)(4), and 282(B)(4) are hereby  
 18 enacted to read as follows:

19 §46.2. Human trafficking

20 A. It shall be unlawful:

21 (1) For any person to knowingly recruit, harbor, transport, provide, solicit,  
 22 receive, isolate, entice, obtain, or maintain the use of another person through fraud,  
 23 force, or coercion to provide services or labor.

24 \* \* \*

25 C. For purposes of this Section:

26 \* \* \*

27 (2) "Debt bondage" means inducing an individual to provide any of the  
 28 following:

1           (a) Commercial sexual activity in payment toward or satisfaction of a real  
2           or purported debt.

3           (b) Labor or services in payment toward or satisfaction of a real or purported  
4           debt if either of the following occur:

5           (i) The reasonable value of the labor or services provided is not applied  
6           toward the liquidation of the debt.

7           (ii) The length of the labor or services is not limited and the nature of the  
8           labor or services is not defined.

9           ~~(2)~~(3) "Fraud, force, or coercion" means shall include but not be limited to  
10          any of the following:

11          (a) Causing or threatening to cause serious bodily injury;

12          (b) Physically restraining or threatening to physically restrain another  
13          person;

14          (c) Abduction or threatened abduction of an individual.

15          (d) The use of a plan, pattern, or statement with intent to cause an individual  
16          to believe that failure to perform an act will result in the use of force against,  
17          abduction of, serious harm to, or physical restraint of an individual.

18          (e) The abuse or threatened abuse of law or legal process.

19          ~~(e)(f) Intentionally destroying, concealing, removing, confiscating, or~~  
20          ~~possessing~~ The actual or threatened destruction, concealment, removal, confiscation,  
21          or possession of any actual or purported passport or other immigration document, or  
22          any other actual or purported government identification document, of another person;  
23          or.

24          (g) Controlling or threatening to control an individual's access to a controlled  
25          dangerous substance as set forth in R.S. 40:961 et seq.

26          (h) The use of an individual's physical or mental impairment, where such  
27          impairment has substantial adverse effects on the individual's cognitive or volitional  
28          functions.

29          (i) The use of debt bondage or civil or criminal fraud.

1                   ~~(d)~~(j) Extortion as defined in R.S. 14:66.

2                   (4) "Labor or services" means activity having an economic value.

3                   D. It shall not be a defense to prosecution for a violation of this Section that  
4                   the person being recruited, harbored, transported, provided, solicited, received,  
5                   isolated, enticed, obtained, or maintained is actually a law enforcement officer or  
6                   peace officer acting within the official scope of his duties.

7   \*       \*       \*

8                   F.(1) A victim of trafficking involving services that include commercial  
9                   sexual activity or any sexual contact which constitutes a crime pursuant to the laws  
10                   of this state shall have an affirmative defense to prosecution for any of the following  
11                   offenses which were committed as a direct result of being trafficked:

12                   (a) R.S. 14:82 (Prostitution)

13                   (b) R.S. 14:83.3 (Prostitution by massage)

14                   (c) R.S. 14:83.4 (Massage; sexual conduct prohibited)

15                   (d) R.S. 14:89 (Crime against nature)

16                   (e) R.S. 14:89.2 (Crime against nature by solicitation)

17                   (2) Any person seeking to raise this affirmative defense shall provide written  
18                   notice to the state at least forty-five days prior to trial or at an earlier time as  
19                   otherwise required by the court.

20                   (3) Any person determined to be a victim pursuant to the provisions of this  
21                   Subsection shall be notified of any treatment or specialized services for sexually  
22                   exploited persons to the extent that such services are available.

23                   §46.3. Trafficking of children for sexual purposes

24                   A. It shall be unlawful:

25                   (1) For any person to knowingly recruit, harbor, transport, provide, sell,  
26                   purchase, receive, isolate, entice, obtain, or maintain the use of a person under the

1 age of eighteen years for the purpose of engaging in commercial sexual activity.

2 \* \* \*

3 C.

4 \* \* \*

5 (3) It shall not be a defense to prosecution for a violation of this Section that  
6 the person being recruited, harbored, transported, provided, sold, purchased,  
7 received, isolated, enticed, obtained, or maintained is actually a law enforcement  
8 officer or peace officer acting within the official scope of his duties.

9 \* \* \*

10 E. No victim of trafficking as ~~defined~~ provided by the provisions of this  
11 Section shall be prosecuted for unlawful acts committed as a direct result of being  
12 trafficked. Any child determined to be a victim pursuant to the provisions of this  
13 Subsection shall be eligible for specialized services for sexually exploited children.

14 \* \* \*

15 §81.1. Pornography involving juveniles

16 \* \* \*

17 B. For purposes of this Section, the following definitions shall apply:

18 \* \* \*

19 (3) "Coerce" shall include but not be limited to any of the following:

20 (a) Causing or threatening to cause serious bodily injury.

21 (b) Physically restraining or threatening to physically restrain another  
22 person.

23 (c) Abduction or threatened abduction of an individual.

24 (d) The use of a plan, pattern, or statement with intent to cause an individual  
25 to believe that failure to perform an act will result in the use of force against,  
26 abduction of, serious harm to, or physical restraint of an individual.

27 (e) The abuse or threatened abuse of law or legal process.

1           (f) The actual or threatened destruction, concealment, removal, confiscation,  
2           or possession of any actual or purported passport or other immigration document, or  
3           any other actual or purported government identification document, of another person.

4           (g) Controlling or threatening to control an individual's access to a controlled  
5           dangerous substance as set forth in R.S. 40:961 et seq.

6           (h) The use of an individual's physical or mental impairment, where such  
7           impairment has substantial adverse effects on the individual's cognitive or volitional  
8           functions.

9           (i) The use of debt bondage or civil or criminal fraud.

10          (j) Extortion as defined in R.S. 14:66.

11          (4) "Debt bondage" means inducing an individual to provide any of the  
12          following:

13           (a) Commercial sexual activity in payment toward or satisfaction of a real  
14           or purported debt.

15           (b) Labor or services in payment toward or satisfaction of a real or purported  
16           debt if either of the following occur:

17           (i) The reasonable value of the labor or services provided is not applied  
18           toward the liquidation of the debt.

19           (ii) The length of the labor or services is not limited and the nature of the  
20           labor or services is not defined.

21          ~~(3)~~(5) "Distribute" means to issue, sell, give, provide, lend, mail, deliver,  
22          transfer, transmute, distribute, circulate, or disseminate by any means.

23          ~~(4)~~(6) "Interactive computer service" means any information service, system,  
24          or access software provider that provides or enables computer access by multiple  
25          users to a computer server, including a service or system that provides access to the  
26          Internet and such systems operated or services offered by libraries or educational  
27          institutions.

28          (7) "Labor or services" mean activity having economic value.

1           ~~(5)~~(8) "Pornography involving juveniles" is any photograph, videotape, film,  
2 or other reproduction, whether electronic or otherwise, of any sexual performance  
3 involving a child under the age of seventeen.

4           ~~(6)~~(9) "Produce" means to photograph, videotape, film, or otherwise  
5 reproduce pornography involving juveniles, or to solicit, promote, or coerce any  
6 child for the purpose of pornography involving juveniles.

7           ~~(7)~~(10) "Sexual performance" means any performance or part thereof that  
8 includes actual or simulated sexual intercourse, deviate sexual intercourse, sexual  
9 bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals  
10 or anus.

11           ~~(8)~~(11) "Telecommunications service" means the offering of  
12 telecommunications for a fee directly to the public, regardless of the facilities used.

13   \*       \*       \*

14 §81.3. Computer-aided solicitation of a minor

15           A.

16   \*       \*       \*

17           (3) It shall also be a violation of the provisions of this Section when a person  
18 seventeen years of age or older knowingly contacts or communicates, through the  
19 use of electronic textual communication, with a person who has not yet attained the  
20 age of seventeen, or a person reasonably believed to have not yet attained the age of  
21 seventeen, for the purpose of recruiting, enticing, or coercing the person to engage  
22 in commercial sexual activity.

23           ~~(3)~~(4) It shall also be a violation of the provisions of this Section when the  
24 contact or communication is initially made through the use of electronic textual  
25 communication and subsequent communication is made through the use of any other  
26 form of communication.

27   \*       \*       \*



1 D. For purposes of this Section, the following words have the following  
2 meanings:

3 (1) "Coerce" shall include but not be limited to any of the following:

4 (a) Causing or threatening to cause serious bodily injury.

5 (b) Physically restraining or threatening to physically restrain another  
6 person.

7 (c) Abduction or threatened abduction of an individual.

8 (d) The use of a plan, pattern, or statement with intent to cause an individual  
9 to believe that failure to perform an act will result in the use of force against,  
10 abduction of, serious harm to, or physical restraint of an individual.

11 (e) The abuse or threatened abuse of law or legal process.

12 (f) The actual or threatened destruction, concealment, removal, confiscation,  
13 or possession of any actual or purported passport or other immigration document, or  
14 any other actual or purported government identification document, of another person.

15 (g) Controlling or threatening to control an individual's access to a controlled  
16 dangerous substance as set forth in R.S. 40:961 et seq.

17 (h) The use of an individual's physical or mental impairment, where such  
18 impairment has substantial adverse effects on the individual's cognitive or volitional  
19 functions.

20 (i) The use of debt bondage or civil or criminal fraud.

21 (j) Extortion as defined in R.S. 14:66.

22 (2) "Debt bondage" means inducing an individual to provide any of the  
23 following:

24 (a) Commercial sexual activity in payment toward or satisfaction of a real  
25 or purported debt.

26 (b) Labor or services in payment toward or satisfaction of a real or purported  
27 debt if either of the following occur:

28 (i) The reasonable value of the labor or services provided is not applied  
29 toward the liquidation of the debt.

1            (ii) The length of the labor or services is not limited and the nature of the  
2 labor or services is not defined.

3            ~~(1)~~(3) "Electronic textual communication" means a textual communication  
4 made through the use of a computer on-line service, Internet service, or any other  
5 means of electronic communication, including but not limited to a local bulletin  
6 board service, Internet chat room, electronic mail, or on-line messaging service.

7            (4) "Labor or services" means activity having economic value.

8            ~~(2)~~(5) "Sexual conduct" means actual or simulated sexual intercourse,  
9 deviant sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse,  
10 lewd exhibition of the genitals, or any lewd or lascivious act.

11   \*           \*           \*

12 §82. Prostitution; definition; penalties; enhancement

13   \*           \*           \*

14            G.(1) It shall be an affirmative defense to prosecution for a violation of this  
15 Section that, during the time of the alleged commission of the offense, the defendant  
16 was a victim of trafficking of children for sexual purposes as provided in R.S.  
17 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this  
18 Paragraph shall be eligible for specialized services for sexually exploited children.

19            (2) It shall be an affirmative defense to prosecution for a violation of this  
20 Section that, during the time of the alleged commission of the offense, the defendant  
21 is determined to be a victim of human trafficking pursuant to the provisions of R.S.  
22 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this  
23 Paragraph shall be notified of any treatment or specialized services for sexually  
24 exploited persons to the extent that such services are available.

25 §82.1. Prostitution; persons under eighteen; additional offenses

26   \*           \*           \*

27            D.

28   \*           \*           \*

1           (4)(a) In addition, the court shall order that the personal property used in the  
 2           commission of the offense shall be seized and impounded, and after conviction, sold  
 3           at public sale or public auction by the district attorney in accordance with R.S.  
 4           15:539.1.

5           (b) The personal property made subject to seizure and sale pursuant to  
 6           Subparagraph (a) of this Paragraph may include but shall not be limited to electronic  
 7           communication devices, computers, computer-related equipment, motor vehicles,  
 8           photographic equipment used to record or create still or moving visual images of the  
 9           victim that are recorded on paper, film, video tape, disc, or any other type of digital  
 10          recording media.

11   \*       \*       \*

12           F. Any person determined to be a victim of this offense shall be eligible for  
 13           specialized services for sexually exploited children.

14           §82.2. Purchase of commercial sexual activity; penalties

15           A. It shall be unlawful for any person to knowingly give, agree to give, or  
 16           offer to give anything of value to another in order to engage in sexual intercourse  
 17           with a person who receives or agrees to receive anything of value as compensation  
 18           for such activity.

19           B. For purposes of this Section, "sexual intercourse" means anal, oral, or  
 20           vaginal intercourse or any other sexual activity constituting a crime pursuant to the  
 21           laws of this state.

22           C.(1) Whoever violates the provisions of this Section shall be fined not more  
 23           than five hundred dollars or be imprisoned for not more than six months, or both.

24           (2) On a second conviction, the offender shall be fined not less than two  
 25           hundred fifty dollars nor more than two thousand dollars or be imprisoned, with or  
 26           without hard labor, for not more than two years, or both.

27           (3) On a third and subsequent conviction, the offender shall be imprisoned,  
 28           with or without hard labor, for not less than two nor more than four years and shall  
 29           be fined not less than five hundred dollars nor more than four thousand dollars.

1           (4) Whoever violates the provisions of this Section with a person the  
 2           offender knows to be under the age of eighteen years, or with a person the offender  
 3           knows to be a victim of human trafficking as defined by R.S. 14:46.2 or trafficking  
 4           of children for sexual purposes as defined by R.S. 14:46.3, shall be fined not more  
 5           than fifty thousand dollars, imprisoned at hard labor for not less than fifteen years  
 6           nor more than fifty years, or both.

7           (5) Whoever violates the provisions of this Section with a person the  
 8           offender knows to be under the age of fourteen years shall be fined not more than  
 9           seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-five  
 10          years nor more than fifty years, or both.

11          D.(1) Any child under the age of eighteen determined to be a victim of this  
 12          offense shall be eligible for specialized services for sexually exploited children.

13          (2) Any person, eighteen years of age or older, determined to be a victim of  
 14          this offense shall be notified of any treatment or specialized services for sexually  
 15          exploited persons to the extent that such services are available.

16          E. It shall not be a defense to prosecution for a violation of this Section that  
 17          the person who receives or agrees to receive anything of value is actually a law  
 18          enforcement officer or peace officer acting within the official scope of his duties.

19          §83. Soliciting for prostitutes

20                               \*       \*       \*

21          B.

22                               \*       \*       \*

23          (4)(a) In addition, the court shall order that the personal property used in the  
 24          commission of the offense shall be seized and impounded, and after conviction, sold  
 25          at public sale or public auction by the district attorney in accordance with R.S.  
 26          15:539.1.

27          (b) The personal property made subject to seizure and sale pursuant to  
 28          Subparagraph (a) of this Paragraph may include but shall not be limited to electronic  
 29          communication devices, computers, computer-related equipment, motor vehicles,

1 photographic equipment used to record or create still or moving visual images of the  
2 victim that are recorded on paper, film, video tape, disc, or any other type of digital  
3 recording media.

4 §83.1. Inciting prostitution

5 \* \* \*

6 B.

7 \* \* \*

8 (4)(a) In addition, the court shall order that the personal property used in the  
9 commission of the offense shall be seized and impounded, and after conviction, sold  
10 at public sale or public auction by the district attorney in accordance with R.S.  
11 15:539.1.

12 (b) The personal property made subject to seizure and sale pursuant to  
13 Subparagraph (a) of this Paragraph may include but shall not be limited to electronic  
14 communication devices, computers, computer-related equipment, motor vehicles,  
15 photographic equipment used to record or create still or moving visual images of the  
16 victim that are recorded on paper, film, video tape, disc, or any other type of digital  
17 recording media.

18 §83.2. Promoting prostitution

19 \* \* \*

20 B.

21 \* \* \*

22 (4)(a) In addition, the court shall order that the personal property used in the  
23 commission of the offense shall be seized and impounded, and after conviction, sold  
24 at public sale or public auction by the district attorney in accordance with R.S.  
25 15:539.1.

26 (b) The personal property made subject to seizure and sale pursuant to  
27 Subparagraph (a) of this Paragraph may include but shall not be limited to electronic  
28 communication devices, computers, computer-related equipment, motor vehicles,  
29 photographic equipment used to record or create still or moving visual images of the

1 victim that are recorded on paper, film, video tape, disc, or any other type of digital  
2 recording media.

3 §83.3. Prostitution by massage

4 \* \* \*

5 D.(1) It shall be an affirmative defense to prosecution for a violation of this  
6 Section that, during the time of the alleged commission of the offense, the defendant  
7 was a victim of trafficking of children for sexual purposes as provided in R.S.  
8 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this  
9 Paragraph shall be eligible for specialized services for sexually exploited children.

10 (2) It shall be an affirmative defense to prosecution for a violation of this  
11 Section that, during the time of the alleged commission of the offense, the defendant  
12 is determined to be a victim of human trafficking pursuant to the provisions of R.S.  
13 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this  
14 Paragraph shall be notified of any treatment or specialized services for sexually  
15 exploited persons to the extent that such services are available.

16 §83.4. Massage; sexual conduct prohibited

17 \* \* \*

18 C.(1) It shall be an affirmative defense to prosecution for a violation of this  
19 Section that, during the time of the alleged commission of the offense, the defendant  
20 was a victim of trafficking of children for sexual purposes as provided in R.S.  
21 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this  
22 Paragraph shall be eligible for specialized services for sexually exploited children.

23 (2) It shall be an affirmative defense to prosecution for a violation of this  
24 Section that, during the time of the alleged commission of the offense, the defendant  
25 is determined to be a victim of human trafficking pursuant to the provisions of R.S.  
26 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this  
27 Paragraph shall be notified of any treatment or specialized services for sexually  
28 exploited persons to the extent that such services are available.

1 §84. Pandering

2 \* \* \*

3 B.

4 \* \* \*

5 (4)(a) In addition, the court shall order that the personal property used in the  
6 commission of the offense shall be seized and impounded, and after conviction, sold  
7 at public sale or public auction by the district attorney in accordance with R.S.  
8 15:539.1.

9 (b) The personal property made subject to seizure and sale pursuant to  
10 Subparagraph (a) of this Paragraph may include but shall not be limited to electronic  
11 communication devices, computers, computer-related equipment, motor vehicles,  
12 photographic equipment used to record or create still or moving visual images of the  
13 victim that are recorded on paper, film, video tape, disc, or any other type of digital  
14 recording media.

15 §85. Letting premises for prostitution

16 \* \* \*

17 B.

18 \* \* \*

19 (4)(a) In addition, the court shall order that the personal property used in the  
20 commission of the offense shall be seized and impounded, and after conviction, sold  
21 at public sale or public auction by the district attorney in accordance with R.S.  
22 15:539.1.

23 (b) The personal property made subject to seizure and sale pursuant to  
24 Subparagraph (a) of this Paragraph may include but shall not be limited to electronic  
25 communication devices, computers, computer-related equipment, motor vehicles,  
26 photographic equipment used to record or create still or moving visual images of the  
27 victim that are recorded on paper, film, video tape, disc, or any other type of digital  
28 recording media.

1 §86. Enticing persons into prostitution

2 \* \* \*

3 C.(1) It shall not be a defense to prosecution for a violation of this Section  
4 that the person being enticed is actually a law enforcement officer or peace officer  
5 acting in his official capacity.

6 (2) It shall not be a defense to prosecution for a violation of this Section that  
7 the person being enticed consented to the activity.

8 \* \* \*

9 §89. Crime against nature

10 \* \* \*

11 C.(1) It shall be an affirmative defense to prosecution for a violation of this  
12 Section that, during the time of the alleged commission of the offense, the defendant  
13 was a victim of trafficking of children for sexual purposes as provided in R.S.  
14 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this  
15 Paragraph shall be eligible for specialized services for sexually exploited children.

16 (2) It shall be an affirmative defense to prosecution for a violation of this  
17 Section that, during the time of the alleged commission of the offense, the defendant  
18 is determined to be a victim of human trafficking pursuant to the provisions of R.S.  
19 14:46.2(F). Any person determined to be a victim pursuant to the provisions of this  
20 Paragraph shall be notified of any treatment or specialized services for sexually  
21 exploited persons to the extent that such services are available.

22 \* \* \*

23 §89.2. Crime against nature by solicitation

24 \* \* \*

25 D.(1) It shall be an affirmative defense to prosecution for a violation of this  
26 Section that, during the time of the alleged commission of the offense, the defendant  
27 was a victim of trafficking of children for sexual purposes as provided in R.S.



1           14:46.3(E). Any child determined to be a victim pursuant to the provisions of this  
 2           Paragraph shall be eligible for specialized services for sexually exploited children.

3   \*       \*       \*

4                         (5) It shall be an affirmative defense to prosecution for a violation of this  
 5           Section that, during the time of the alleged commission of the offense, the defendant  
 6           is determined to be a victim of human trafficking pursuant to the provisions of R.S.  
 7           14:46.2(F). Any person determined to be a victim pursuant to the provisions of this  
 8           Paragraph shall be notified of any treatment or specialized services for sexually  
 9           exploited persons to the extent that such services are available.

10   \*       \*       \*

11         §104. Keeping a disorderly place

12   \*       \*       \*

13                 B.

14   \*       \*       \*

15                         (4)(a) In addition, the court shall order that the personal property used in the  
 16           commission of the offense shall be seized and impounded, and after conviction, sold  
 17           at public sale or public auction by the district attorney in accordance with R.S.  
 18           15:539.1.

19                         (b) The personal property made subject to seizure and sale pursuant to  
 20           Subparagraph (a) of this Paragraph may include but shall not be limited to electronic  
 21           communication devices, computers, computer-related equipment, motor vehicles,  
 22           photographic equipment used to record or create still or moving visual images of the  
 23           victim that are recorded on paper, film, video tape, disc, or any other type of digital  
 24           recording media.

25         §105. Letting a disorderly place

26   \*       \*       \*

27                 B.

28   \*       \*       \*

1 (4)(a) In addition, the court shall order that the personal property used in the  
2 commission of the offense shall be seized and impounded, and after conviction, sold  
3 at public sale or public auction by the district attorney in accordance with R.S.  
4 15:539.1.

5 (b) The personal property made subject to seizure and sale pursuant to  
6 Subparagraph (a) of this Paragraph may include but shall not be limited to electronic  
7 communication devices, computers, computer-related equipment, motor vehicles,  
8 photographic equipment used to record or create still or moving visual images of the  
9 victim that are recorded on paper, film, video tape, disc, or any other type of digital  
10 recording media.

11 \* \* \*

12 §282. Operation of places of prostitution prohibited; penalty

13 \* \* \*

14 B.

15 \* \* \*

16 (4)(a) In addition, the court shall order that the personal property used in the  
17 commission of the offense shall be seized and impounded, and after conviction, sold  
18 at public sale or public auction by the district attorney in accordance with R.S.  
19 15:539.1.

20 (b) The personal property made subject to seizure and sale pursuant to  
21 Subparagraph (a) of this Paragraph may include but shall not be limited to electronic  
22 communication devices, computers, computer-related equipment, motor vehicles,  
23 photographic equipment used to record or create still or moving visual images of the  
24 victim that are recorded on paper, film, video tape, disc, or any other type of digital  
25 recording media.

26 Section 2. R.S. 15:539.1(A) and (E)(introductory paragraph), 539.2(B),  
27 539.3(A)(introductory paragraph), 541(2)(o), (12)(b), (24)(a), and (25)(c) through (n), and  
28 1352(A)(introductory paragraph) are hereby amended and reenacted and R.S. 15:243,

1 541(2)(p) and (q), 1308(A)(2)(s), and 1352(A)(52), (53), (54), (55), (56), (57), (58), (59),  
2 (60), (61), and (62) are hereby enacted to read as follows:

3 §243. Diversion program for defendants engaged in the purchase of sexual activity

4 A. The district attorney for each judicial district, alone or in conjunction with  
5 the district attorney of an adjacent judicial district, may create and administer a  
6 diversion program for defendants charged with an offense in which the defendant  
7 engaged in the purchase of sexual activity unless the offense involves the purchase  
8 of sexual activity from a minor.

9 B. At the discretion of the district attorney, after any costs associated with  
10 the administration of the program are paid, a portion of all monies collected pursuant  
11 to the provisions of this Section may be distributed to entities within their judicial  
12 district, or within the judicial districts participating in the program, that provide  
13 rehabilitative services and treatment to victims of offenses involving human  
14 trafficking and trafficking of children for sexual purposes.

15 \* \* \*

16 §539.1. Forfeited property related to certain sex crimes; exempt property; allocation  
17 of forfeited property

18 A. When personal property is forfeited under the provisions of R.S. 14:40.3  
19 (cyberstalking), R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of  
20 children for sexual purposes), R.S. 14:80 (felony carnal knowledge of a juvenile),  
21 R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (pornography involving  
22 juveniles), R.S. 14:81.2 (molestation of a juvenile or a person with a physical or  
23 mental disability), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S.  
24 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83  
25 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2  
26 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for  
27 prostitution), and R.S. 14:86 (enticing persons into prostitution), R.S. 14:104  
28 (keeping a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282  
29 (operation of places of prostitution; prohibited; penalty), the district attorney shall

1 authorize a public sale or a public auction conducted by a licensed auctioneer,  
2 without appraisal, of that which is not required by law to be destroyed and which is  
3 not harmful to the public.

4 \* \* \*

5 E. Notwithstanding Subsection D of this Section, when the property ~~to be~~ is  
6 forfeited ~~is related to human trafficking under~~ pursuant to the provisions of R.S.  
7 14:46.2 ~~or trafficking of children for sexual purposes under~~ (human trafficking), R.S.  
8 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography  
9 involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S.  
10 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83  
11 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2  
12 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for  
13 prostitution), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping  
14 a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282  
15 (operation of places of prostitution), the proceeds of the public sale or public auction  
16 shall be applied first to any restitution granted to the victim, after the costs of the  
17 public sale or auction, court costs, and fees related to seizure and storage have been  
18 satisfied. Any remaining proceeds shall be distributed in the following manner:

19 \* \* \*

20 §539.2. Exploited Children's Special Fund

21 \* \* \*

22 B.(1) There is established in the state treasury the Exploited Children's  
23 Special Fund, hereinafter referred to as the "fund". Appropriations by the legislature  
24 and all monetary assessments paid and interest accrued on funds collected pursuant  
25 to Subsection A of this Section shall be deposited into the Bond Security and  
26 Redemption Fund, and after a sufficient amount is allocated from the Bond Security  
27 and Redemption Fund to pay all the obligations secured by the full faith and credit  
28 of the state which become due and payable within any fiscal year, the treasurer shall  
29 pay the remainder of such monies into the fund.

1           (2)(a) Subject to appropriation by the legislature and except as provided in  
2           Subparagraph (b) of this Paragraph, monies in the fund shall be used for the  
3           provision of services and treatment administered by the Department of Children and  
4           Family Services, such as securing residential housing, health services, and social  
5           services, to sexually exploited children and adults. The department may also use the  
6           funds for grants or to provide services for sexually exploited children and adults.

7           (b) Subject to appropriation by the legislature and notwithstanding the  
8           provisions of Subparagraph (a) of this Paragraph, a portion of the monies in the fund,  
9           not to exceed fifty percent, may be used for the development of training programs  
10           relative to human trafficking and trafficking of children for sexual purposes and for  
11           the providing of law enforcement training programs administered by the Council of  
12           Peace Officer Standards and Training within the Louisiana Commission on Law  
13           Enforcement and the Administration of Criminal Justice.

14       §539.3. Mandatory restitution

15           A. A person convicted of a violation of R.S. 14:46.2 (human trafficking), ~~or~~  
16           R.S. 14:46.3 (trafficking of children for sexual purposes), R.S. 14:81.1 (pornography  
17           involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S.  
18           14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83  
19           (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2  
20           (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:86 (enticing persons into  
21           prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a  
22           disorderly place), and R.S. 14:282 (operation of places of prostitution) shall be  
23           ordered to pay mandatory restitution to the victim, with the proceeds from property  
24           forfeited under R.S. 15:539.1 applied first to payment of restitution, after the costs  
25           of the public sale or auction, court costs, and fees related to seizure and storage have  
26           been satisfied. Restitution under this Section shall include any of the following:

27                                   \*       \*       \*

1 §541. Definitions

2 For the purposes of this Chapter, the definitions of terms in this Section shall  
3 apply:

4 \* \* \*

5 (2) "Aggravated offense" means a conviction for the perpetration or  
6 attempted perpetration of, or conspiracy to commit, any of the following:

7 \* \* \*

8 (o) Human trafficking (R.S. 14:46.2) when the trafficking involves a person  
9 under the age of eighteen years or when the services include commercial sexual  
10 activity or any sexual conduct constituting a crime under the laws of this state.

11 (p) Purchase of commercial sexual activity with a person under the age of  
12 eighteen years or with a victim of human trafficking (R.S. 14:82.2(C)(4) and (5)).

13 ~~(q)~~ Any offense under the laws of another state, or military, territorial,  
14 foreign, tribal, or federal law which is equivalent to the offenses listed in  
15 Subparagraphs (a) through ~~(p)~~ of this Paragraph.

16 \* \* \*

17 (12) "Criminal offense against a victim who is a minor" for the purposes of  
18 this Chapter means conviction for the perpetration or attempted perpetration of or  
19 conspiracy to commit any of the following offenses:

20 \* \* \*

21 (b) A violation of any of the following provisions when the victim is under  
22 eighteen years of age: R.S. 14:46.2, ~~82.1~~, 84(1), (3), (5), or (6), or 86, or R.S.  
23 23:251(A)(4).

24 \* \* \*

25 (24)(a) "Sex offense" means deferred adjudication, adjudication withheld,  
26 or conviction for the perpetration or attempted perpetration of or conspiracy to  
27 commit human trafficking when prosecuted under the provisions of R.S.  
28 14:46.2(B)(2) ~~or (3)~~, R.S. 14:46.3 (trafficking of children for sexual purposes), R.S.  
29 14:78 (incest), R.S. 14:78.1 (aggravated incest), R.S. 14:89 (crime against nature),  
30 R.S. 14:89.1 (aggravated crime against nature), R.S. 14:89.2(B)(3) (crime against

1 nature by solicitation), R.S. 14:80 (felony carnal knowledge of a juvenile), R.S.  
 2 14:81 (indecent behavior with juveniles), R.S.14:81.1 (pornography involving  
 3 juveniles), R.S. 14:81.2 (molestation of a juvenile or a person with a physical or  
 4 mental disability), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S.  
 5 14:81.4 (prohibited sexual conduct between an educator and student), R.S. 14:82.1  
 6 (prostitution; persons under eighteen), R.S. 14:82.2(C)(4) and (5) (purchase of  
 7 commercial sexual activity), R.S. 14:92(A)(7) (contributing to the delinquency of  
 8 juveniles), R.S. 14:93.5 (sexual battery of the infirm), R.S. 14:106(A)(5) (obscenity  
 9 by solicitation of a person under the age of seventeen), R.S. 14:283 (video  
 10 voyeurism), R.S. 14:41 (rape), R.S. 14:42 (aggravated rape), R.S. 14:42.1 (forcible  
 11 rape), R.S. 14:43 (simple rape), R.S. 14:43.1 (sexual battery), R.S. 14:43.2 (second  
 12 degree sexual battery), R.S. 14:43.3 (oral sexual battery), R.S. 14:43.5 (intentional  
 13 exposure to AIDS virus), or a second or subsequent conviction of R.S. 14:283.1  
 14 (voyeurism), committed on or after June 18, 1992, or committed prior to June 18,  
 15 1992, if the person, as a result of the offense, is under the custody of the Department  
 16 of Public Safety and Corrections on or after June 18, 1992. A conviction for any  
 17 offense provided in this definition includes a conviction for the offense under the  
 18 laws of another state, or military, territorial, foreign, tribal, or federal law which is  
 19 equivalent to an offense provided for in this Chapter, unless the tribal court or  
 20 foreign conviction was not obtained with sufficient safeguards for fundamental  
 21 fairness and due process for the accused as provided by the federal guidelines  
 22 adopted pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

\* \* \*

24 (25) "Sexual offense against a victim who is a minor" means a conviction for  
 25 the perpetration or attempted perpetration of, or conspiracy to commit, any of the  
 26 following:

\* \* \*

28 ~~(c) Human trafficking when prosecuted under the provisions of R.S.~~  
 29 ~~14:46.2(B)(3).~~

1                 ~~(d)~~(c) Aggravated incest (R.S. 14:78.1) under the circumstances not listed  
2 as those which constitute an "aggravated offense" as defined in this Section.

3                 ~~(e)~~(d) Pornography involving juveniles (R.S. 14:81.1).

4                 ~~(f)~~(e) Molestation of a juvenile or a person with a physical or mental  
5 disability (R.S. 14:81.2), except when prosecuted under the provisions of R.S.  
6 14:81.2(C)(1), (D)(1), or (D)(2).

7                 ~~(g)~~(f) Computer-aided solicitation of a minor (R.S. 14:81.3).

8                 ~~(h)~~(g) Prostitution; persons under seventeen (R.S. 14:82.1).

9                 ~~(i)~~(h) Enticing minors into prostitution (R.S. 14:86).

10                ~~(j)~~(i) Pandering in violation of R.S. 14:84(1), (3), (5), and (6).

11                ~~(k)~~(j) Soliciting for prostitutes when the persons being solicited for  
12 prostitution are under the age of eighteen years (R.S. 14:83).

13                ~~(l)~~(k) Inciting prostitution when the prostitution involves persons under the  
14 age of eighteen years (R.S. 14:83.1).

15                ~~(m)~~(l) Promoting prostitution when the prostitution being promoted involves  
16 persons under the age of eighteen years (R.S. 14:83.2).

17                ~~(n)~~(m) Operation of places of prostitution when the prostitution involves  
18 persons under the age of eighteen years (R.S. 14:282).

19                ~~(o)~~(n) Any conviction for an offense under the laws of another state, or  
20 military, territorial, foreign, tribal, or federal law which is equivalent to the offenses  
21 listed in Subparagraphs (a) through ~~(n)~~(m) of this Paragraph.

22   \*             \*             \*

23 §1308. Authorization for interception of wire, electronic, or oral communications

24                A. The attorney general, or the deputy or any assistant attorney general  
25 acting pursuant to the authorization of the attorney general, with the approval of the  
26 district attorney or any assistant district attorney acting pursuant to the written  
27 authorization of the district attorney in whose district the interception of wire,  
28 electronic, or oral communications shall take place, and the district attorney or  
29 authorized assistant district attorney, with the approval of the attorney general or



1 authorized deputy or assistant attorney general may authorize an application to a  
2 judge in whose district the interception of wire, electronic, or oral communications  
3 shall take place, and such judge may grant in conformity with R.S. 15:1310 an order  
4 authorizing or approving the interception of wire, electronic, or oral communications  
5 by an investigative or law enforcement officer having responsibility for the  
6 investigation of the offense as to which the application is made, when such  
7 interception may provide or has provided evidence of:

8 \* \* \*

9 (2) The commission, attempted commission, or conspiracy to commit a  
10 crime involving any of the following offenses:

11 \* \* \*

12 (s) Commercial sexual exploitation of children including R.S. 14:81.1, 81.3,  
13 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

14 \* \* \*

15 §1352. Definitions

16 ~~As used in this Chapter:~~

17 A. ~~"Racketeering~~ As used in this Chapter, "racketeering activity" means  
18 committing, attempting to commit, conspiring to commit, or soliciting, coercing, or  
19 intimidating another person to commit any crime that is punishable under the  
20 following provisions of Title 14 of the Louisiana Revised Statutes of 1950, the  
21 Uniform Controlled Dangerous Substances Law, or the Louisiana Securities Law:

22 \* \* \*

23 (52) R.S. 14:81.1 (Pornography involving juveniles)

24 (53) R.S. 14:81.3 (Computer-aided solicitation of a minor)

25 (54) R.S. 14:82.1 (Prostitution; persons under eighteen; additional offenses)

26 (55) R.S. 14:83 (Soliciting for prostitutes)

27 (56) R.S. 14:83.1 (Inciting prostitution)

28 (57) R.S. 14:83.2 (Promoting prostitution)

29 (58) R.S. 14:85 (Letting premises for prostitution)

1                   (59) R.S. 14:86 (Enticing persons into prostitution)

2                   (60) R.S. 14:104 (Keeping a disorderly place)

3                   (61) R.S. 14:105 (Letting a disorderly place)

4                   (62) R.S. 14:282 (Operation of places of prostitution; prohibited; penalty)

5   \*       \*       \*

6           Section 3. R.S. 40:2405.7 is hereby enacted to read as follows:

7           §2405.7. Human trafficking training

8                   A. The council shall provide training for law enforcement agencies in  
9                   addressing human trafficking.

10                   B. Such training shall focus on all of the following:

11                           (1) Investigating human trafficking under R.S. 14:46.2.

12                           (2) Investigating trafficking of children for sexual purposes under R.S.  
13                   14:46.3 and the special needs of sexually exploited children.

14                           (3) Methods used in identifying United States citizens and foreign national  
15                   victims of human trafficking, including preliminary interview techniques and  
16                   appropriate questioning methods.

17                           (4) Methods of increasing effective collaboration with nongovernmental  
18                   organizations and other relevant social service organizations in the course of  
19                   investigating and prosecuting a human trafficking case.

20                           (5) Methods for protecting the rights of victims of human trafficking, taking  
21                   into account the need to consider human rights and the special needs of female and  
22                   child victims.

23                           (6) The necessity of treating victims of human trafficking as crime victims  
24                   rather than criminals.

25                           (7) Methods for promoting the safety of victims of human trafficking.

26                   C. The council shall seek input and participation of appropriate  
27                   nongovernmental organizations and other relevant organizations in the preparation  
28                   and presentation of training called for in this Section.

1 Section 4. R.S. 46:1802(10)(a), 1805(A), 1809(B)(4)(a), and 1844(W)(introductory  
2 paragraph), (1)(a) and (b), (2), and (3) are hereby amended and reenacted and R.S.  
3 46:1805(B)(3), 2161(C), and 2161.1 are hereby enacted to read as follows:

4 §1802. Definitions

5 As used in this Chapter:

6 \* \* \*

7 (10) "Victim" means:

8 (a) Any person who suffers personal injury, death, or catastrophic property  
9 loss as a result of a crime committed in this state and covered by this Chapter. This  
10 includes any person who is a victim of human trafficking as defined by R.S. 14:46.2,  
11 a victim of trafficking of children for sexual purposes as defined by R.S. 14:46.3, or  
12 a victim of any offense involving commercial sexual exploitation including but not  
13 limited to R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86,  
14 89.2, 104, 105, and 282.

15 \* \* \*

16 §1805. Crimes to which Chapter applies

17 A. The board may make an award and order the payment of reparations for  
18 pecuniary loss in accordance with the provisions of this Chapter for personal injury,  
19 death, or catastrophic property loss resulting from any act or omission to act that is  
20 defined as a misdemeanor under any local ordinance or as a crime under state or  
21 federal law and involves the use of force or the threat of the use of force or any  
22 human trafficking-related offense.

23 B.

24 \* \* \*

25 (3) "Human trafficking-related offense" shall include the perpetration or  
26 attempted perpetration of R.S. 14:46.2 or 46.3 or any other crime involving  
27 commercial exploitation including R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1, 83.2,  
28 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

29 \* \* \*

1 §1809. Criteria for making awards; prohibitions; authority to deny or reduce awards

2 \* \* \*

3 B. In making its determination, the following provisions shall apply:

4 \* \* \*

5 (4) The board may deny or reduce an award:

6 (a) If it finds that the behavior of the victim at the time of the crime giving  
7 rise to the claim was such that the victim bears some measure of responsibility for  
8 the crime that caused the physical injury, death, or catastrophic property loss or for  
9 the physical injury, death, or catastrophic property loss. However, such ineligibility  
10 shall not apply if the claimant is a victim of ~~human trafficking or trafficking of~~  
11 ~~children for sexual purposes~~ a human trafficking-related offense as defined by R.S.  
12 46:1805.

13 \* \* \*

14 §1844. Basic rights for victim and witness

15 \* \* \*

16 W. Confidentiality of crime victims who are minors, ~~and~~ victims of sex  
17 ~~offenses, and victims of human trafficking-related offenses.~~

18 (1)(a) In order to protect the identity and provide for the safety and welfare  
19 of crime victims who are minors under the age of eighteen years and of victims of  
20 sex offenses or human trafficking-related offenses, notwithstanding any provision  
21 of law to the contrary, all public officials and officers and public agencies, including  
22 but not limited to all law enforcement agencies, sheriffs, district attorneys, judicial  
23 officers, clerks of court, the Crime Victims Reparations Board, and the Department  
24 of Children and Family Services or any division thereof, shall not publicly disclose  
25 the name, address, or identity of crime victims who at the time of the commission of  
26 the offense are minors under eighteen years of age or of victims of sex offenses or  
27 human trafficking-related offenses, regardless of the date of commission of the  
28 offense. The confidentiality of the identity of the victim who at the time of the  
29 commission of the offense is a minor under eighteen years of age or the victim of a

1 sex offense or human trafficking-related offense may be waived by the victim. The  
2 public disclosure of the name of the juvenile crime victim by any public official or  
3 officer or public agency is not prohibited by this Subsection when the crime resulted  
4 in the death of the victim.

5 (b) In order to protect the identity and provide for the safety and welfare of  
6 crime victims who are minors under the age of eighteen years and of victims of sex  
7 offenses or human trafficking-related offenses, notwithstanding any provision of law  
8 to the contrary, an attorney for any party shall be prohibited from publicly disclosing,  
9 except during trial, the name, address, or identity of crime victims who at the time  
10 of the commission of the offense are under eighteen years of age or are victims of  
11 sex offenses or human trafficking-related offenses, regardless of the date of  
12 commission of the offense. An attorney may lawfully utilize initials, abbreviations,  
13 or other forms of indefinite descriptions on documents used in the performance of  
14 their duties to prevent the public disclosure of the name, address, or identity of such  
15 crime victims. If the name, address, or identity of such a crime victim must be  
16 disclosed in a motion or pleading, that motion or pleading shall be filed with the  
17 court requesting that it be kept under seal. Failure to comply with the provisions of  
18 this Subparagraph shall be punishable as contempt of court.

19 \* \* \*

20 (2) For purposes of this ~~Section~~, "sex Section:

21 (a) "Human trafficking-related offense" shall include the perpetration or  
22 attempted perpetration of R.S. 14:46.2 or 46.3 or any other crime involving  
23 commercial sexual exploitation including R.S. 14:81.1, 81.3, 82, 82.1, 82.2, 83, 83.1,  
24 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

25 (b) "Sex offense" shall include the perpetration or attempted perpetration of  
26 stalking (R.S. 14:40.2), misdemeanor carnal knowledge of a juvenile (R.S. 14:80.1),  
27 obscenity (R.S. 14:106), or any offense listed in R.S. 15:541(24).

28 (3) Notwithstanding any other provision of law to the contrary, all public  
29 officials, officers, and public agencies, including but not limited to all law

1 enforcement agencies, sheriffs, district attorneys, judicial officers, clerks of court,  
 2 the Crime Victims Reparations Board, and the Department of Children and Family  
 3 Services or any division thereof, charged with the responsibility of knowing the  
 4 name, address, and identity of crime victims who are minors or of crime victims of  
 5 a sex offense or a human trafficking-related offense as a necessary part of their  
 6 duties shall have full and complete access to this information regarding a crime  
 7 victim who is a minor or a victim of a sex offense or a human trafficking-related  
 8 offense. Either prior to or at the time of a request for information, the public official  
 9 or officer or public agency shall take measures to prevent the public disclosure of the  
 10 name, address, or identity of such a crime victim who is a minor or a victim of a sex  
 11 offense or human trafficking-related offense, which may include the use of initials,  
 12 abbreviations, or any other form of concealing the identity of the victim on all public  
 13 documents.

14 \* \* \*

15 §2161. Human trafficking victims services plan

16 \* \* \*

17 C. Each private entity that provides services to victims pursuant to the  
 18 provisions of this Section shall submit to the Department of Children and Family  
 19 Services an annual report on their operations including information on the services  
 20 offered, geographic areas served, the number of persons served, and individual status  
 21 updates on each person served. This information shall not include the name, address,  
 22 or other identifying information of the person served. The Department of Children  
 23 and Family Services shall compile the data from all the reports submitted pursuant  
 24 to the provisions of this Subsection and shall provide this information to the  
 25 legislature on or before the first day of February each year.

26 §2161.1. Human trafficking victims services plan; adults

27 A. With respect to persons referred to the Department of Children and  
 28 Family Services who are eighteen years of age or older and who are found to be  
 29 victims of human trafficking in which the services include commercial sexual

1 activity or any sexual conduct constituting a crime under the laws of this state, the  
2 department shall refer the person to the appropriate department, agency, or entity to  
3 provide the person with the following:

4 (1) Assist the victim in applying for federal and state benefits and services  
5 to which the victim may be entitled.

6 (2) Coordinate the delivery of health, mental health, housing, education, job  
7 training, child care, victims' compensation, legal, and other services available to  
8 victims of human or sex trafficking.

9 (3) Refer the victim to the appropriate community-based services to the  
10 extent that such services are available.

11 (4) Assist the victim with family reunification or returning to the victim's  
12 place of origin, if the victim so desires.

13 B. In coordinating these services for the victim, the department shall work  
14 together with such other state and federal agencies, public and private entities, and  
15 other stakeholders as they deem appropriate.

16 C. Each private entity that provides services to victims pursuant to the  
17 provisions of this Section shall submit to the Department of Children and Family  
18 Services an annual report on their operations including information on the services  
19 offered, geographic areas served, the number of persons served, and individual status  
20 updates on each person served. This information shall not include the name, address,  
21 or other identifying information of the person served. The Department of Children  
22 and Family Services shall compile the data from all the reports submitted pursuant  
23 to the provisions of this Subsection and shall provide this information to the  
24 legislature on or before the first day of February each year.

25 Section 5. Code of Evidence Article 412(A), (B), (C)(1), and (E)(1) are hereby  
26 amended and reenacted and Code of Evidence Article 412.3 is hereby enacted to read as  
27 follows:

1 Art. 412. Victim's past sexual behavior in sexual assault cases; trafficking offenses

2 A.(1) Opinion and reputation evidence; sexual assault cases. When an  
3 accused is charged with a crime involving sexually assaultive behavior, reputation  
4 or opinion evidence of the past sexual behavior of the victim is not admissible.

5 ~~B.~~(2) Other evidence; exceptions. When an accused is charged with a crime  
6 involving sexually assaultive behavior, evidence of specific instances of the victim's  
7 past sexual behavior is also not admissible except for:

8 ~~(1)~~(a) Evidence of past sexual behavior with persons other than the accused,  
9 upon the issue of whether or not the accused was the source of semen or injury;  
10 provided that such evidence is limited to a period not to exceed seventy-two hours  
11 prior to the time of the offense, and further provided that the jury be instructed at the  
12 time and in its final charge regarding the limited purpose for which the evidence is  
13 admitted; or

14 ~~(2)~~(b) Evidence of past sexual behavior with the accused offered by the  
15 accused upon the issue of whether or not the victim consented to the sexually  
16 assaultive behavior.

17 B.(1) Opinion and reputation evidence; trafficking. When an accused is  
18 charged with a crime involving human trafficking or trafficking of children for  
19 sexual purposes, reputation or opinion evidence of the past sexual behavior of the  
20 victim is not admissible.

21 (2) Evidence of specific instances of the victim's past sexual behavior is not  
22 admissible unless the evidence is offered by the prosecution in a criminal case to  
23 prove a pattern of trafficking activity by the defendant.

24 C. Motion. (1) Before the person, accused of committing a crime that  
25 involves sexually assaultive behavior, human trafficking, or trafficking of children  
26 for sexual purposes, may offer under ~~Paragraph B~~ Subparagraph (A)(2) or (B)(2) of  
27 this Article evidence of specific instances of the victim's past sexual behavior, the  
28 accused shall make a written motion in camera to offer such evidence. The motion



1 shall be accompanied by a written statement of evidence setting forth the names and  
2 addresses of persons to be called as witnesses.

3 \* \* \*

4 E. Hearing. (1) If the court determines that the statement of evidence  
5 contains evidence described in ~~Paragraph B~~ Subparagraph (A)(2) or (B)(2), the court  
6 shall order a hearing which shall be closed to determine if such evidence is  
7 admissible. At such hearing the parties may call witnesses.

8 \* \* \*

9 Art. 412.3. Statements made by victims of trafficking during investigations

10 If a victim of human trafficking or trafficking of children for sexual purposes  
11 is also a defendant in any case arising from unlawful acts committed as part of the  
12 same trafficking activity, any inculpatory statement made by the victim as a result  
13 of questioning by any person then known by the victim to be a law enforcement  
14 officer is inadmissible against the victim, except pursuant to Article 801 of this Code  
15 or in any prosecution of the victim for perjury, at a trial of the victim for the  
16 unlawful acts committed by the victim as part of the same trafficking activity if all  
17 of the following conditions exist:

18 (1) The victim cooperates with the investigation and prosecution, including  
19 the giving of a use-immunity statement as directed by the prosecuting attorney.

20 (2) The victim testifies truthfully at any hearing or trial related to the  
21 trafficking activity, or agrees, either in writing or on the record, to testify truthfully  
22 at any hearing or trial related to the trafficking activity in any prosecution of any  
23 other person charged with an offense arising from the same trafficking activity,  
24 regardless of whether the testimony is unnecessary due to entry of a plea by the other  
25 person.

26 (3) The victim has agreed in writing to receive services or participate in a  
27 program that provides services to victims of human trafficking or trafficking of  
28 children for sexual purposes, if such services are available.

1 Section 6. Code of Criminal Procedure Articles 851 and 853 are hereby amended  
2 and reenacted and Code of Criminal Procedure Article 855.1 is hereby enacted to read as  
3 follows:

4 Art. 851. Grounds for new trial

5 A. The motion for a new trial is based on the supposition that injustice has  
6 been done the defendant, and, unless such is shown to have been the case the motion  
7 shall be denied, no matter upon what allegations it is grounded.

8 B. The court, on motion of the defendant, shall grant a new trial whenever  
9 any of the following occur:

10 (1) The verdict is contrary to the law and the evidence;~~;~~

11 (2) The court's ruling on a written motion, or an objection made during the  
12 proceedings, shows prejudicial error;~~;~~

13 (3) New and material evidence that, notwithstanding the exercise of  
14 reasonable diligence by the defendant, was not discovered before or during the trial,  
15 is available, and if the evidence had been introduced at the trial it would probably  
16 have changed the verdict or judgment of guilty;~~;~~

17 (4) The defendant has discovered, since the verdict or judgment of guilty, a  
18 prejudicial error or defect in the proceedings that, notwithstanding the exercise of  
19 reasonable diligence by the defendant, was not discovered before the verdict or  
20 judgment;~~or,~~

21 (5) The court is of the opinion that the ends of justice would be served by the  
22 granting of a new trial, although the defendant may not be entitled to a new trial as  
23 a matter of strict legal right.

24 (6) The defendant is a victim of human trafficking or trafficking of children  
25 for sexual purposes and the acts for which the defendant was convicted were  
26 committed by the defendant as a direct result of being a victim of the trafficking  
27 activity.

28 \* \* \*

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Art. 853. Time for filing motion for new trial

2 A. ~~A~~ Except as otherwise provided by this Article, a motion for a new trial  
3 must be filed and disposed of before sentence. The court, on motion of the defendant  
4 and for good cause shown, may postpone the imposition of sentence for a specified  
5 period in order to give the defendant additional time to prepare and file a motion for  
6 a new trial.

7 B. When the motion for a new trial is based on ~~ground (3) of Article 851~~  
8 Article 851(B)(3), the motion may be filed within one year after verdict or judgment  
9 of the trial court, although a sentence has been imposed or a motion for a new trial  
10 has been previously filed; ~~but.~~ However, if an appeal is pending, the court may hear  
11 the motion only on remand of the case.

12 C. When the motion for a new trial is based on Article 851(B)(6), the motion  
13 may be filed within three years after the verdict or judgment of the trial court,  
14 although a sentence has been imposed or a motion for new trial has been previously  
15 filed. However, if an appeal is pending, the court may hear the motion only on  
16 remand of the case.

17 \* \* \*

18 Art. 855.1. Conviction based on acts committed as a victim of trafficking

19 A motion for new trial based on Article 851(B)(6) shall be available only to  
20 persons convicted of violating R.S. 14:82, 83.3, 83.4, 89, or 89.2 prior to August 1,  
21 2014, and shall contain allegations of fact sworn to by the defendant or counsel of  
22 the defendant, showing that the defendant was convicted of the offense which was  
23 committed as a direct result of being a victim of human trafficking or trafficking of  
24 children for sexual purposes, or a victim of an offense which would constitute human  
25 trafficking or trafficking of children for sexual purposes regardless of the date of  
26 conviction. The motion shall provide information showing a rational and causal  
27 connection between the acts for which the defendant was convicted and the acts upon  
28 which the defendant bases his status as a victim.

1 Section 7. Children's Code Articles 603(2)(b) and (c) and 725.2 are hereby amended  
2 and reenacted and Children's Code Article 603(9.1) is hereby enacted to read as follows:

3 Art. 603. Definitions

4 As used in this Title:

5 \* \* \*

6 (2) "Abuse" means any one of the following acts which seriously endanger  
7 the physical, mental, or emotional health and safety of the child:

8 \* \* \*

9 (b) The exploitation or overwork of a child by a parent or any other person,  
10 including but not limited to commercial sexual exploitation of the child.

11 (c) The involvement of the child in any sexual act with a parent or any other  
12 person, or the aiding or toleration by the parent, ~~or the caretaker,~~ or any other person  
13 of the child's sexual involvement in any of the following:

14 (i) Any sexual act with any other person, ~~or of the child's involvement in~~  
15 ~~pornographic~~

16 (ii) Pornographic displays, ~~or any other involvement of a child in,~~

17 (iii) Any sexual activity constituting a crime under the laws of this state.

18 \* \* \*

19 (9.1) "Commercial sexual exploitation" means involvement of the child  
20 activity prohibited by the following statutes: R.S. 14:46.2, 46.3, 81.1, 81.3, 82, 82.1,  
21 82.2, 83, 83.1, 83.2, 83.3, 83.4, 84, 85, 86, 89.2, 104, 105, and 282.

22 \* \* \*

23 Art. 725.2. Safe house for sexually exploited children

24 A. The department may, to the extent funds are available, operate or contract  
25 with an appropriate nongovernmental agency with experience working with sexually  
26 exploited children to operate one or more safe houses in a geographically appropriate  
27 area of the state. Each safe house shall provide safe and secure housing and  
28 specialized services for sexually exploited children. Nothing in this Article shall be  
29 construed to preclude an agency from applying for and accepting grants, gifts, and

1           bequests for funds from private individuals, foundations, and the federal government  
2           for the purpose of creating or carrying out the duties of a safe house for sexually  
3           exploited children.

4                     B. Each safe house operating under a contract with the department to provide  
5                     services to sexually exploited children pursuant to the provisions of this Article shall  
6                     submit to the department an annual report on their operations including information  
7                     on the services offered, geographic areas served, number of children served, and  
8                     individual status updates on each child served. This information shall not include  
9                     the name, address, or other identifying information of the child served. The  
10                    department shall compile the data from all the reports submitted by each safe house  
11                    pursuant to the provisions of this Article and shall provide this information in an  
12                    annual report to the legislature on or before the first day of February each year.

13           Section 8. Children's Code Article 606(A)(7) is hereby enacted to read as follows:

14           Art. 606. Grounds; child in need of care

15                     A. Allegations that a child is in need of care must assert one or more of the  
16                     following grounds:

17   \*           \*           \*

18                     (7) The child is a victim of commercial sexual exploitation, human  
19                     trafficking, or trafficking of children for sexual purposes perpetrated by any person  
20                     regardless of their relationship to the child.

21   \*           \*           \*

22           Section 9. The provisions of Section 8 of this Act shall become effective when a  
23           child, who is a victim of commercial sexual exploitation, human trafficking, or trafficking  
24           of children for sexual purposes perpetrated by someone other than a parent or caretaker,  
25           becomes an eligible victim for which federal match funds are available through Title IV-E  
26           of 47 U.S.C. 672.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

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 DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Abramson

HB No. 1025

**Abstract:** Provides relative to human trafficking, trafficking of children for sexual purposes, and offenses involving commercial sexual exploitation, and provides relative to the victims of these offenses.

Present law provides for the crime of human trafficking, trafficking of children for sexual purposes, and other offenses involving commercial sexual exploitation, and provides for services, restitution, and reparations to victims of these offenses.

Relative to minor victims of trafficking of children for sexual purposes, present law provides for an affirmative defense to prosecution for any offense committed by the minor as a direct result of being trafficked.

Present law provides for the creation of the Exploited Children's Special Fund and provides for the purpose and administration of monies in the fund.

Present law provides relative to the admissibility of evidence regarding the past sexual behavior of victims in cases of sexual assault.

Present law provides for the confidentiality of the identity of victims of certain sex offenses and minor victims.

Present law authorizes the filing of a motion for new trial under certain conditions.

With regard to the crimes of human trafficking, trafficking of children for sexual purposes, and other offenses involving commercial sexual exploitation, and relative to the victims of these offenses, proposed law does all of the following:

- (1) Creates the crime of unlawful purchase of commercial sexual activity, provides penalties for commission of the offense, and requires certain persons convicted of the offense to register as a sex offender and provide notification pursuant to present law.
- (2) Expands present law crimes of human trafficking and trafficking of children for sexual purposes to include the act of receiving, isolating, and enticing another person in order to engage in the prohibited activity.
- (3) Clarifies the definition of "coercion" or "coerce" relative to the crimes of human trafficking, pornography involving juveniles, and computer-aided solicitation of a minor.
- (4) Relative to victims of human trafficking involving services that include commercial sexual activity or any sexual contact which constitutes a crime in this state, provides for an affirmative defense to prosecution for certain offenses committed by the victim as a direct result of being trafficked and requires any person seeking to raise the defense to provide notice to the state at least 45 days prior to trial.

- (5) Provides that any person who raises the affirmative defense provided by present and proposed law, and who is determined to be a victim of human trafficking or trafficking of children for sexual purposes, shall be notified of any treatment or specialized services that are available for such victims.
- (6) Expands the crime to prohibit use of a computer to solicit a person to engage in commercial sexual activity.
- (7) Provides for the forfeiture of certain property used in the commission of certain offenses involving commercial sexual exploitation and provides for the deposit of monies realized from the sale of such property into the Exploited Children's Special Fund.
- (8) Amends the purpose for use of monies in the Exploited Children's Special Fund to include an appropriation, up to 50% of the fund, to the La. Commission on Law Enforcement and the Administration of Criminal Justice for the purpose of providing training to law enforcement on human trafficking and trafficking of children for sexual purposes.
- (9) Requires the Council on Peace Officer Standards and Training to provide a training course for these purposes.
- (10) Expands the list of crimes for which a person convicted of certain offenses is required to make mandatory restitution to the victim.
- (11) Authorizes the district attorney to establish a diversion program for defendants engaged in the purchase of sexual activity and provides relative to monies collected from such programs.
- (12) Authorizes the interception of wire, electronic, or oral communications in investigations of certain offenses involving commercial sexual exploitation.
- (13) For the purpose of victim's reparations, clarifies that the definition of "victim" includes any person who is a victim of human trafficking, trafficking of children for sexual purposes, or a victim of any offense involving commercial sexual exploitation.
- (14) Provides for the confidentiality of the identity of victims of human trafficking-related offenses.
- (15) Provides relative to the admissibility of evidence of the past sexual behavior of a victim of human trafficking or trafficking of children for sexual purposes and of statements made by these victims during the course of an investigation.
- (16) Authorizes the filing of a motion for new trial within three years of a verdict or judgment for certain offenses which were committed as a direct result of being a victim of human trafficking or trafficking of children for sexual purposes.
- (17) Amends the present law definition of "abuse" for purposes of classifying a child as a child in need of care pursuant to present law.
- (18) Adds victims of commercial sexual exploitation, human trafficking, or trafficking of children for sexual purposes perpetrated by any person regardless of their relationship to the child to the list of grounds for which a child may be declared to be a child in need of care. Provides that this provision shall not become effective until a child, who is a victim of commercial sexual exploitation, human trafficking, or trafficking of children for sexual purposes perpetrated by someone other than a

parent or caretaker, becomes an eligible victim for which federal match funds are available through Title IV-E of 47 U.S.C. 672.

- (19) With regard to certain adult trafficking victims referred to DCFS, requires DCFS to refer the person to the appropriate department, agency, or entity to provide the person with certain services.
- (20) Provides that any private entity who provides services to adult or child victims of human trafficking or trafficking of children for sexual purposes pursuant to present law or proposed law shall report annually on their operations.
- (21) Expands the definition of "racketeering activity" to include pornography involving juveniles; computer-aided solicitation of a minor; prostitution, persons under eighteen; soliciting for prostitutes; inciting prostitution; promoting prostitution; letting premises for prostitution; enticing persons into prostitution; keeping a disorderly place; letting a disorderly place; and operation of places of prostitution.

(Amends R.S. 14:46.2(A)(1), (C)(2), and (D), 46.3(A)(1), (C)(3), and (E), 81.1(B)(3), (4), (5), (6), (7), and (8), 81.3(A)(3) and (D), 82(G), 83.3(D), 83.4(C), 86(C), 89(C), and 89.2(D)(1), R.S. 15:539.1(A) and (E)(intro. para.), 539.2(B), 539.3(A)(intro. para.), 541(2)(o), (12)(b), (24)(a), and (25)(c) - (n), and 1352(A)(intro. para.), R.S. 46:1802(10)(a), 1805(A), 1809(B)(4)(a), and 1844(W)(intro. para.), (1)(a) and (b), (2), and (3), C.E. Art. 412(A), (B), (C)(1), and (E)(1), C.Cr.P. Arts. 851 and 853, and Ch.C. Arts. 603(2)(b) and (c), and 725.2; Adds R.S. 14:46.2(C)(3) and (4) and (F), 81.1(B)(9), (10), and (11), 81.3(A)(4), 82.1(D)(4) and (F), 82.2, 83(B)(4), 83.1(B)(4), 83.2(B)(4), 84(B)(4), 85(B)(4), 89.2(D)(5), 104(B)(4), 105(B)(4), and 282(B)(4), R.S. 15:243, 541(2)(p) and (q), 1308(A)(2)(s), and 1352(A)(52), (53), (54), (55), (56), (57), (58), (59), (60), (61), and (62), R.S. 40:2405.7, R.S. 46:1805(B)(3), 2161(C), and 2161.1, C.E. Art. 412.3, C.Cr.P. Art. 855.1, and Ch.C. Art. 603(9.1) and 606(A)(7); Repeals R.S. 15:541(25)(o))

#### Summary of Amendments Adopted by House

##### Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill.

1. Amended the definition of "coerce" to provide that it shall include but not be limited to the list of examples provided in present and proposed law.
2. Amended the affirmative defense for adult victims of trafficking to provide that the defense only applies to certain offenses and that person must give notice to the state at least 45 days prior to trial of the intention to raise the defense.
3. Deleted the changes in proposed law to the elements of the crime of computer-aided solicitation of a minor.
4. Added as an element of the offense of purchase of commercial sexual activity that the offender engage in the activity with a person the offender knew to be under the age of 18 or knew to be a victim of human trafficking.
5. Added a provision to the offense of purchase of commercial sexual activity which states that it shall not be a defense to prosecution that the person whom the offender seeks to purchase the sexual activity from is actually a law enforcement officer or peace officer acting in the official scope of his duties.



6. Amended sex offender registration and notification provisions for commercial sexual exploitation offenses that require registration and notification pursuant to present law and places the proposed law crime of purchase of commercial sexual activity into the definition of "sex offense" and "aggravated offense" when the offense involves a person who is under the age of 18 or a victim of human trafficking.
7. Amended the proposed law provision regarding the admissibility of inculpatory statements made by victims of human trafficking.
8. Removed the proposed law motion to vacate provisions regarding a conviction for victims of trafficking, and amended the present law provisions regarding motion for new trial to add as a ground for such motion that the defendant was a victim of trafficking at the time of the offense and for that reason committed the offense.