



ARIZONA STATE SENATE
Fifty-First Legislature, Second Regular Session

AMENDED
FACT SHEET FOR H.B. 2454

human trafficking; prostitution

Purpose

Increases penalties for certain acts relating to child prostitution, adds child prostitution and human trafficking offenses to the definition of *racketeering* and places requirements on escort service and massage therapy advertising.

Background

A person commits *child prostitution* by knowingly: a) causing any minor to engage in prostitution; b) using any minor for the purposes of prostitution; c) permitting a minor who is under the person's custody or control to engage in prostitution; d) receiving any benefit for or on account of procuring or placing a minor in any place or in the charge or custody of any person for the purpose of prostitution; e) receiving any benefit pursuant to an agreement to participate in the proceeds of prostitution of a minor; f) financing, managing, supervising, controlling or owning, either alone or in association with others, prostitution activity involving a minor; or g) transporting or financing the transportation of any minor with the intent that the minor engage in prostitution. Engaging in one of these acts is a class 2 felony (A.R.S. § 13-3212(A)).

In addition, a person who is at least 18 years old commits *child prostitution* by knowingly engaging in prostitution with a minor. A person who engages in prostitution with a minor who is under 15 years old or who the person knows to be a minor who is 15, 16 or 17 years old is subject to a class 2 felony. A person who engages in prostitution with a minor who is 15, 16 or 17 years old commits a class 6 felony if the person does not know the minor's age (A.R.S. § 13-3212(B)).

A person commits *commercial sexual exploitation of a minor* by knowingly using, employing, persuading, enticing, inducing or coercing a minor to engage in certain prohibited sexual acts. In addition, a person commits the offense by permitting a minor under the person's custody or control to engage in prohibited sexual acts for the purpose of producing any visual depiction or live act depicting such conduct. Finally, a person commits the offense by transporting or financing the transportation of a minor through or across the state with the intent that the minor engage in prostitution or other prohibited sexual conduct. *Commercial sexual exploitation of a minor* is a class 2 felony (A.R.S. § 13-3552).

There is no anticipated fiscal impact to the state General Fund as a result of this legislation.

Provisions

Prostitution

1. Increases, from a class 6 to a class 2 felony, engaging in prostitution with a minor who the person should have known is 15, 16 or 17 years old.
2. Increases the presumptive, minimum and maximum sentence for a person convicted of *child prostitution* if the minor is 15, 16 or 17 years old.
3. Establishes an affirmative defense for knowingly engaging in prostitution if the defendant committed the acts as a direct result of being a victim of sex trafficking.
4. Classifies knowingly using an advertisement for prostitution that contains a visual depiction of a minor as *commercial sexual exploitation of a minor*.
5. Specifies that the following are not liable for *commercial sexual exploitation of a minor* based on an advertisement for prostitution that contains a visual depiction of a minor:
 - a) advertisements that depict an exploitive exhibition or sexual conduct of an adult depicted as a minor; and
 - b) websites or internet service providers that host advertisements created and published by third parties and who do not participate in the creating or publishing of the advertisement.
6. Clarifies language relating to the offense of *pandering*.

Human Trafficking

7. Adds, as a possible aggravating circumstance when a defendant is convicted for a violation of sex trafficking or forced labor trafficking, the consideration that the defendant recruited, enticed or obtained the victim from a shelter that is designed to serve runaway youth, foster children, homeless persons or victims of human trafficking, domestic violence or sexual assault.
8. Establishes the human trafficking victim assistance fund (Fund) consisting of monies received from civil penalties for unlawful advertising by escort services and massage therapists.
9. Requires the Governor's Office for Children, Youth and Families (Office) to establish program priorities for the Fund.
10. Requires the Office to spend monies in the Fund to provide assistance to victims of sex trafficking and trafficking of persons for forced labor or services.
11. Includes child prostitution, sex trafficking and forced labor trafficking within the offenses included in the definition of *racketeering*.

12. Allows monies in the anti-racketeering revolving fund and county anti-racketeering revolving funds to be used for programs that provide assistance to victims of criminal offenses that are subject to racketeering.

Escort Advertising

13. Prohibits an escort or escort agency to advertise escort services unless the advertisement includes either:
- a) the escort license number of the escort if the advertisement is for the services of a specific escort; or
 - b) the business license number of the escort agency where the services are offered if the advertisement does not offer the services of a specific escort.
14. Establishes an affirmative defense in a civil action brought against an escort or escort agency for the first failure to display a license number in an advertisement if the escort or escort agency possessed a valid license at the time the advertisement was published.
15. Requires an escort or escort agency to retain proof of the age of any **escort** whose services are offered in any advertisement of escort services for at least one year.
16. Establishes an affirmative defense in a civil action for failure to retain proof of age of an escort if the escort whose services were offered in an advertisement was at least 18 years old at the time the advertisement was published.
17. Subjects an escort or escort agency to a civil penalty for violating advertising requirements.
18. Allows the Attorney General, a county attorney or a city or town attorney to bring an action to enforce escort advertising requirements.
19. Requires the court to deposit any civil penalties collected into the Human Trafficking Victims Assistance Fund.
20. Defines *advertising*, *advertisement*, *escort* and *escort agency*.

Massage Therapists

21. Prohibits a massage therapist or massage therapy business to advertise massage therapy services unless the advertisement includes either:
- a) the massage therapy license number of the massage therapist if the advertisement is for the services of a specific massage therapist; or
 - b) the business license number of at least one business license held by the massage therapy business if the advertisement does not offer the services of a specific massage therapist.
22. Establishes an affirmative defense in a civil action brought against a massage therapist or massage therapy business for the failure to display a license number in an advertisement if

the massage therapist or massage therapy business possessed a valid license at the time the advertisement was published.

23. Requires a massage therapist or massage therapy business to retain proof of the age of any massage therapist whose services are offered in any advertisement of massage therapy services for at least one year.
24. Establishes an affirmative defense in a civil action for failure to retain proof of age of a massage therapist if the massage therapist whose services were offered in an advertisement was at least 18 years old at the time the advertisement was published.
25. Subjects a massage therapist or massage therapy business to a civil penalty for violating advertising requirements.
26. Allows the Attorney General, a county attorney or a city or town attorney to bring an action to enforce massage therapy advertising requirements.
27. Prohibits a person to advertise massage therapy services unless that person is properly licensed.
28. Defines *massage therapy business*.

Miscellaneous

29. Specifies that a victim's identifying information and locating information is considered private, subject to exceptions, when the victim is testifying in a court proceeding or when the information is obtained by a law enforcement agency or a prosecution agency.
30. Defines *identifying information* and *locating information*.
31. Contains an intent clause.
32. Contains a severability clause.
33. Makes technical and conforming changes.
34. Becomes effective on the general effective date.

Amendments Adopted in Committee

- Made a clarifying change to section on advertising for escort services.

Amendments Adopted in COW

- Makes changes to victim's right to privacy and prohibits the advertising of massage therapy services without a license.

FACT SHEET - Amended

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House Action

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3rd Read 2/27/14 58-0-2-0

Senate Action

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Prepared by Senate Research

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JA/tf