

Regular Session, 2012

HOUSE BILL NO. 49

BY REPRESENTATIVES ABRAMSON AND LEGER

CHILDREN: Provides relative to human trafficking, trafficking of children for sexual purposes, and the commercial sexual exploitation of children

1 AN ACT

2 To amend and reenact R.S. 14:46.2(D), 46.3(D)(1) and (2), 81.1(A)(1), (D), and (E)(1), (2),

3 and (4), 81.3(C), 82.1, 83, 83.1(B), 83.2(B), 84, 85, 86(B)(1), 89(B), 89.2(B)(3), 104,

4 105, 282, and 403.3(A)(1)(introductory paragraph) and (C), R.S. 15:541(12)(c) and

5 (25)(k) and (l), R.S. 40:2521, R.S. 46:1433 and 1809(B)(3)(d) and (4)(a), Code of

6 Criminal Procedure Article 571.1 and Children's Code Articles 804(3) and (5) and

7 1015(3)(l) and to enact R.S. 14:46.2(E), 46.3(A)(6) and (C)(3), 82(C)(4) and (5) and

8 (G), 83.3(D), 83.4(C), 86(C), 89(C), and 89.2(D), R.S. 15:541(12)(d) and (25)(m),

9 (n), and (o), and 1308(A)(2)(q) and (r), and Children's Code Articles 603(10)(r) and

10 (s), 606(A)(6), 918(D), and 1015(3)(m), relative to human trafficking, trafficking of

11 children for sexual purposes, and the commercial sexual exploitation of children; to

12 amend certain crimes involving the prostitution and trafficking of children for sexual

13 purposes; to provide for increased penalties for certain prostitution and trafficking

14 offenses when the offense involves persons of a certain age; to provide for

15 affirmative defenses; to prohibit certain defenses to certain crimes; to authorize the

16 use of wiretaps for trafficking investigations; to require the reporting of rescued

17 children; to provide relative to victim reparations; to provide with respect to

18 limitations on the institution of prosecution for specific offenses; to provide access

19 of child sex trafficking victims to certain services; to authorize the expungement of

20 certain juvenile adjudication records; and to provide for related matters.

1 Be it enacted by the Legislature of Louisiana:

2 Section 1. R.S. 14:46.2(D), 46.3(D)(1) and (2), 81.1(A)(1), (D), and (E)(1), (2), and  
3 (4), 81.3(C), 82.1, 83, 83.1(B), 83.2(B), 84, 85, 86(B)(1), 89(B), 89.2(B)(3), 104, 105, 282,  
4 and 403.3(A)(1)(introductory paragraph) and (C) are hereby amended and reenacted and  
5 R.S. 14:46.2(E), 46.3(A)(6) and (C)(3), 82(C)(4) and (5) and (G), 83.3(D), 83.4(C), 86(C),  
6 89(C), and 89.2(D) are hereby enacted to read as follows:

7 §46.2. Human trafficking

8 \* \* \*

9 D. It shall not be a defense to prosecution for a violation of this Section that  
10 the person being recruited, harbored, transported, provided, solicited, obtained, or  
11 maintained is actually a law enforcement officer or peace officer acting within the  
12 official scope of his duties.

13 E. If any Subsection, Paragraph, Subparagraph, Item, sentence, clause,  
14 phrase, or word of this Section is for any reason held to be invalid, unlawful, or  
15 unconstitutional, such decision shall not affect the validity of the remaining portions  
16 of this Section.

17 §46.3. Trafficking of children for sexual purposes

18 A. It shall be unlawful:

19 \* \* \*

20 (6) For any person to knowingly sell or offer to sell travel services that  
21 include or facilitate any of the activities prohibited by this Section.

22 \* \* \*

23 C.

24 \* \* \*

25 (3) It shall not be a defense to prosecution for a violation of this Section that  
26 the person being recruited, harbored, transported, provided, sold, purchased,  
27 obtained, or maintained is actually a law enforcement officer or peace officer acting  
28 within the official scope of his duties.

1 D.(1)(a) Whoever violates the provisions of Paragraph (A)(1), (2), (4), ~~or~~ (5),  
2 or (6) of this Section shall be fined not more than fifty thousand dollars, imprisoned  
3 at hard labor for not less than fifteen, nor more than fifty years, or both.

4 (b) Whoever violates the provisions of Paragraph (A)(1), (2), (4), ~~or~~ (5), or  
5 (6) of this Section when the victim is under the age of fourteen years shall be fined  
6 not more than seventy-five thousand dollars and imprisoned at hard labor for not less  
7 than twenty-five years nor more than fifty years. At least twenty-five years of the  
8 sentence imposed shall be served without benefit of probation, parole, or suspension  
9 of sentence.

10 (2) Whoever violates the provisions of Paragraph (A)(3) of this Section shall  
11 be required to serve at least five years of the sentence imposed in Subparagraph  
12 (D)(1)(a) of this Section without benefit of probation, parole, or suspension of  
13 sentence. Whoever violates the provisions of Paragraph (A)(3) when the victim is  
14 under the age of fourteen years shall be required to serve at least ten years of the  
15 sentence imposed in Subparagraph (D)(1)(b) of this Section without benefit of  
16 probation, parole, or suspension of sentence.

17 \* \* \*

18 §81.1. Pornography involving juveniles

19 A.(1) It shall be unlawful for a person to produce, promote, advertise,  
20 distribute, possess, or possess with the intent to distribute pornography involving  
21 juveniles.

22 \* \* \*

23 D.(1) Lack of knowledge of the juvenile's age shall not be a defense.

24 (2) It shall not be a defense to prosecution for a violation of this Section that  
25 the juvenile consented to participation in the activity prohibited by this Section.

26 E.(1)(a) Whoever intentionally possesses pornography involving juveniles  
27 shall be fined not more than ~~ten~~ fifty thousand dollars and shall be imprisoned at  
28 hard labor for not less than ~~two~~ five years or more than ~~ten~~ twenty years, without  
29 benefit of parole, probation, or suspension of sentence.



1 §82. Prostitution; definition; penalties; enhancement

2 \* \* \*

3 C.

4 \* \* \*

5 (4) Whoever commits the crime of prostitution with a person under the age  
6 of eighteen years shall be fined not more than fifty thousand dollars, imprisoned for  
7 less than fifteen years nor more than fifty years, or both.

8 (5) Whoever commits the crime of prostitution with a person under the age  
9 of fourteen years shall be fined not more than seventy-five thousand dollars,  
10 imprisoned for not less than twenty-five years nor more than fifty years, or both.

11 \* \* \*

12 G. It shall be an affirmative defense to prosecution for a violation of this  
13 Section that, during the time of the alleged commission of the offense, the defendant  
14 was a victim of trafficking of children for sexual purposes as provided in R.S.  
15 14:46.3(E).

16 §82.1. Prostitution; persons under ~~seventeen~~; eighteen; additional offenses

17 A. It shall be unlawful:

18 (1) For any person over the age of seventeen to engage in sexual intercourse  
19 with any person under the age of ~~seventeen~~ eighteen who is practicing prostitution,  
20 and there is an age difference of greater than two years between the two persons.  
21 ~~Lack of knowledge of the latter person's age shall not be a defense.~~

22 (2) For any parent or tutor of any person under the age of ~~seventeen~~ eighteen  
23 knowingly to consent to the person's entrance or detention in the practice of  
24 prostitution.

25 B.(1) Lack of knowledge of the age of the person practicing prostitution shall  
26 not be a defense.

27 (2) It shall not be a defense to prosecution for a violation of this Section that  
28 the person practicing prostitution consented to the activity prohibited by this Section.

1            ~~B.C.~~ As used in this Section, "sexual intercourse" means anal, oral, or  
2 vaginal sexual intercourse.

3            ~~C.D.(1)~~ Whoever violates the provisions of Paragraph (A)(1) of this Section  
4 shall be fined not more than ~~five~~ fifty thousand dollars ~~or imprisoned, with or~~  
5 ~~without hard labor, imprisoned at hard labor~~ for not less than ~~two~~ fifteen years nor  
6 more than ~~ten~~ fifty years, or both.

7            (2) Whoever violates the provisions of Paragraph (A)(1) of this Section when  
8 the person practicing prostitution is under the age of fourteen shall be fined not more  
9 than seventy-five thousand dollars, imprisoned at hard labor for not less than twenty-  
10 five years nor more than fifty years, or both. Twenty-five years of the sentence  
11 imposed shall be without benefit of parole, probation, or suspension of sentence.

12            (3)(a) Whoever violates the provisions of Paragraph (A)(2) of this Section  
13 shall be required to serve at least five years of the sentence imposed in Paragraph (1)  
14 of this Subsection without benefit of parole, probation, or suspension of sentence.

15            (b) Whoever violates the provisions of Paragraph (A)(2) of this Section shall  
16 be required to serve at least ten years of the sentence imposed in Paragraph (2) of this  
17 Subsection without benefit of parole, probation, or suspension of sentence.

18            E. It shall not be a defense to prosecution for a violation of this Section that  
19 the person practicing prostitution who is believed to be under the age of eighteen is  
20 actually a law enforcement officer or peace officer acting within the official scope  
21 of his duties.

22 §83. Soliciting for prostitutes

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

25            B.(1) Whoever commits the crime of soliciting for prostitutes shall be fined  
26 not more than five hundred dollars, imprisoned for not more than six months, or  
27 both.

28            (2) Whoever commits the crime of soliciting for prostitutes when the person  
29 being solicited is under the age of eighteen years shall be fined not more than fifty

1 thousand dollars, imprisoned for less than fifteen years nor more than fifty years, or  
2 both.

3 (3) Whoever commits the crime of soliciting for prostitutes when the person  
4 being solicited is under the age of fourteen years shall be fined not more than  
5 seventy-five thousand dollars, imprisoned for not less than twenty-five years nor  
6 more than fifty years, or both.

7 §83.1. Inciting prostitution

8 \* \* \*

9 B.(1) Whoever commits the crime of inciting prostitution shall be fined not  
10 more than one thousand dollars or imprisoned for not more than one year, or both.

11 (2) Whoever commits the crime of inciting prostitution of persons under the  
12 age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned  
13 for less than fifteen years nor more than fifty years, or both.

14 (3) Whoever commits the crime of inciting prostitution of persons under the  
15 age of fourteen years shall be fined not more than seventy-five thousand dollars,  
16 imprisoned for not less than twenty-five years nor more than fifty years, or both.

17 §83.2. Promoting prostitution

18 \* \* \*

19 B.(1) Whoever commits the crime of promoting prostitution shall be fined  
20 not more than five thousand dollars or imprisoned with or without hard labor for not  
21 more than two years, or both.

22 (2) Whoever commits the crime of promoting prostitution of persons under  
23 the age of eighteen years shall be fined not more than fifty thousand dollars,  
24 imprisoned for less than fifteen years nor more than fifty years, or both.

25 (3) Whoever commits the crime of promoting prostitution of persons under  
26 the age of fourteen years shall be fined not more than seventy-five thousand dollars,  
27 imprisoned for not less than twenty-five years nor more than fifty years, or both.

1 §83.3. Prostitution by massage

2 \* \* \*

3 D. It shall be an affirmative defense to prosecution for a violation of this  
4 Section that, during the time of the alleged commission of the offense, the defendant  
5 was a victim of trafficking of children for sexual purposes as provided in R.S.  
6 14:46.3(E).

7 §83.4. Massage; sexual conduct prohibited

8 \* \* \*

9 C. It shall be an affirmative defense to prosecution for a violation of this  
10 Section that, during the time of the alleged commission of the offense, the defendant  
11 was a victim of trafficking of children for sexual purposes as provided in R.S.  
12 14:46.3(E).

13 §84. Pandering

14 A. Pandering is any of the following intentional acts:

15 (1) Enticing, placing, persuading, encouraging, or causing the entrance of  
16 any person into the practice of prostitution, either by force, threats, promises, or by  
17 any other device or scheme;

18 (2) Maintaining a place where prostitution is habitually practiced;

19 (3) Detaining any person in any place of prostitution by force, threats,  
20 promises, or by any other device or scheme;

21 (4) Receiving or accepting by a person as a substantial part of support or  
22 maintenance anything of value which is known to be from the earnings of any person  
23 engaged in prostitution;

24 (5) Consenting, on the part of any parent or tutor of any person, to the  
25 person's entrance or detention in the practice of prostitution;~~or,~~

26 (6) Transporting any person from one place to another for the purpose of  
27 promoting the practice of prostitution.



1            B.(1) Whoever commits the crime of pandering shall be fined not more than  
2 five thousand dollars, imprisoned with or without hard labor for not more than five  
3 years, or both.

4            (2) Whoever commits the crime of pandering involving the prostitution of  
5 persons under the age of eighteen years shall be fined not more than fifty thousand  
6 dollars, imprisoned for less than fifteen years nor more than fifty years, or both.

7            (3) Whoever commits the crime of pandering involving the prostitution of  
8 persons under the age of fourteen years shall be fined not more than seventy-five  
9 thousand dollars, imprisoned for not less than twenty-five years nor more than fifty  
10 years, or both.

11        §85. Letting premises for prostitution

12            A. Letting premises for prostitution is the granting of the right of use or the  
13 leasing of any premises, knowing that they are to be used for the practice of  
14 prostitution, or allowing the continued use of the premises with such knowledge.

15            B.(1) Whoever commits the crime of letting premises for prostitution shall  
16 be fined not more than five hundred dollars, ~~or~~ imprisoned for not more than six  
17 months, or both.

18            (2) Whoever commits the crime of letting premises for prostitution of  
19 persons under the age of eighteen years shall be fined not more than fifty thousand  
20 dollars, imprisoned for less than fifteen years nor more than fifty years, or both.

21            (3) Whoever commits the crime of letting premises for prostitution of  
22 persons under the age of fourteen years shall be fined not more than seventy-five  
23 thousand dollars, imprisoned for not less than twenty-five years nor more than fifty  
24 years, or both.

25    \*        \*        \*

26        §86. Enticing persons into prostitution

27    \*        \*        \*

1           B.(1)(a) Whoever commits the crime of enticing persons into prostitution  
2 shall be imprisoned, with or without hard labor, for not less than two years nor more  
3 than ten years.

4           (b) Whoever commits the crime of enticing persons into prostitution when  
5 the person being enticed into prostitution is under the age of eighteen years shall be  
6 fined not more than fifty thousand dollars, imprisoned for less than fifteen years nor  
7 more than fifty years, or both.

8           (c) Whoever commits the crime of enticing persons into prostitution when  
9 the person being enticed into prostitution is under the age of fourteen years shall be  
10 fined not more than seventy-five thousand dollars, imprisoned for not less than  
11 twenty-five years nor more than fifty years, or both.

12                           \*       \*       \*

13           C. It shall not be a defense to prosecution for a violation of this Section that  
14 the person being enticed is actually a law enforcement officer or peace officer acting  
15 in his official capacity.

16                           \*       \*       \*

17 §89. Crime against nature

18                           \*       \*       \*

19           B.(1) Whoever violates the provisions of this Section shall be fined not more  
20 than two thousand dollars, ~~or~~ imprisoned, with or without hard labor, for not more  
21 than five years, or both.

22           (2) Whoever violates the provisions of this Section with a person under the  
23 age of eighteen years shall be fined not more than fifty thousand dollars, imprisoned  
24 for less than fifteen years nor more than fifty years, or both.

25           (3) Whoever violates the provisions of this Section with a person under the  
26 age of fourteen years shall be fined not more than seventy-five thousand dollars,  
27 imprisoned for not less than twenty-five years nor more than fifty years, or both.

28           C. 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).

3                            \*            \*            \*

4        §89.2. Crime against nature by solicitation

5                            \*            \*            \*

6                B.

7                            \*            \*            \*

8                (3)(a) Whoever violates the provisions of this Section, when the person  
9        being solicited is under the age of ~~seventeen~~ eighteen years, shall be fined not more  
10       than ~~two~~ fifty thousand dollars, ~~or imprisoned, with or without hard labor,~~  
11       imprisoned at hard labor for not less than fifteen years nor more than ~~five~~ fifty years,  
12       or both. ~~Lack of knowledge of the age of the person being solicited shall not be a~~  
13       ~~defense.~~

14                (b) Whoever violates the provisions of this Section, when the person being  
15       solicited is under the age of fourteen years, shall be fined not more than seventy-five  
16       thousand dollars, imprisoned at hard labor for not less than twenty-five years nor  
17       more than fifty years, or both. Twenty-five years of the sentence imposed shall be  
18       without benefit of parole, probation, or suspension of sentence.

19                            \*            \*            \*

20                D.(1) It shall be an affirmative defense to prosecution for a violation of this  
21       Section that, during the time of the alleged commission of the offense, the defendant  
22       was a victim of trafficking of children for sexual purposes as provided in R.S.  
23       14:46.3(E).

24                (2) Lack of knowledge of the age of the person being solicited shall not be  
25       a defense.

26                (3) It shall not be a defense to prosecution for a violation of Paragraph (B)(3)  
27       of this Section that the person being solicited consented to the activity prohibited by  
28       this Section.

1           (4) It shall not be a defense to prosecution for a violation of Paragraph (B)(3)  
2       of this Section that the person being solicited is actually a law enforcement officer  
3       or peace officer acting within the official scope of his duties.

4   \*        \*        \*

5       §104. Keeping a disorderly place

6           A. Keeping a disorderly place is the intentional maintaining of a place to be  
7       used habitually for any illegal purpose.

8           B.(1) Whoever commits the crime of keeping a disorderly place shall be  
9       fined not more than five hundred dollars, ~~or~~ imprisoned for not more than six  
10      months, or both.

11           (2) Whoever commits the crime of keeping a disorderly place for the purpose  
12      of prostitution of persons under the age of eighteen years shall be fined not more  
13      than fifty thousand dollars, imprisoned for less than fifteen years nor more than fifty  
14      years, or both.

15           (3) Whoever commits the crime of keeping a disorderly place for the purpose  
16      of prostitution of persons under the age of fourteen years shall be fined not more than  
17      seventy-five thousand dollars, imprisoned for not less than twenty-five years nor  
18      more than fifty years, or both.

19      §105. Letting a disorderly place

20           A. Letting a disorderly place is the granting of the right to use any premises  
21      knowing that they are to be used as a disorderly place, or allowing the continued use  
22      of the premises with such knowledge.

23           B.(1) Whoever commits the crime of letting a disorderly place shall be fined  
24      not more than five hundred dollars, ~~or~~ imprisoned for not more than six months, or  
25      both.

26           (2) Whoever commits the crime of letting a disorderly place for the purpose  
27      of prostitution of persons under the age of eighteen years shall be fined not more  
28      than fifty thousand dollars, imprisoned for less than fifteen years nor more than fifty  
29      years, or both.

1                   (3) Whoever commits the crime of letting a disorderly place for the purpose  
 2                   of prostitution of persons under the age of fourteen years shall be fined not more than  
 3                   seventy-five thousand dollars, imprisoned for not less than twenty-five years nor  
 4                   more than fifty years, or both.

5   \*           \*           \*

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

7                   A. No person shall maintain, operate, or knowingly own any place or any  
 8                   conveyance used for the purpose of lewdness, assignation, or prostitution, or shall  
 9                   rent or let any place or conveyance to any person with knowledge of or good reason  
 10                   to believe that the lessee intends to use the place or conveyance for the purpose of  
 11                   lewdness, assignation, or prostitution, or reside in, enter, or remain in any place for  
 12                   the purpose of lewdness, assignation, or prostitution.

13                   B.(1) Whoever violates or aids, abets, or participates in the violation of this  
 14                   Section shall be fined not less than twenty-five dollars nor more than five hundred  
 15                   dollars, imprisoned for not less than thirty days nor more than six months, or both.

16                   (2) Whoever violates any provision of this Section for the purpose of  
 17                   lewdness, assignation, or prostitution of persons under the age of eighteen shall be  
 18                   fined not more than fifty thousand dollars, imprisoned for less than fifteen years nor  
 19                   more than fifty years, or both.

20                   (3) Whoever violates any provision of this Section for the purpose of  
 21                   lewdness, assignation, or prostitution of persons under the age of fourteen years shall  
 22                   be fined not more than seventy-five thousand dollars, imprisoned for not less than  
 23                   twenty-five years nor more than fifty years, or both.

24   \*           \*           \*

25                   §403.3. Reports of missing children; procedures; false reports or communications;  
 26                   penalties

27                   A.(1) Any state or local law enforcement agency receiving a report of a  
 28                   missing child, or the recovery of a missing child, and having reasonable grounds to

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

1 believe such report is accurate shall within forty-eight hours after the date of receipt  
2 of the report notify each of the following of the fact and contents of such report:

3 \* \* \*

4 C. No person shall intentionally communicate false information concerning  
5 a missing child, or the recovery of a missing child, to a law enforcement agency  
6 when such information is communicated with the specific intent to delay or  
7 otherwise hinder an investigation to locate the child.

8 \* \* \*

9 Section 2. R.S. 15:541(12)(c) and (25)(k) and (l) are hereby amended and reenacted  
10 and R.S. 15:541(12)(d) and (25)(m), (n), and (o) and 1308(A)(2)(q) and (r) are hereby  
11 enacted to read as follows:

12 §541. Definitions

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

15 \* \* \*

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

19 \* \* \*

20 (c) A violation of R.S. 14:83, 83.1, 83.2, or 282 when the prostitution  
21 involves persons under the age of eighteen years.

22 ~~(d)~~ Any conviction for an offense under the laws of another state, or  
23 military, territorial, foreign, tribal, or federal law which is equivalent to the offenses  
24 listed in Subparagraphs (a), ~~(b)~~, and ~~(b)~~ (c) of this Paragraph.

25 \* \* \*

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

29 \* \* \*

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

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

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

5           (m) Promoting prostitution when the prostitution being promoted involves  
6           persons under the age of eighteen years (R.S. 14:83.2).

7           (n) Operation of places of prostitution when the prostitution involves persons  
8           under the age of eighteen years (R.S. 14:282).

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

12   \*       \*       \*

13          §1308. Authorization for interception of wire or oral communications

14            A. The attorney general, or the deputy or any assistant attorney general  
15            acting pursuant to the authorization of the attorney general, with the approval of the  
16            district attorney or any assistant district attorney acting pursuant to the written  
17            authorization of the district attorney in whose district the interception of wire or oral  
18            communications shall take place, and the district attorney or authorized assistant  
19            district attorney, with the approval of the attorney general or authorized deputy or  
20            assistant attorney general may authorize an application to a judge in whose district  
21            the interception of wire or oral communications shall take place, and such judge may  
22            grant in conformity with R.S. 15:1310 an order authorizing or approving the  
23            interception of wire or oral communications by an investigative or law enforcement  
24            officer having responsibility for the investigation of the offense as to which the  
25            application is made, when such interception may provide or has provided evidence  
26            of:

27   \*       \*       \*

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

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

3 \* \* \*

4 (q) Human trafficking when prosecuted under R.S. 14:46.2(B)(3).

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

6 \* \* \*

7 Section 3. R.S. 40:2521 is hereby amended and reenacted to read as follows:

8 §2521. Law enforcement agency receiving report of missing or recovered child;  
9 duty

10 The law enforcement agency which receives an initial report of a missing  
11 child or the recovery of a missing child shall immediately report the missing or  
12 recovered child to national law enforcement agencies and the state law enforcement  
13 agencies of neighboring states. This notification shall include entry of the ~~child's~~  
14 name of the child into the National Crime Information Center registry. These reports  
15 shall be made for each reported missing child without regard to whether the child is  
16 believed to be missing due to stranger abduction, parental abduction, or any other  
17 cause.

18 Section 4. R.S. 46:1433 and 1809(B)(3)(d) and (4)(a) are hereby amended and  
19 reenacted to read as follows:

20 §1433. Notification of location of missing and/or exploited child

21 A. The parent, guardian, or legal custodian responsible for notifying the  
22 clearinghouse or a law enforcement agency of a missing ~~and/or~~ or exploited child  
23 shall immediately notify such agency or the clearinghouse of any child whose  
24 location has been determined.

25 B. Any law enforcement agency shall transmit information of the recovery  
26 of a missing child to the clearinghouse who shall maintain the information in the  
27 central repository pursuant to R.S. 46:1431 and 1432.

28 \* \* \*



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

6 \* \* \*

7 (d) The claimant was the offender or an accessory, or that an award to the  
8 claimant would unjustly benefit any of them. However, such ineligibility shall not  
9 apply if the claimant is a victim of human trafficking or trafficking of children for  
10 sexual purposes.

11 \* \* \*

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

13 (a) If it finds that the behavior of the victim at the time of the crime giving  
14 rise to the claim was such that the victim bears some measure of responsibility for  
15 the crime that caused the physical injury, death, or catastrophic property loss or for  
16 the physical injury, death, or catastrophic property loss. However, such ineligibility  
17 shall not apply if the claimant is a victim of human trafficking or trafficking of  
18 children for sexual purposes.

19 \* \* \*

20 Section 5. Code of Criminal Procedure Article 571.1 is hereby amended and  
21 reenacted to read as follows:

22 Art. 571.1. Time limitation for certain sex offenses

23 Except as provided by Article 572 of this Chapter, the time within which to  
24 institute prosecution of the following sex offenses: sexual battery (R.S. 14:43.1),  
25 second degree sexual battery (R.S. 14:43.2), oral sexual battery (R.S. 14:43.3),  
26 human trafficking (R.S. 14:46.2(B)(2) or (3)), trafficking of children for sexual  
27 purposes (R.S. 14:46.3), felony carnal knowledge of a juvenile (R.S. 14:80), indecent  
28 behavior with juveniles (R.S. 14:81), pornography involving juveniles (R.S.  
29 14:81.1), molestation of a juvenile (R.S. 14:81.2), prostitution of persons under

1 eighteen (R.S. 14:82.1), enticing persons into prostitution (R.S. 14:86), crime against  
 2 nature (R.S. 14:89), aggravated crime against nature (R.S. 14:89.1), crime against  
 3 nature by solicitation (R.S. 14:89.2(B)(3)), incest (R.S. 14:78), or aggravated incest  
 4 (R.S. 14:78.1) which involves a victim under seventeen years of age, regardless of  
 5 whether the crime involves force, serious physical injury, death, or is punishable by  
 6 imprisonment at hard labor shall be thirty years. This thirty-year period begins to  
 7 run when the victim attains the age of eighteen.

8 Section 6. Children's Code Articles 804(3) and (5) and 1015(3)(l) are hereby  
 9 amended and reenacted and Children's Code Articles 603(10)(r) and (s), 606(A)(6), 918(D),  
 10 and 1015(3)(m) are hereby enacted to read as follows:

11 Art. 603. Definitions

12 As used in this Title:

13 \* \* \*

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

17 \* \* \*

18 (r) Human trafficking.

19 (s) Trafficking of children for sexual purposes.

20 \* \* \*

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

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

24 \* \* \*

25 (6) The child is a victim of human trafficking or trafficking of children for  
 26 sexual purposes.

27 \* \* \*

1 Art. 804. Definitions

2 As used in this Title:

3 \* \* \*

4 (3) "Delinquent act" means an act committed by a child of ten years of age  
5 or older which if committed by an adult is designated an offense under the statutes  
6 or ordinances of this state, or of another state if the offense occurred there, or under  
7 federal law, except traffic violations. It includes an act constituting an offense under  
8 R.S. 14:95.8, an act constituting an offense under R.S. 14:81.1.1(A)(2), and a direct  
9 contempt of court committed by a child. "Delinquent act" shall not include a  
10 violation of R.S. 14:82, 83.3, 83.4, 89, or 89.2 for a child who, during the time of the  
11 alleged commission of the offense, was a victim of trafficking of children for sexual  
12 purposes pursuant to R.S. 14:46.3(E).

13 \* \* \*

14 (5) "Felony-grade delinquent act" means an offense that if committed by an  
15 adult, may be punished by death or by imprisonment at hard labor. "Felony-grade  
16 delinquent act" shall not include a violation of R.S. 14:82, 83.3, 83.4, 89, or 89.2 for  
17 a child who, during the time of the alleged commission of the offense, was a victim  
18 of trafficking of children for sexual purposes pursuant to R.S. 14:46.3(E).

19 \* \* \*

20 Art. 918. Grounds

21 \* \* \*

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

28 \* \* \*

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

1 Art. 1015. Grounds

2 The grounds for termination of parental rights are:

3 \* \* \*

4 (3) Misconduct of the parent toward this child or any other child of the  
5 parent or any other child in his household which constitutes extreme abuse, cruel and  
6 inhuman treatment, or grossly negligent behavior below a reasonable standard of  
7 human decency, including but not limited to the conviction, commission, aiding or  
8 abetting, attempting, conspiring, or soliciting to commit any of the following:

9 \* \* \*

10 (l) Sexual exploitation or abuse, which shall include, but is not limited to acts  
11 which are prohibited by R.S. 14:43.1, 43.2, 46.3, 80, 81, 81.1, 81.2, 82.1(A)(2), 89,  
12 and 89.1.

13 (m) Human trafficking when sentenced pursuant to the provisions of R.S.  
14 14:46.2(B)(2) or (3).

15 \* \* \*

---

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)]

---

Abramson HB No. 49

**Abstract:** Increases criminal penalties for prostitution-related offenses, provides affirmative defenses for certain offenses when the defendant is a victim of trafficking, and provides for numerous changes in the law with respect to victims of trafficking.

Present law provides that it shall be unlawful to engage in the following: human trafficking (R.S. 14:46.2), trafficking of children for sexual purposes (R.S. 14:46.3), pornography involving juveniles (R.S. 14:81.1), computer-aided solicitation of a minor (R.S. 14:81.3), prostitution (R.S. 14:82), prostitution of persons under eighteen (R.S. 14:82.1), soliciting for prostitutes (R.S. 14:83), inciting prostitution (R.S. 14:83.1), promoting prostitution (R.S. 14:83.2), prostitution by massage (R.S. 14:83.3), prohibited sexual conduct during massage (R.S. 14:83.4), pandering (R.S. 14:84), letting premises for prostitution (R.S. 14:85), enticing persons into prostitution (R.S. 14:86), crime against nature (R.S. 14:89), crime against nature by solicitation (R.S. 14:89.2), keeping a disorderly place (R.S. 14:104), letting a disorderly place (R.S. 14:105), and operation of places of prostitution (R.S. 14:282).

Proposed law provides for a comprehensive revision to present law provisions, including the following major changes:

- (1) Increases penalties for prostitution-related offenses when the prostitution involves persons under the age of 18 and provides for enhanced penalties when the prostitution involves persons under the age of 14.
- (2) Provides an affirmative defense to prosecution for certain prostitution offenses when, during the time of the alleged commission of the offense, the defendant was a victim of trafficking of children for sexual purposes.
- (3) Provides that it shall not be a defense to prosecution for human trafficking, trafficking of children for sexual purposes, prostitution of persons under age 18, and crime against nature by solicitation that the person being trafficked or who is practicing prostitution is actually a law enforcement officer or peace officer acting within the official scope of his duties.
- (4) Provides that it shall not be a defense to prosecution for pornography involving juveniles, computer-aided solicitation, prostitution of persons under 18, and crime against nature by solicitation that the person consented to the prohibited actions.
- (5) Extends the crime of trafficking of children for sexual purposes to include the sale or offer to sell travel services that include or facilitate trafficking.
- (6) Amends the crime of prostitution of persons under 18 to add a minimum mandatory prison sentence for any parent or tutor of the child who consents to the child's entrance or detention in the practice of prostitution.
- (7) Increases penalties for the crime of pornography involving juveniles.
- (8) Amends the sex offender registration provisions to require persons convicted of certain prostitution offenses involving persons under the age of 18 to register for a period of 25 years.
- (9) Amends present law governing the reporting of missing children to require the reporting of rescued children to the Missing and Exploited Children Information Clearinghouse and the National Crime Information Center registry.
- (10) Adds investigations of human trafficking and trafficking of children for sexual purposes to the list of offenses for which the interception of wire or oral communications are authorized and the resulting evidence is admissible.
- (11) Amends present law regarding crime-victim reparations to provide that ineligibility, or reduction of the reparation awards when the victim was an accessory or otherwise involved in the crime, shall not apply to human trafficking or trafficking of children for sexual purposes.
- (12) Adds the following crimes to the list of present law offenses which have a 30-year time limit in which to initiate prosecution: human trafficking (R.S. 14:46.2) when the trafficking involves sexual services or the persons under the age of 18, trafficking of children for sexual purposes (R.S. 14:46.3), pornography involving juveniles (R.S. 14:81.1), prostitution of persons under eighteen (R.S. 14:82.1), enticing persons into prostitution (R.S. 14:86), and crime against nature by solicitation (R.S. 14:89.2) when the person being solicited is under the age of 18 years.
- (13) Amends the definition of "delinquent act" and "felony-grade delinquent act" to exclude certain prostitution offenses when, during the time of the alleged commission of the offense, the child was a victim of sex trafficking.

- (14) Amends the definition of "crime against the child" and amends the grounds for which a child may be alleged a child in need of care to include victims of human trafficking or trafficking of children for sexual purposes.
- (15) Adds the following to the list of grounds for which a person's parental rights are terminated:
- (a) Sexual abuse or exploitation including trafficking of children for sexual purposes (R.S. 14:46.3) and parental consent to the child's entrance or detention in the practice of prostitution (R.S. 14:82.1).
  - (b) Human trafficking when the services include commercial sexual activity or when the trafficking involves a person under the age of 18 (R.S. 14:46.2(B)(2) and (3)).
- (16) Provides that records concerning conduct or conditions resulting in an adjudication for the following crimes may be expunged upon petition to the court and upon a showing that, during the time of the commission of the offense, the person seeking the expungement was a victim of trafficking of children for sexual purposes, provided that there is no outstanding indictment or bill of information charging him: prostitution (R.S. 14:82), prostitution by massage (R.S. 14:83.3), prohibited sexual conduct during massage (R.S. 14:83.4), crime against nature (R.S. 14:89), and crime against nature by solicitation (R.S. 14:89.2).

(Amends R.S. 14:46.2(D), 46.3(D)(1) and (2), 81.1(A)(1), (D), and (E)(1), (2), and (4), 81.3(C), 82.1, 83, 83.1(B), 83.2(B), 84, 85, 86(B)(1), 89(B), 89.2(B)(3), 104, 105, 282, and 403.3(A)(1)(intro. para.) and (C), R.S. 15:541(12)(c) and (25)(k) and (l), R.S. 40:2521, R.S. 46:1433 and 1809(B)(3)(d) and (4)(a), C.Cr.P. Art. 571.1 and Ch.C. Arts. 804(3) and (5), and 1015(3)(l); Adds R.S. 14:46.2(E), 46.3(A)(6) and (C)(3), 82(C)(4) and (5) and (G), 83.3(D), 83.4(C), 86(C), 89(C), and 89.2(D), R.S. 15:541(12)(d) and (25)(m), (n) and (o), and 1308(A)(2)(q) and (r), and Ch.C. Arts. 603(10)(r) and (s), 606(A)(6), 918(D), and 1015(3)(m))

#### Summary of Amendments Adopted by House

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

1. Removed amendments to the elements and certain penalty provisions for present law crimes of pornography involving juveniles and computer-aided solicitation of a minor.
2. Added the crime of inciting prostitution to the definitions of "criminal offense against a victim who is a minor" and "sexual offense against a victim who is a minor" for purposes of sex offender registration and notification.
3. Clarified language used in amending the provision regarding the use of wiretapping by law enforcement to include investigations of the crimes of human trafficking and trafficking of children for sexual purposes.
4. Added provision which amends the definition of "crime against the child" for purposes of the Child in Need of Care to include the crimes of human trafficking and trafficking of children for sexual purposes.
5. Removed proposed law changes to the definition of "caretaker" relative to Child in Need of Care and Family in Need of Services provisions.

6. Clarified language used in amending the grounds for which a child is deemed to be a Child in Need of Care as well as language relative to expungements.
7. Removed proposed law provisions regarding training of peace officers on the investigation and prevention of trafficking.
8. Made technical changes to reflect these changes.