

SENATE BILL NO. 148

BY SENATORS MIZELL, ABRAHAM, BARROW, BERNARD, BOUIE, CARTER, CATHEY, CLOUD, CONNICK, CORTEZ, FESI, FIELDS, FOIL, HENRY, HEWITT, JACKSON, LAMBERT, MCMATH, MILLIGAN, FRED MILLS, ROBERT MILLS, MORRIS, POPE, PRICE, REESE, SMITH, STINE, TALBOT, WARD, WHITE AND WOMACK AND REPRESENTATIVES BACALA, BUTLER, EMERSON, FONTENOT, FREEMAN, FREIBERG, GAROFALO, GOUDEAU, LAFLEUR, MARCELLE, MARINO, MCCORMICK, NELSON, SEABAUGH AND WHITE

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Art. 983(H) and (I) and R.S.
3 14:46.2(A)(1), (C)(1) and (3)(b) and (f), and (D), to enact Code of Criminal
4 Procedure Art. 983(J) and 997, and R.S. 14:46.2(C)(3)(k) and (l), relative to human
5 trafficking; to provide relative to expungement of records of arrest and conviction
6 for certain offenses related to human trafficking; to provide for immunity from
7 prosecution for victims of human trafficking; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Art. 983(H) and (I) are hereby amended and
10 reenacted and Code of Criminal Procedure Art. 983(J) and 997 are hereby enacted to read
11 as follows:

12 Art. 983. Cost of expungement of a record; fees; collection; exemptions;
13 disbursements

14 * * *

15 **H. Human trafficking victim request for certification and application for**
16 **expungement.**

17 **(1) An applicant for the expungement of a record of offense who was a**
18 **victim of human trafficking, in accordance with R.S. 14:46.2, may request a**
19 **certification from the prosecuting authority that the offense for which the**
20 **expungement is sought was committed, in substantial part, as the result of the**
21 **applicant being a victim of "human trafficking" in accordance with R.S.**
22 **14:46.2.**

1 **(2) To obtain certification, the applicant has the burden of establishing**
2 **by a preponderance of the evidence to the prosecuting authority that the offense**
3 **was committed, in substantial part, as the result of the applicant being a victim**
4 **of human trafficking in accordance with R.S. 14:46.2.**

5 **(3) The certification shall be prima facie evidence that similar eligible**
6 **crimes committed within other Louisiana jurisdictions during the time period**
7 **the applicant was a victim of human trafficking were committed, in substantial**
8 **part, as the result of the applicant being a victim of human trafficking in**
9 **accordance with R.S. 14:46.2.**

10 **(4) All applicable time delays pertaining to expungement provided by**
11 **Code of Criminal Procedure Articles 977 and 978 shall be waived when the**
12 **certification is presented to the clerk of court with the application for**
13 **expungement.**

14 **(5) An applicant for the expungement of a record of offense who was a**
15 **victim of human trafficking, in accordance with R.S. 14:46.2, shall not be**
16 **required to pay any fees relative to the application for expungement to the clerk**
17 **of court, the Louisiana Bureau of Criminal Identification and Information, the**
18 **sheriff, the district attorney, or any other agency.**

19 **(6) Utilization of the process outlined within this Subsection shall not**
20 **preclude any applicant from seeking additional expungement to which the**
21 **applicant may be entitled, in accordance with law.**

22 **(7) The Louisiana District Attorneys Association shall annually submit**
23 **a report to the legislature, no later than February first, that includes the**
24 **number of applications for, denials of, and approvals of the certification**
25 **provided for by this Subsection for the prior year.**

26 **I.** If an application for an expungement of a record includes two or more
27 offenses arising out of the same arrest, including misdemeanors, felonies, or both,
28 the applicant shall be required to pay only one fee as provided for by this Article.

29 ~~**J.**~~ Notwithstanding any provision of law to the contrary, an applicant for the
30 expungement of a record, other than as provided in Paragraphs F and G of this

1 Article, may proceed in forma pauperis in accordance with the provisions of Code
2 of Civil Procedure Article 5181 et seq.

3 * * *

4 Art. 997. Certification of Human Trafficking Victim Status

5
6 STATE OF LOUISIANA

7 JUDICIAL DISTRICT FOR THE PARISH OF
8 _____

9 **NO.:** _____

DIVISION: _____

10
11 STATE OF LOUISIANA

12 vs.

13 _____

14
15 CERTIFICATION OF HUMAN TRAFFICKING VICTIM STATUS

16
17 In accordance with the provisions of Louisiana Code of Criminal Procedure
18 Article 983, the Office of the District Attorney has reviewed and determined that one,

19
20 _____,

21 **RACE/ GENDER:** _____ **DOB:** _____,

22 **SSN:** _____, **has established by a preponderance of the**
23 **evidence proof of status as a victim of human trafficking in accordance with the**
24 **provisions of R. S. 14:46.2, for the following offense(s), detailed specifically as follows:**

25 *(If more than one offense, each relevant offense must be specifically listed in the*
26 *following format)*

27
28 **OFFENSE:** _____

29 **DOCKET NO:** _____

30 **CHARGE:** _____

1 DATE OF ARREST: _____

2 ARRESTING AGENCY: _____

3 CITY/PARISH OF ARREST: _____

4 FURTHER, that the above offense(s) for which this Certification issued was
5 committed, in substantial part, as a result of the above-named being a victim of human
6 trafficking, in accordance with R.S. 14:46.2.

7 FURTHER, this Certification shall be considered as prima facie evidence of the
8 victim's status in similar eligible crimes committed within other Louisiana jurisdictions
9 during the time period in which the above-named was a victim of human trafficking.

10 FURTHER, all applicable time delays pertaining to expungement contained in
11 Louisiana Code of Criminal Procedure Articles 977 and 978 shall be waived when
12 presented to the clerk of court with an application for expungement of the
13 above-specified offense(s).

14 FURTHER, any application for expungement of the above-specified offense(s)
15 shall be at no cost to the above-named victim.

16

17

18 _____

19 DATE

DISTRICT ATTORNEY

20 PARISH OF _____

21 JUDICIAL DISTRICT

22 STATE OF LOUISIANA

23 Section 2. R.S. 14:46.2(A)(1), (C)(1) and (3)(b) and (f), and (D) are hereby amended
24 and reenacted and R.S. 14:46.2(C)(3)(k) and (l) are hereby enacted to read as follows:

25 §46.2. Human trafficking

26 A. It shall be unlawful:

27 (1)(a) For any person to knowingly recruit, harbor, transport, provide, solicit,
28 receive, isolate, entice, obtain, patronize, procure, purchase, hold, restrain,
29 induce, threaten, subject, or maintain the use of another person through fraud,
30 force, or coercion to provide services or labor.

1 (b) For any person to knowingly recruit, harbor, transport, provide, solicit,
 2 sell, purchase, patronize, procure, hold, restrain, induce, threaten, subject,
 3 receive, isolate, entice, obtain, or maintain the use of a person under the age of
 4 twenty-one years for the purpose of engaging in commercial sexual activity
 5 regardless of whether the person was recruited, harbored, transported, provided,
 6 solicited, sold, purchased, received, isolated, enticed, obtained, or maintained
 7 through fraud, force, or coercion. It shall not be a defense to prosecution for a
 8 violation of the provisions of this Subparagraph that the person did not know the age
 9 of the victim or that the victim consented to the prohibited activity.

10 * * *

11 C. For purposes of this Section:

12 (1) "Commercial sexual activity" means any sexual act performed or
 13 conducted when anything of value has been given, promised, or received by any
 14 person, directly or indirectly, including the production of pornography.

15 * * *

16 (3) "Fraud, force, or coercion" shall include but not be limited to any of the
 17 following:

18 * * *

19 (b) Physically restraining, isolating, confining, or threatening to physically
 20 restrain, isolate, or confine another person.

21 * * *

22 (f) The actual or threatened destruction, concealment, removal, withholding,
 23 confiscation, or possession of any actual or purported passport or other immigration
 24 document, or any other actual or purported government identification document, of
 25 another person.

26 * * *

27 (k) Exposing or threatening to expose any fact or information that would
 28 subject an individual to criminal or immigration proceedings.

29 (l) Causing or threatening to cause financial harm to an individual or
 30 using financial control over an individual.

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* * *

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

* * *

Section 3. This Act shall be known and may be cited as the "Michelle Johnson Act".

Section 4. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____