

2016 Regular Session

SENATE BILL NO. 90

BY SENATORS JOHNS, ALARIO, APPEL, BARROW, BOUDREAUX, CARTER, CORTEZ, ERDEY, GATTI, LAFLEUR, LONG, MILKOVICH, MILLS, MIZELL, MORRISH, PERRY, PETERSON, RISER, GARY SMITH, TARVER, THOMPSON, WARD AND WHITE

CRIME/PUNISHMENT. Amends the threshold age of the victim for certain elements and penalty provisions of the crimes of human trafficking and trafficking of children for sexual purposes. (8/1/16)

1 AN ACT

2 To amend and reenact R.S. 14:2(B)(42), 46.2(B)(3), 46.3(A)(1) and (3), (C)(1), and

3 (D)(1)(c) and (2), 82(G)(1), 82.2(C)(4), 83.3(D)(1), 83.4(C)(1), 89(C)(1), and

4 89.2(D)(1), the introductory paragraph of R.S. 15:539.3(A), the introductory

5 paragraph of R.S. 15:539.1(E), and R.S. 15:243(B), 539.1(A), 539.2(A) and

6 (B)(2)(b), 541(2)(n)and (o) and (24)(a), 1308(A)(2)(r), and 1352(A)(48), R.S.

7 40:1061.16(D)(4)(a), (b)(i), and (c)(v) and 2405.7(B)(2), R.S. 46:1802(13)(a),

8 1809(B)(3)(a)(iv), and 1861(A)(1)(f), Code of Criminal Procedure Art. 851(B)(6),

9 855.1, and 890.1(D)(18), the introductory paragraph of Code of Evidence Art. 412.3

10 and Code of Evidence Art. 412(B)(1) and (C)(1) and 412.3(3), Children's Code Art.

11 603(12)(s), 606(A)(6), 725.1(3), 728(4)(a), 804(9)(a), and 918(D), and Sections 8

12 and 10 of Act No. 564 of the 2014 Regular Session of the Legislature, relative to

13 trafficking; to amend the age of the victim for certain enhanced penalty provisions

14 and elements of the crimes regarding the offenses of human trafficking and

15 trafficking for sexual purposes; to provide for an effective date; and to provide for

16 related matters.

17 Be it enacted by the Legislature of Louisiana:

1 Section 1. R.S. 14:2(B)(42), 46.2(B)(3), 46.3(A)(1) and (3), (C)(1), and (D)(1)(c)  
2 and (2), 82(G)(1), 82.2(C)(4), 83.3(D)(1), 83.4(C)(1), 89(C)(1), and 89.2(D)(1) are hereby  
3 amended and reenacted to read as follows:

4 §2. Definitions

5 \* \* \*

6 B. In this Code, "crime of violence" means an offense that has, as an element,  
7 the use, attempted use, or threatened use of physical force against the person or  
8 property of another, and that, by its very nature, involves a substantial risk that  
9 physical force against the person or property of another may be used in the course  
10 of committing the offense or an offense that involves the possession or use of a  
11 dangerous weapon. The following enumerated offenses and attempts to commit any  
12 of them are included as "crimes of violence":

13 \* \* \*

14 (42) Trafficking ~~of children~~ for sexual purposes.

15 \* \* \*

16 §46.2. Human trafficking

17 \* \* \*

18 B.(1)

\* \* \*

19 (3) Whoever commits the crime of human trafficking when the trafficking  
20 involves a person under the age of ~~eighteen~~ **twenty-one** shall be fined not more than  
21 twenty-five thousand dollars and shall be imprisoned at hard labor for not less than  
22 five nor more than twenty-five years, five years of which shall be without the benefit  
23 of parole, probation, or suspension of sentence.

24 \* \* \*

25 §46.3. Trafficking ~~of children~~ for sexual purposes

26 A. It shall be unlawful:

27 (1) For any person to knowingly recruit, harbor, transport, provide, sell,  
28 purchase, receive, isolate, entice, obtain, or maintain the use of a person under the  
29 age of ~~eighteen~~ **twenty-one** years for the purpose of engaging in commercial sexual

1 activity.

2 \* \* \*

3 (3) For any parent, legal guardian, or person having custody of a person  
4 under the age of ~~eighteen~~ **twenty-one** years to knowingly permit or consent to such  
5 ~~minor~~ **person** entering into any activity prohibited by the provisions of this Section.

6 \* \* \*

7 C.(1) Consent of the ~~minor~~ **person under twenty-one years of age** shall not  
8 be a defense to a prosecution pursuant to the provisions of this Section.

9 \* \* \*

10 D.(1)(a) \* \* \*

11 (c) Any person who violates the provisions of Paragraph (A)(1), (2), (4), (5),  
12 or (6) of this Section, who was previously convicted of a sex offense as defined in  
13 R.S. 15:541 when the victim of the sex offense was under the age of ~~eighteen~~  
14 **twenty-one** years, shall be fined not more than one hundred thousand dollars and  
15 shall be imprisoned at hard labor for not less than fifty years or for life. At least fifty  
16 years of the sentence imposed shall be served without benefit of parole, probation,  
17 or suspension of sentence.

18 (2) Whoever violates the provisions of Paragraph (A)(3) of this Section shall  
19 be required to serve at least five years of the sentence provided for in Subparagraph  
20 (D)(1)(a) of this Section without benefit of probation, parole, or suspension of  
21 sentence. Whoever violates the provisions of Paragraph (A)(3) when the victim is  
22 under the age of ~~fourteen~~ **eighteen** years shall be required to serve at least ten years  
23 of the sentence provided for in Subparagraph (D)(1)(b) of this Section without  
24 benefit of probation, parole, or suspension of sentence.

25 \* \* \*

26 §82. Prostitution; definition; penalties; enhancement

27 \* \* \*

28 G.(1) It shall be an affirmative defense to prosecution for a violation of this  
29 Section that, during the time of the alleged commission of the offense, the defendant

1 was a victim of trafficking ~~of children~~ for sexual purposes as provided in R.S.  
 2 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this  
 3 Paragraph shall be eligible for specialized services for sexually exploited children.

4 \* \* \*

5 §82.2. Purchase of commercial sexual activity; penalties

6 \* \* \*

7 C.

\* \* \*

8 (4) Whoever violates the provisions of this Section with a person the offender  
 9 knows to be under the age of ~~eighteen~~ **twenty-one** years, or with a person the  
 10 offender knows to be a victim of human trafficking as defined by R.S. 14:46.2 or  
 11 trafficking ~~of children~~ for sexual purposes as defined by R.S. 14:46.3, shall be fined  
 12 not more than fifty thousand dollars, imprisoned at hard labor for not less than fifteen  
 13 years nor more than fifty years, or both.

14 \* \* \*

15 §83.3. Prostitution by massage

16 \* \* \*

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

22 \* \* \*

23 §83.4. Massage; sexual conduct prohibited

24 \* \* \*

25 C.(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.  
 28 14:46.3(E). Any child determined to be a victim pursuant to the provisions of this  
 29 Paragraph shall be eligible for specialized services for sexually exploited children.

1 \* \* \*

2 §89. Crime against nature

3 \* \* \*

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

10 \* \* \*

11 §89.2. Crime against nature by solicitation

12 \* \* \*

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

18 \* \* \*

19 Section 2. The introductory paragraph of R.S. 15:539.3(A), the introductory  
20 paragraph of R.S. 15:539.1(E), and R.S. 15:243(B), 539.1(A), 539.2(A) and (B)(2)(b),  
21 541(2)(n) and (o) and (24)(a), 1308(A)(2)(r), and 1352(A)(48) are hereby amended and  
22 reenacted to read as follows:

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

24 \* \* \*

25 B. At the discretion of the district attorney, after any costs associated with the  
26 administration of the program are paid, a portion of all monies collected pursuant to  
27 the provisions of this Section may be distributed to entities within their judicial  
28 district, or within the judicial districts participating in the program, that provide  
29 rehabilitative services and treatment to victims of offenses involving human

1 trafficking and trafficking of ~~children~~ for sexual purposes.

2 \* \* \*

3 §539.1. Forfeited property related to certain sex crimes; exempt property; allocation  
4 of forfeited property

5 A. When personal property is forfeited under the provisions of R.S. 14:40.3  
6 (cyberstalking), R.S. 14:46.2 (human trafficking), R.S. 14:46.3 (trafficking of  
7 ~~children~~ for sexual purposes), R.S. 14:80 (felony carnal knowledge of a juvenile),  
8 R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1 (pornography involving  
9 juveniles), R.S. 14:81.2 (molestation of a juvenile or a person with a physical or  
10 mental disability), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S.  
11 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83  
12 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2  
13 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for  
14 prostitution), R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping  
15 a disorderly place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282  
16 (operation of places of prostitution; prohibited; penalty), the district attorney shall  
17 authorize a public sale or a public auction conducted by a licensed auctioneer,  
18 without appraisal, of that which is not required by law to be destroyed and which is  
19 not harmful to the public.

20 \* \* \*

21 E. Notwithstanding Subsection D of this Section, when the property is  
22 forfeited pursuant to the provisions of R.S. 14:46.2 (human trafficking), R.S. 14:46.3  
23 (trafficking of ~~children~~ for sexual purposes), R.S. 14:81.1 (pornography involving  
24 juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S. 14:82.1  
25 (prostitution; persons under eighteen; additional offenses), R.S. 14:83 (soliciting for  
26 prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2 (promoting  
27 prostitution), R.S. 14:84 (pandering), R.S. 14:85 (letting premises for prostitution),  
28 R.S. 14:86 (enticing persons into prostitution), R.S. 14:104 (keeping a disorderly  
29 place), R.S. 14:105 (letting a disorderly place), and R.S. 14:282 (operation of places

1 of prostitution), the proceeds of the public sale or public auction shall be applied first  
 2 to any restitution granted to the victim, after the costs of the public sale or auction,  
 3 court costs, and fees related to seizure and storage have been satisfied. Any  
 4 remaining proceeds shall be distributed in the following manner:

5 \* \* \*

6 §539.2. Exploited Children's Special Fund

7 A. Any person who is convicted or pleads guilty or nolo contendere to an  
 8 offense involving trafficking ~~of children~~ for sexual purposes under R.S. 14:46.3,  
 9 prostitution with persons under seventeen under R.S. 14:82.1, or enticing persons  
 10 into prostitution under R.S. 14:86 shall be ordered to pay a mandatory monetary  
 11 assessment of two thousand dollars. Notwithstanding any law to the contrary, the  
 12 assessments provided by this Section shall be in addition to and not in lieu of, and  
 13 shall not be used to offset or reduce, any fine authorized or required by law. If the  
 14 court finds that the offender is indigent and therefore unable to pay the mandatory  
 15 assessment at the time of conviction, the court shall order a periodic payment plan  
 16 consistent with the person's financial ability.

17 B. \* \* \*

18 (2) \* \* \*

19 (b) Subject to appropriation by the legislature and notwithstanding the  
 20 provisions of Subparagraph (a) of this Paragraph, a portion of the monies in the fund,  
 21 not to exceed fifty percent, may be used for the development of training programs  
 22 relative to human trafficking and trafficking ~~of children~~ for sexual purposes and for  
 23 the providing of law enforcement training programs administered by the Council of  
 24 Peace Officer Standards and Training within the Louisiana Commission on Law  
 25 Enforcement and the Administration of Criminal Justice.

26 §539.3 Mandatory restitution

27 A. A person convicted of a violation of R.S. 14:46.2 (human trafficking), R.S.  
 28 14:46.3 (trafficking ~~of children~~ for sexual purposes), R.S. 14:81.1 (pornography  
 29 involving juveniles), R.S. 14:81.3 (computer-aided solicitation of a minor), R.S.

1 14:82.1 (prostitution; persons under eighteen; additional offenses), R.S. 14:83  
 2 (soliciting for prostitutes), R.S. 14:83.1 (inciting prostitution), R.S. 14:83.2  
 3 (promoting prostitution), R.S. 14:84 (pandering), R.S. 14:86 (enticing persons into  
 4 prostitution), R.S. 14:104 (keeping a disorderly place), R.S. 14:105 (letting a  
 5 disorderly place), and R.S. 14:282 (operation of places of prostitution) shall be  
 6 ordered to pay mandatory restitution to the victim, with the proceeds from property  
 7 forfeited under R.S. 15:539.1 applied first to payment of restitution, after the costs  
 8 of the public sale or auction, court costs, and fees related to seizure and storage have  
 9 been satisfied. Restitution under this Section shall include any of the following:

10 \* \* \*

11 §541. Definitions

12 For the purposes of this Chapter, the definitions of terms in this Section shall  
 13 apply:

14 \* \* \*

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

17 \* \* \*

18 (n) Trafficking ~~of children~~ for sexual purposes (R.S. 14:46.3).

19 (o) Human trafficking (R.S. 14:46.2) when the trafficking involves a person  
 20 under the age of ~~eighteen~~ **twenty-one** years or when the services include commercial  
 21 sexual activity or any sexual conduct constituting a crime under the laws of this state.

22 \* \* \*

23 (24)(a) "Sex offense" means deferred adjudication, adjudication withheld,  
 24 or conviction for the perpetration or attempted perpetration of or conspiracy to  
 25 commit human trafficking when prosecuted under the provisions of R.S.  
 26 14:46.2(B)(2), R.S. 14:46.3 (trafficking ~~of children~~ for sexual purposes), R.S. 14:89  
 27 (crime against nature), R.S. 14:89.1 (aggravated crime against nature), R.S.  
 28 14:89.2(B)(3) (crime against nature by solicitation), R.S. 14:80 (felony carnal  
 29 knowledge of a juvenile), R.S. 14:81 (indecent behavior with juveniles), R.S. 14:81.1



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

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

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

8 \* \* \*

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

11 \* \* \*

12 (r) Trafficking of ~~children~~ for sexual purposes as defined by R.S. 14:46.3.

13 \* \* \*

14 §1352. Definitions

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

20 \* \* \*

21 (48) R.S. 14:46.3 (Trafficking of ~~children~~ for sexual purposes)

22 \* \* \*

23 Section 3. R.S. 40:1061.16(D)(4)(a), (b)(i), and (c)(v) and 2405.7(B)(2) are hereby  
 24 amended and reenacted to read as follows:

25 §1061.16. Information on psychological impacts, illegal coercion, abuse, and human  
 26 trafficking required prior to abortion; task force on information  
 27 resources

28 \* \* \*

29 D. The department shall create printed materials and printable Internet-based

1 resources that provide all of the following:

2 \* \* \*

3 (4)(a) Information, telephone numbers, and links to Internet websites of  
4 nonprofit organizations that offer free and confidential access to mental health  
5 professionals, social workers, and other trained counselors for women and minor  
6 females who are victims of the crime of human trafficking or the crime of trafficking  
7 ~~of children~~ for sexual purposes.

8 (b) The department shall take such actions as are necessary to ensure that any  
9 mental or behavioral health professional or other counselor to whom a woman or  
10 minor female may be referred through the organizations listed in the materials  
11 developed pursuant to this Paragraph meets all of the following criteria:

12 (i) Provides counseling services that objectively address the mental,  
13 emotional, and behavioral health effects that may result from being a victim of  
14 human trafficking or a victim of trafficking ~~of children~~ for sexual purposes.

15 \* \* \*

16 (c) The materials developed pursuant to this Paragraph shall clearly indicate  
17 all of the following:

18 \* \* \*

19 (v) That the crime of trafficking ~~of children~~ for sexual purposes is subject to  
20 the mandatory reporting laws set forth in Children's Code Articles 603, 609, and 610.

21 \* \* \*

22 §2405.7. Human trafficking training

23 \* \* \*

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

25 \* \* \*

26 (2) Investigating trafficking ~~of children~~ for sexual purposes under R.S.  
27 14:46.3 and the special needs of sexually exploited children.

28 \* \* \*

29 Section 4. R.S. 46:1802(13)(a), 1809(B)(3)(a)(iv), and 1861(A)(1)(f) are hereby

1 amended and reenacted to read as follows:

2 §1802. Definitions

3 As used in this Chapter:

4 \* \* \*

5 (13) "Victim" means:

6 (a) Any person who suffers personal injury, death, or catastrophic property  
7 loss as a result of a crime committed in this state and covered by this Chapter. This  
8 includes any person who is a victim of human trafficking as defined by R.S. 14:46.2,  
9 a victim of trafficking of ~~children~~ for sexual purposes as defined by R.S. 14:46.3, or  
10 a victim of any offense involving commercial sexual exploitation including but not  
11 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,  
12 89.2, 104, 105, and 282.

13 \* \* \*

14 §1809. Criteria for making awards; prohibitions; authority to deny or reduce awards

15 \* \* \*

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

17 \* \* \*

18 (3)(a) No award of reparations shall be made if the board finds that:

19 \* \* \*

20 (iv) The claimant was the offender or an accessory, or that an award to the  
21 claimant would unjustly benefit any of them. However, such ineligibility shall not  
22 apply if the claimant is a victim of human trafficking or trafficking of ~~children~~ for  
23 sexual purposes.

24 \* \* \*

25 §1861. Family justice centers

26 A.(1) A family justice center may be established in any judicial district to  
27 provide support, services, and assistance to victims of the following types of  
28 offenses:

29 \* \* \*

1 (f) Human trafficking as defined by R.S. 14:46.2 and trafficking ~~of children~~  
2 for sexual purposes as defined by R.S. 14:46.3.

3 \* \* \*

4 Section 5. Code of Criminal Procedure Art. 851(B)(6), 855.1, and 890.1(D)(18) are  
5 hereby amended and reenacted to read as follows:

6 Art. 851. Grounds for new trial

7 \* \* \*

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

10 \* \* \*

11 (6) The defendant is a victim of human trafficking or trafficking ~~of children~~  
12 for sexual purposes and the acts for which the defendant was convicted were  
13 committed by the defendant as a direct result of being a victim of the trafficking  
14 activity.

15 \* \* \*

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

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

27 \* \* \*

28 Art. 890.1. Waiver of minimum mandatory sentences; procedure; exceptions

29 \* \* \*

1 D. The provisions of this Article shall not apply to a sex offense as defined  
2 in R.S. 15:541 or to any of the following crimes of violence:

3 \* \* \*

4 (18) R.S. 14:46.3 (Trafficking ~~of children~~ for sexual purposes).

5 \* \* \*

6 Section 6. The introductory paragraph of Code of Evidence Art. 412.3 and Code of  
7 Evidence Art. 412(B)(1) and (C)(1) and 412.3(3) are hereby amended and reenacted to read  
8 as follows:

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

10 \* \* \*

11 B.(1) Opinion and reputation evidence; trafficking. When an accused is  
12 charged with a crime involving human trafficking or trafficking ~~of children~~ for  
13 sexual purposes, reputation or opinion evidence of the past sexual behavior of the  
14 victim is not admissible.

15 \* \* \*

16 C. Motion. (1) Before the person, accused of committing a crime that  
17 involves sexually assaultive behavior, human trafficking, or trafficking ~~of children~~  
18 for sexual purposes, may offer under Subparagraph (A)(2) or (B)(2) of this Article  
19 evidence of specific instances of the victim's past sexual behavior, the accused shall  
20 make a written motion in camera to offer such evidence. The motion shall be  
21 accompanied by a written statement of evidence setting forth the names and  
22 addresses of persons to be called as witnesses.

23 \* \* \*

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

25 If a victim of human trafficking or trafficking ~~of children~~ for sexual purposes  
26 is also a defendant in any case arising from unlawful acts committed as part of the  
27 same trafficking activity, any inculpatory statement made by the victim as a result  
28 of questioning by any person then known by the victim to be a law enforcement  
29 officer is inadmissible against the victim, except pursuant to Article 801 of this Code

1 or in any prosecution of the victim for perjury, at a trial of the victim for the  
2 unlawful acts committed by the victim as part of the same trafficking activity if all  
3 of the following conditions exist:

4 \* \* \*

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

8 Section 7. Children's Code Art. 603(12)(s), 606(A)(6), 725.1(3), 728(4)(a), 804(9)(a),  
9 and 918(D) are hereby amended and reenacted to read as follows:

10 Art. 603. Definitions

11 As used in this Title:

12 \* \* \*

13 (12) "Crime against the child" shall include the commission of or the  
14 attempted commission of any of the following crimes against the child as provided  
15 by federal or state statutes:

16 \* \* \*

17 (s) Trafficking of ~~children~~ for sexual purposes.

18 \* \* \*

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

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

22 \* \* \*

23 (6) The child is a victim of human trafficking or trafficking of ~~children~~ for  
24 sexual purposes.

25 \* \* \*

26 Art. 725.1. Definitions

27 As used in this Chapter, the following terms and phrases shall have the  
28 following meaning, unless the context requires otherwise:

29 \* \* \*

1 (3) "Sexually exploited child" means any person under the age of eighteen  
2 who has been subject to sexual exploitation because the person either:

3 (a) Is a victim of trafficking ~~of children~~ for sexual purposes under  
4 R.S. 14:46.3.

5 \* \* \*

6 Art. 728. Definitions

7 As used in this Title:

8 \* \* \*

9 (4) "Sexually exploited child" means any person under the age of eighteen  
10 who has been subject to sexual exploitation because the person either:

11 (a) Is a victim of trafficking ~~of children~~ for sexual purposes under R.S.  
12 14:46.3.

13 \* \* \*

14 Art. 804. Definitions

15 As used in this Title:

16 \* \* \*

17 (9) "Sexually exploited child" means any person under the age of eighteen  
18 who has been subject to sexual exploitation because the person:

19 (a) Is a victim of trafficking ~~of children~~ for sexual purposes under R.S.  
20 14:46.3.

21 \* \* \*

22 Art. 918. Grounds

23 \* \* \*

24 D. Records concerning conduct or conditions that resulted in a misdemeanor  
25 or felony adjudication for R.S. 14:82, 83.3, 83.4, 89, or 89.2 may be expunged upon  
26 petition to the court and upon a showing that, during the time of the commission of  
27 the offense, the person seeking the expungement was a victim of trafficking ~~of~~  
28 ~~children~~ for sexual purposes pursuant to R.S. 14:46.3(E) provided that the person has  
29 no outstanding indictment or bill of information charging him.



1 Section 8. Section 8 of Act No. 564 of the 2014 Regular Session of the Legislature  
2 is hereby amended and reenacted to read as follows:

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

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

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

7 \* \* \*

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

11 \* \* \*

12 Section 9. Section 10 of Act 564 of the 2014 Regular Session of the Legislature is  
13 hereby amended and reenacted to read as follows:

14 Section 10. The provisions of Section 8 of this Act shall become effective when a  
15 child, who is a victim of commercial sexual exploitation, human trafficking, or trafficking  
16 ~~of children~~ for sexual purposes perpetrated by someone other than a parent or caretaker,  
17 becomes an eligible victim for which federal match funds are available through Title IV-E  
18 of 47 U.S.C. 672.

19 Section 2. This Act shall become effective on August 1, 2016; if vetoed by the  
20 governor and subsequently approved by the legislature, this Act shall become effective on  
21 August 1, 2016, or on the day following such approval by the legislature, whichever is later.

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The original instrument was prepared by Margaret M. Corley. The following digest, which does not constitute a part of the legislative instrument, was prepared by Mary Dozier O'Brien.

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DIGEST

SB 90 Reengrossed                      2016 Regular Session                      Johns

Present law provides for the crimes of human trafficking and the trafficking of children for sexual purposes.

Present law provides that whoever commits the crime of human trafficking when the trafficking involves a person under the age of 18 is to be fined not more than \$25,000 and imprisoned at hard labor for between five and 25 years, five years of which must be imposed without the benefit of parole, probation, or suspension of sentence.

Proposed law increases the threshold age of the victim of human trafficking from 18 to 21 and otherwise retains present law.

Present law provides that it is unlawful:

- (1) For any person to knowingly recruit, harbor, transport, provide, sell, purchase, receive, isolate, entice, obtain, or maintain the use of a person under the age of 18 years for the purpose of engaging in commercial sexual activity.
- (2) For any parent, legal guardian, or person having custody of a person under the age of 18 years to knowingly permit or consent to such minor entering into any activity prohibited by present law.

Proposed law raises the threshold age of the victim from 18 to 21 and otherwise retains present law.

Present law provides that anyone who has been previously convicted of a sex offense and is convicted of trafficking of children for sexual purposes when the victim of the sex offense was under the age of 18 years is to be fined up to \$100,000 and imprisoned at hard labor for between 50 years and life. Present law further provides that at least 50 years of the sentence imposed must be served without benefit of parole, probation, or suspension of sentence.

Proposed law raises the threshold age from 18 to 21 and otherwise retains present law.

Present law provides that a parent or guardian or person with legal custody who allows a child under their care to participate in trafficking of children for sexual purposes when the victim is under the age of 14 years must serve at least 10 years of the sentence without benefit of parole, probation, or suspension of sentence.

Proposed law raises the threshold age from 14 to 18 and otherwise retains present law.

Effective August 1, 2016.

(Amends R.S. 14:2(B)(42), 46.2(B)(3), 46.3(A)(1) and (3), (C)(1), and (D)(1)(c) and (2), 82(G)(1), 82.2(C)(4), 83.3(D)(1), 83.4(C)(1), 89(C)(1), and 89.2(D)(1), R.S. 15:539.3(A)(intro para), 539.1(E)(intro para), R.S. 15:243(B), 539.1(A), 539.2(A) and (B)(2)(b), 541(2)(n) and (o) and (24)(a), 1308(A)(2)(r), 1352(A)(48), R.S. 40:1061.16(D)(4)(a), (b)(i), and (c)(v) and 2405.7(B)(2), R.S. 46:1802(13)(a), 1809(B)(3)(a)(iv), and 1861(A)(1)(f), C.Cr.P. Art. 851(B)(6), 855.1, and 890.1(D)(18), C. E. Art. 412.3(intro para), Art. 412(B)(1) and (C)(1) and 412.3(3), Ch.C. Art. 603(12)(s), 606(A)(6), 725.1(3), 728(4)(a), 804(9)(a), and 918(D), and Acts 2014 R.S., No. 564)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Makes technical changes.

##### Senate Floor Amendments to engrossed bill

1. Technical amendments to conform present law in related statutes with proposed law.