

2018 Regular Session

SENATE BILL NO. 335

BY SENATORS MIZELL, ALARIO, BARROW, ERDEY, GATTI, HEWITT, JOHNS,
LAMBERT, LONG, MARTINY, MILKOVICH, MILLS, PRICE,
RISER, JOHN SMITH, TARVER, THOMPSON, WALSWORTH,
WARD AND WHITE

CRIME/PUNISHMENT. Provides for penalties for persons convicted for soliciting
prostitutes. (8/1/18)

1 AN ACT

2 To amend and reenact R.S. 14:82.2 and 83 and R.S. 15:243 and to enact R.S. 15:539.4,

3 relative to prostitution; to provide for the crime of solicitation of prostitution; to

4 provide for the crime of purchase of commercial sexual activity; to provide for fines;

5 to provide for the distribution of fines; to provide for court costs; to provide for a

6 program to educate defendants and offenders; to provide for the Buyer Beware

7 program to educate relative to the negative effects of prostitution; and to provide for

8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 14:82.2 and 83 are hereby amended and reenacted to read as follows:

11 §82.2. Purchase of commercial sexual activity; penalties

12 A. It shall be unlawful for any person to knowingly give, agree to give, or

13 offer to give anything of value to another in order to engage in sexual intercourse

14 with a person who receives or agrees to receive anything of value as compensation

15 for such activity.

16 B. For purposes of this Section, "sexual intercourse" means anal, oral, or

17 vaginal intercourse or any other sexual activity constituting a crime pursuant to the

1 laws of this state.

2 C.(1) Whoever violates the provisions of this Section shall be fined not less
3 than one thousand dollars and not more than one thousand five hundred dollars
4 or be imprisoned for not more than six months, or both, and one-half of the fines
5 collected shall be distributed in accordance with R.S. 15:539.4.

6 (2) On a second conviction, the offender shall be fined not less than ~~two~~
7 ~~hundred fifty~~ one thousand five hundred dollars nor more than two thousand
8 dollars or be imprisoned, with or without hard labor, for not more than two years, or
9 both, and one-half of the fines collected shall be distributed in accordance with
10 R.S. 15:539.4.

11 (3) On a third and subsequent conviction, the offender shall be imprisoned,
12 with or without hard labor, for not less than two nor more than four years and shall
13 be fined not less than two thousand five hundred dollars nor more than four
14 thousand dollars and one-half of the fines collected shall be distributed in
15 accordance with R.S. 15:539.4.

16 (4) Whoever violates the provisions of this Section with a person the offender
17 knows to be under the age of eighteen years, or with a person the offender knows to
18 be a victim of human trafficking as defined by R.S. 14:46.2 or trafficking of children
19 for sexual purposes as defined by R.S. 14:46.3, shall be fined not less than three
20 thousand nor more than fifty thousand dollars, imprisoned at hard labor for not less
21 than fifteen years nor more than fifty years, or both, and one-half of the fines
22 collected shall be distributed in accordance with R.S. 15:539.4.

23 (5) Whoever violates the provisions of this Section with a person the offender
24 knows to be under the age of fourteen years shall be fined not less than five
25 thousand and not more than seventy-five thousand dollars, imprisoned at hard labor
26 for not less than twenty-five years nor more than fifty years, or both, and one-half
27 of the fines collected shall be distributed in accordance with R.S. 15:539.4.

28 D. In addition to the penalties provided for in Subsection C of this
29 Section, the court shall order the offender to complete the Buyer Beware

1 Program, as provided for in R.S. 15:243, to educate the offender about the
2 harms, exploitation, and negative effects of prostitution. The court shall impose
3 additional court costs in the amount of two hundred dollars to defer the costs
4 of the program.

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

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

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

13 §83. Soliciting for prostitutes

14 A. Soliciting for prostitutes is the soliciting, inviting, inducing, directing, or
15 transporting a person to any place with the intention of promoting prostitution.

16 B.(1)(a) Whoever commits the crime of soliciting for prostitutes shall be
17 fined not less than one thousand dollars nor more than one thousand five hundred
18 dollars, imprisoned for not more than six months, or both, and one-half of the fines
19 collected shall be distributed in accordance with R.S. 15:539.4.

20 (b) Whoever commits a second or subsequent offense for the crime of
21 soliciting for prostitutes shall be fined not less than one thousand five hundred
22 dollars nor more than two thousand dollars, imprisoned for not more than one
23 year, or both, and one-half of the fines collected shall be distributed in
24 accordance with R.S. 15:539.4.

25 (2) Whoever commits the crime of soliciting for prostitutes when the person
26 being solicited is under the age of eighteen years shall be fined not less than three
27 thousand dollars nor more than fifty thousand dollars, imprisoned at hard labor for
28 not less than fifteen years nor more than fifty years, or both, and one-half of the
29 fines collected shall be distributed in accordance with R.S. 15:539.4.

1 (3) Whoever commits the crime of soliciting for prostitutes when the person
2 being solicited is under the age of fourteen years shall be fined not less than five
3 thousand dollars nor more than seventy-five thousand dollars, imprisoned at hard
4 labor for not less than twenty-five years nor more than fifty years, or both, and
5 one-half of the fines collected shall be distributed in accordance with R.S.
6 15:539.4.

7 (4) In addition to the penalties provided for in Subsection B of this
8 Section, the court shall order the offender to complete the Buyer Beware
9 program, as provided for in R.S. 15:243, to educate the offender about the
10 harms, exploitation, and negative effects of prostitution. In furtherance of the
11 administration of justice in the judicial district and to prevent future recidivism,
12 the court shall impose additional court costs in the amount of two hundred
13 dollars to defer the costs of the program, with the proceeds of the fine being
14 paid to the operator of the Buyer Beware Program as provided for in R.S.
15 15:243.

16 (5)(a) In addition, the court shall order that the personal property used in the
17 commission of the offense, or the proceeds of any such conduct, shall be seized and
18 impounded, and after conviction, sold at public sale or public auction by the district
19 attorney, or otherwise distributed or disposed of, in accordance with R.S. 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,
22 electronic communication devices, computers, computer related equipment, motor
23 vehicles, photographic equipment used to record or create still or moving visual
24 images of the victim that are recorded on paper, film, video tape, disc, or any other
25 type of digital recording media, and currency, instruments, or securities.

26 Section 2. R.S. 15:243 is hereby amended and reenacted and R.S. 15:539.4 is hereby
27 enacted to read as follows:

28 §243. ~~Diversion~~ Buyer Beware Program; post-conviction program for
29 offenders; pre-trial diversion program for defendants; individuals

1 engaged in the purchase of sexual activity **and solicitation of**
2 **prostitutes**

3 A.**(1)** The district attorney for each judicial district, alone or in conjunction
4 with the district attorney of an adjacent judicial district, may create and administer
5 a ~~diversion~~ program for defendants charged, **or offenders convicted**, with an offense
6 in which the defendant engaged in the purchase of sexual activity, **including those**
7 **charged or convicted pursuant to R.S. 14:82.2 or R.S. 14:83. The program shall**
8 **educate the defendants or offenders about the harms, exploitation, and negative**
9 **effects of prostitution. The district attorney, at his discretion, may choose to be**
10 **the operator of the program using his own office personnel or may choose a**
11 **vendor as the operator of the program.**

12 **(2)** The program may be offered, at the discretion of the district attorney,
13 **to an offender as part of a pre-trial diversion program** unless the offense involves
14 the purchase of sexual activity from a minor.

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

21 **C. If the district attorney fails to develop a program, alone or in**
22 **conjunction with the district attorney of an adjacent judicial district, the court**
23 **shall order that the offender, who is sentenced pursuant to the provisions of R.S.**
24 **14:82.2 or R.S. 14:83, attend a certain number of meetings for sexual addiction**
25 **recovery with a local recovery group.**

26 **D. If the district attorney fails to develop a program, alone or in**
27 **conjunction with the district attorney of an adjacent judicial district and there**
28 **is no local recovery group for sexual addiction within the judicial district or**
29 **within a fifty-mile radius of the offender's home, the court shall order the**

1 offender, who is sentenced pursuant to the provisions of R.S. 14:82.2 or R.S.
 2 14:83, to complete an online course which educates the offenders about the
 3 harms, exploitation, and negative effects of prostitution.

4 E. The program provided for in this Section shall be known as the
 5 "Buyer Beware Program".

6 * * *

7 §539.4. Fines related to solicitation of prostitutes and purchase of commercial
 8 sexual activity

9 When a fine is imposed under the provisions of R.S. 14:82.2 or R.S.
 10 14:83, the clerk of court shall distribute one-half of the fine as follows:

11 (1) Fifty percent of the proceeds from the imposition of the fine to the
 12 sheriff or law enforcement agency that made the arrest to be used for training
 13 officers in recognizing and the preventing of human trafficking.

14 (2) Fifty percent of the proceeds from the imposition of the fine to the
 15 district attorney, in furtherance of the administration of justice in the judicial
 16 district and to prevent future recidivism, to be paid to a program for victim
 17 services that counsels, treats, and helps victims of human trafficking or those
 18 who are charged or convicted of prostitution.

The original instrument was prepared by Carla S. Roberts. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cathy Wells.

DIGEST

SB 335 Reengrossed

2018 Regular Session

Mizell

Present law prohibits the purchase of commercial sexual activity. Present law prohibits a person who knowingly gives, agrees to give, or offers to give anything of value to another in order to engage in sexual intercourse with a person who receives or agrees to receive anything of value as compensation for such activity. Present law defines "sexual intercourse" to mean anal, oral, or vaginal intercourse or any other sexual activity constituting a crime pursuant to the laws of this state.

Present law provides that whoever violates the provisions of present law will be fined not more than \$500 or be imprisoned for not more than six months, or both. Present law provides, on a second conviction, the offender shall be fined not less than \$250 nor more than \$2000, with or without hard labor, for not more than two years, or both. Present law provides, on a third and subsequent conviction, the offender shall be imprisoned, with or without hard labor, for not less than two nor more than four years and shall be fined not less than \$500 nor more than \$4,000. Present law provides that, if the victim is under the age of

18, or a victim of human trafficking, the offender will be fined not more than \$50,000, imprisoned at hard labor for not less than 15 years nor more than 50 years, or both.

Present law provides that, if the victim is under the age of 14, the offender will be fined not more than \$75,000, imprisoned at hard labor for not less than 25 years nor more than 50 years, or both.

Proposed law retains present law but increases the fines for the purchase of commercial sexual activity, as follows:

- (1) 1st offense - Increases the fine from a maximum of \$500 to not less than \$1,000 nor more than \$1,500.
- (2) 2nd offense - Increases the minimum fine from not less than \$250 to not less than \$1,500.
- (3) 3rd offense - Increases the minimum fine from not less than \$500 to not less than \$2,500.
- (4) When the offender knows that the victim is under the age of 18 or known to be a victim of human trafficking, the minimum fine is set at \$3,000.
- (5) When the offender knows that the victim is under the age of 14, the minimum fine is set at \$5,000.

Proposed law provides that one-half of the fines collected for the crime of the purchase of commercial sexual activity will be distributed by the clerk of court as follows:

- (1) 50% to the sheriff or law enforcement agency that made the arrest to be used for training officers in recognizing and preventing human trafficking.
- (2) 50% to the district attorney to be paid to a program for victim services that counsels, treats, and helps victims of human trafficking or those who are charged or convicted of prostitution.

Proposed law provides that, in addition to a fine or jail term, the court will order the offender to complete the Buyer Beware Program to educate offenders about the harms, exploitation, and negative effects of prostitution. In furtherance of the administration of justice in the judicial district and to prevent future recidivism, the court shall impose additional court costs in the amount of \$200 to defer the costs of the program, with the proceeds of the fine being paid to the operator of the Buyer Beware Program.

Present law prohibits soliciting for prostitutes. Present law defines soliciting for prostitutes as the soliciting, inviting, inducing, directing, or transporting a person to any place with the intention of promoting prostitution.

Present law provides that, whoever violates the provisions of present law will be fined not more than \$500, imprisoned for not more than six months, or both. Present law provides that whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of 18 years shall be fined not more than \$50,000, imprisoned at hard labor for not less than 15 years nor more than 50 years, or both. Present law provides that, whoever commits the crime of soliciting for prostitutes when the person being solicited is under the age of 14 shall be fined not more than \$75,000, imprisoned at hard labor for not less than 25 years nor more than 50 years, or both.

Proposed law retains present law but increases the fines for soliciting for prostitutes, as follows:

- (1) 1st offense - Increases the fine from a maximum of \$500 to not less than \$1,000 or more than \$1,500.
- (2) 2nd or subsequent offense - Adds an additional fine of not less than \$1,500 to not less than \$2,000.
- (3) When the offender is under the age of 18 or known to be a victim of human trafficking, the minimum fine is set at \$3,000.
- (5) When the victim is a minor under the age of 14, the minimum fine is set at \$5,000.

Proposed law provides that one-half of the fines collected for the crime of soliciting for prostitution will be distributed by the clerk of court as follows:

- (1) 50% to the sheriff or law enforcement agency which made the arrest to be used for training officers in recognizing and preventing human trafficking.
- (2) 50% to the district attorney to be paid to a program for victim services that counsels, treats, and helps victims of human trafficking or those who are charged or convicted of prostitution.

Present law provides that the district attorney for each judicial district, alone or in conjunction with the district attorney of an adjacent judicial district, may create and administer a diversion program for defendants charged with an offense in which the defendant engaged in the purchase of sexual activity unless the offense involves the purchase of sexual activity from a minor. Present law provides that, at the discretion of the district attorney, after any costs associated with the administration of the program are paid, a portion of all monies collected pursuant to the provisions of proposed law may be distributed to entities within their judicial district, or within the judicial districts participating in the program, that provide rehabilitative services and treatment to victims of offenses involving human trafficking and trafficking of children for sexual purposes.

Proposed law authorizes district attorneys, at their discretion, to be the operator of the program using his own office personnel or he may choose a vendor as the operator of the program.

Proposed law retains present law but names the program the Buyer Beware program and provides that the program will not only be for pre-trial diversion but shall also be a requirement for post conviction sentencing.

Proposed law retains present law but clarifies that the Buyer Beware program will be established to educate the defendant or the offenders about the harms, exploitation, and negative effects of prostitution.

Proposed law provides that, if the district attorney fails to develop a program alone or in conjunction with the district attorney of an adjacent judicial district, the court shall order that the offender, who is sentenced for the purchasing of commercial sexual activity or for soliciting for prostitutes, to attend a certain number of sexual addiction recovery meetings with a local recovery group.

Proposed law provides that, if the district attorney fails to develop a program alone or in conjunction with the district attorney of an adjacent judicial district and there is no local recovery group for sexual addiction within the judicial district or within a 50-mile radius of the offender's home, the court shall order that the offender, who is sentenced for the purchasing of commercial sexual activity or for soliciting for prostitutes, to complete an online course which educates defendants or offenders about the harms, exploitation, and negative effects of prostitution.

Effective August 1, 2018.

(Amends R.S. 14:82.2 and 83 and R.S. 15:243; adds R.S. 15:539.4)

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Requires the proceeds of the fine to be paid to the operator of the Buyer Beware Program as provided by law.
2. Authorizes district attorneys, at their discretion, to be the operator of the program using his own office personnel or he may choose a vendor as the operator of the program.
3. Makes technical corrections.