



ENACTMENT NEWS

House Bill 130

Human Trafficking

House Bill 130 becomes effective June 20, 2014

House Bill 130 (Fedor), which was signed by the Governor on June 20, 2014, became effective immediately upon signing. This law is a comprehensive change to laws meant to increase penalties for trafficking in persons and to strengthen rights of human trafficking victims.

The law prohibits a public children services agency (PCSA) or private child placing agency (PCPA) from placing a child with a parent if the parent has been convicted of promoting prostitution, compelling prostitution, or trafficking in persons, and the victim was the child, a sibling, or another child who lived in the parent's household. In these circumstances, the bill also provides that a PCSA or PCPA does not have to make reasonable efforts to prevent removal of a child from his home.

The law creates the following rights for victims of human trafficking:

- (1) Victims of human trafficking are eligible for intervention in lieu of conviction if human trafficking was a factor leading to the criminal behavior (2951.041).
- (2) A court can allow a victim of trafficking in persons who is younger than 16 years to testify at a preliminary hearing via closed-circuit television from another room (2937.11(B)). The judge or magistrate, at his discretion, may preside during the testimony by electronic means from outside the room in which it is being given and the BCII must provide, at the court's request, equipment that can be used to televise the victim's testimony.
- (3) With some exceptions, law enforcement agencies are prohibited from disclosing information in routine reports that is highly likely to identify an alleged delinquent child who is also an abused (possibly trafficked) child unless names and other identifying information is redacted (149.435(B)).

The law creates two new offenses:

- (1) Commercial Sexual Exploitation of a Minor: knowingly purchasing or otherwise obtaining advertising space for an advertisement for sexual activity for hire that includes a depiction of a minor (2907.19) – an F3.

- (2) Unlawful Advertising of Massage: advertising massage or any related service with the suggestion or promise of sexual activity (2927.17) – an M1.

The law makes the following changes to § 2905.32 (Human Trafficking):

- (1) “Compulsion” can include instances where the victim's will was overcome by fraud (beyond the current definition of “compulsion,” which includes force, fear, duress, or intimidation).
- (2) “Facilitating, encouraging, or recruiting” to sexual activity for hire is human trafficking under the bill’s expanded definition of the term, if it applies to the following:
 - (a) a victim who is less than 16 years of age or is a developmentally disabled person whom the offender knows or has reasonable cause to believe is a developmentally disabled person or
 - (b) a victim who is 16 or 17 years of age if the offender is in some position of authority over the victim, such as a parent, teacher, coach, cleric, or peace officer.

The law makes the following changes to § 2907.24 (Soliciting):

- (1) A person is prohibited from soliciting another who is 18 years of age or older to engage with that other person in "sexual activity for hire" (an implicit or explicit agreement to provide sexual activity for anything of value) –this is an M3.
- (2) A person is prohibited from soliciting another if the other person is 16 or 17 years old and the offender knows the person’s age – this is an F5.
- (3) A person is prohibited from soliciting another if the other person is younger than 16, even if the offender does not know the person’s age, or if the other person is a developmentally disabled person and the offender knows the other person is a developmentally disabled person – this is an F3.

The law makes the following changes to the SORN law (2950.01(A)(13),(14) &(F)(1)(c), (i)):

- (1) If the person solicited is under 16 or is a developmentally disabled person, solicitation is a sexually oriented offense for which registration is required.
- (2) The person convicted of soliciting, attempt, or conspiracy, or complicity is classified as a Tier II offender.