**South Carolina General Assembly**

121st Session, 2015-2016

**A74, R103, S183**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Hayes and Bryant

Document Path: l:\s-jud\bills\hayes\jud0028.jjg.docx

Companion/Similar bill(s): 196, 3125, 3930

Introduced in the Senate on January 13, 2015

Introduced in the House on April 14, 2015

Last Amended on June 3, 2015

Passed by the General Assembly on June 3, 2015

Governor's Action: June 8, 2015, Signed

Summary: Human trafficking

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/10/2014 Senate Prefiled

 12/10/2014 Senate Referred to Committee on **Judiciary**

 1/13/2015 Senate Introduced and read first time ([Senate Journal‑page 119](file:///h%3A%5CSJ%20Archive%5C2015%5C01-13-15.docx))

 1/13/2015 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 119](file:///h%3A%5CSJ%20Archive%5C2015%5C01-13-15.docx))

 3/26/2015 Senate Recalled from Committee on **Judiciary** ([Senate Journal‑page 3](file:///h%3A%5CSJ%20Archive%5C2015%5C03-26-15.docx))

 3/27/2015 Scrivener's error corrected

 3/31/2015 Senate Amended ([Senate Journal‑page 24](file:///h%3A%5CSJ%20Archive%5C2015%5C03-31-15.docx))

 3/31/2015 Senate Read second time ([Senate Journal‑page 24](file:///h%3A%5CSJ%20Archive%5C2015%5C03-31-15.docx))

 3/31/2015 Senate Roll call Ayes‑42 Nays‑0 ([Senate Journal‑page 24](file:///h%3A%5CSJ%20Archive%5C2015%5C03-31-15.docx))

 4/1/2015 Scrivener's error corrected

 4/1/2015 Senate Read third time and sent to House ([Senate Journal‑page 16](file:///h%3A%5CSJ%20Archive%5C2015%5C04-01-15.docx))

 4/14/2015 House Introduced and read first time ([House Journal‑page 30](file:///h%3A%5CHJ%20Archive%5C2015%5C04-14-15.docx))

 4/14/2015 House Referred to Committee on **Judiciary** ([House Journal‑page 30](file:///h%3A%5CHJ%20Archive%5C2015%5C04-14-15.docx))

 5/6/2015 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 36](file:///h%3A%5CHJ%20Archive%5C2015%5C05-06-15.docx))

 5/7/2015 Scrivener's error corrected

 5/12/2015 House Amended ([House Journal‑page 13](file:///h%3A%5CHJ%20Archive%5C2015%5C05-12-15.docx))

 5/12/2015 House Read second time ([House Journal‑page 13](file:///h%3A%5CHJ%20Archive%5C2015%5C05-12-15.docx))

 5/12/2015 House Roll call Yeas‑83 Nays‑0 ([House Journal‑page 17](file:///h%3A%5CHJ%20Archive%5C2015%5C05-12-15.docx))

 5/13/2015 House Read third time and sent to Senate ([House Journal‑page 11](file:///h%3A%5CHJ%20Archive%5C2015%5C05-13-15.docx))

 5/13/2015 Scrivener's error corrected

 5/14/2015 Senate House amendment amended

 5/14/2015 Senate Returned to House with amendments ([Senate Journal‑page 29](file:///h%3A%5CSJ%20Archive%5C2015%5C05-14-15.docx))

 5/21/2015 House Debate adjourned until Tues., 5‑26‑15 ([House Journal‑page 25](file:///h%3A%5CHJ%20Archive%5C2015%5C05-21-15.docx))

 5/26/2015 House Non‑concurrence in Senate amendment ([House Journal‑page 54](file:///h%3A%5CHJ%20Archive%5C2015%5C05-26-15.docx))

 5/26/2015 House Roll call Yeas‑0 Nays‑97 ([House Journal‑page 55](file:///h%3A%5CHJ%20Archive%5C2015%5C05-26-15.docx))

 5/27/2015 Senate Senate insists upon amendment and conference committee appointed Hayes, Hutto,Young ([Senate Journal‑page 41](file:///h%3A%5CSJ%20Archive%5C2015%5C05-27-15.docx))

 5/28/2015 House Conference committee appointed Brannon, Murphy, Weeks ([House Journal‑page 2](file:///h%3A%5CHJ%20Archive%5C2015%5C05-28-15.docx))

 6/2/2015 House Conference report received and adopted ([House Journal‑page 55](file:///h%3A%5CHJ%20Archive%5C2015%5C06-02-15.docx))

 6/2/2015 House Roll call Yeas‑107 Nays‑0 ([House Journal‑page 59](file:///h%3A%5CHJ%20Archive%5C2015%5C06-02-15.docx))

 6/3/2015 Senate Conference report adopted ([Senate Journal‑page 56](file:///h%3A%5CSJ%20Archive%5C2015%5C06-03-15.docx))

 6/3/2015 House Ordered enrolled for ratification ([House Journal‑page 207](file:///h%3A%5CHJ%20Archive%5C2015%5C06-03-15.docx))

 6/4/2015 Ratified R 103

 6/8/2015 Signed By Governor

 6/17/2015 Effective date 06/08/15

 6/18/2015 Act No. 74

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**VERSIONS OF THIS BILL**

[12/10/2014](file:///p%3A%5Cpprever%5C2015-16%5C183_20141210.docx)

[3/26/2015](file:///p%3A%5Cpprever%5C2015-16%5C183_20150326.docx)

[3/27/2015](file:///p%3A%5Cpprever%5C2015-16%5C183_20150327.docx)

[3/31/2015](file:///p%3A%5Cpprever%5C2015-16%5C183_20150331.docx)

[4/1/2015](file:///p%3A%5Cpprever%5C2015-16%5C183_20150401.docx)

[5/6/2015](file:///p%3A%5Cpprever%5C2015-16%5C183_20150506.docx)

[5/7/2015](file:///p%3A%5Cpprever%5C2015-16%5C183_20150507.docx)

[5/12/2015](file:///p%3A%5Cpprever%5C2015-16%5C183_20150512.docx)

[5/13/2015](file:///p%3A%5Cpprever%5C2015-16%5C183_20150513.docx)

[5/14/2015](file:///p%3A%5Cpprever%5C2015-16%5C183_20150514.docx)

[6/3/2015](file:///p%3A%5Cpprever%5C2015-16%5C183_20150603.docx)

(A74, R103, S183)

**AN ACT TO AMEND SECTION 16‑3‑2020, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TRAFFICKING IN PERSONS OFFENSES, SO AS TO PROVIDE THAT A PERSON IS CONSIDERED A TRAFFICKER IF THE PERSON GIVES OR OFFERS ANYTHING OF VALUE TO ANOTHER PERSON TO ENGAGE IN COMMERCIAL SEXUAL ACTIVITY KNOWING THAT THE OTHER PERSON IS A VICTIM OF TRAFFICKING IN PERSONS, TO PROVIDE THAT A VICTIM CONVICTED OF A TRAFFICKING IN PERSONS VIOLATION OR PROSTITUTION MAY MOTION THE COURT TO VACATE THE CONVICTION, AND TO PROVIDE THAT A VICTIM IS NOT SUBJECT TO PROSECUTION FOR TRAFFICKING IN PERSONS OR PROSTITUTION IF THE VICTIM WAS A MINOR AT THE TIME OF THE OFFENSE UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 16‑3‑2030, RELATING TO BUSINESSES AND TRAFFICKING IN PERSONS, SO AS TO PROVIDE THAT A COURT MAY CONSIDER DISGORGEMENT OF PROFIT FROM A BUSINESS INVOLVED IN TRAFFICKING IN PERSONS AND DISBARMENT FROM GOVERNMENT CONTRACTS; TO AMEND SECTION 16‑3‑2040, RELATING TO RESTITUTION FOR VICTIMS OF TRAFFICKING IN PERSONS, SO AS TO PROVIDE THAT THE COURT MAY ORDER RESTITUTION IN AN AMOUNT REPRESENTING THE VALUE OF THE VICTIM’S LABOR OR SERVICES AND INCLUDE ATTORNEY’S FEES; TO AMEND SECTION 16‑3‑2050, AS AMENDED, RELATING TO THE TASK FORCE ON TRAFFICKING IN PERSONS, SO AS TO PROVIDE THAT THE TASK FORCE MAY MAKE GRANTS OR CONTRACTS TO DEVELOP OR EXPAND VICTIMS’ SERVICE PROGRAMS.**

Be it enacted by the General Assembly of the State of South Carolina:

**Trafficking in persons, persons considered traffickers, vacating convictions of certain victims of trafficking in persons**

SECTION 1. Section 16‑3‑2020 of the 1976 Code, as added by Act 258 of 2012, is amended to read:

 “Section 16‑3‑2020. (A) A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of trafficking in persons.

 (B) A person who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, for the purposes of sex trafficking, forced labor or services, involuntary servitude or debt bondage through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in subsection (A), is guilty of trafficking in persons.

 (C) For a first offense, the person is guilty of a felony and, upon conviction, must be imprisoned not more than fifteen years.

 (D) For a second offense, the person is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years.

 (E) For a third or subsequent offense, the person is guilty of a felony, and, upon conviction, must be imprisoned not more than forty‑five years.

 (F) If the victim of an offense contained in this section is under the age of eighteen, an additional term of fifteen years may be imposed in addition and must be consecutive to the penalty prescribed for a violation of this section.

 (G) A person who aids, abets, or conspires with another person to violate the criminal provisions of this section must be punished in the same manner as provided for the principal offender and is considered a trafficker. A person is considered a trafficker if he knowingly gives, agrees to give, or offers to give anything of value so that any person may engage in commercial sexual activity with another person when he knows that the other person is a victim of trafficking in persons.

 (H) A business owner who uses his business in a way that participates in a violation of this article, upon conviction, must be imprisoned for not more than ten years in addition to the penalties provided in this section for each violation.

 (I) A plea of guilty or the legal equivalent entered pursuant to a provision of this article by an offender entitles the victim of trafficking in persons to all benefits, rights, and compensation granted pursuant to Section 16‑3‑1110.

 (J) In a prosecution of a person who is a victim of trafficking in persons, it is an affirmative defense that he was under duress or coerced into committing the offenses for which he is subject to prosecution, if the offenses were committed as a direct result of, or incidental or related to, trafficking. A victim of trafficking in persons convicted of a violation of this article or prostitution may motion the court to vacate the conviction and expunge the record of the conviction. The court may grant the motion on a finding that the person’s participation in the offense was a direct result of being a victim. A victim of trafficking in persons is not subject to prosecution pursuant to this article or prostitution, if the victim was a minor at the time of the offense and committed the offense as a direct result of, or incidental or related to, trafficking.

 (K) Evidence of the following facts or conditions do not constitute a defense in a prosecution for a violation of this article, nor does the evidence preclude a finding of a violation:

 (1) the victim’s sexual history or history of commercial sexual activity, the specific instances of the victim’s sexual conduct, opinion evidence of the victim’s sexual conduct, and reputation evidence of the victim’s sexual conduct;

 (2) the victim’s connection by blood or marriage to a defendant in the case or to anyone involved in the victim’s trafficking;

 (3) the implied or express consent of a victim to acts which violate the provisions of this section do not constitute a defense to violations of this section;

 (4) age of consent to sex, legal age of marriage, or other discretionary age; and

 (5) mistake as to the victim’s age, even if the mistake is reasonable.

 (L) A person who violates the provisions of this section may be prosecuted by the State Grand Jury, pursuant to Section 14‑7‑1600, when a victim is trafficked in more than one county or a trafficker commits the offense of trafficking in persons in more than one county.”

**Trafficking in persons, businesses, loss of profits and government contracts**

SECTION 2. Section 16‑3‑2030(A) of the 1976 Code, as added by Act 258 of 2012, is amended to read:

 “(A) The principal owners of a business, a business entity, including a corporation, partnership, charitable organization, or another legal entity, that knowingly aids or participates in an offense provided in this article is criminally liable for the offense and will be subject to a fine or loss of business license in the State, or both. In addition, the court may consider disgorgement of profit from activity in violation of this article and disbarment from state and local government contracts.”

**Trafficking in persons, restitution, value of victim**’**s services and attorney**’**s fees included**

SECTION 3. Section 16‑3‑2040(D) of the 1976 Code, as added by Act 258 of 2012, is amended to read:

 “(D) Restitution for this section, pursuant to Section 16‑3‑1270, means payment for all injuries, specific losses, and expenses, including, but not limited to, attorney’s fees, sustained by a crime victim resulting from an offender’s criminal conduct pursuant to Section 16‑3‑1110(12)(a). In addition, the court may order an amount representing the value of the victim’s labor or services.”

**Trafficking in persons task force, grants or contracts to expand victims**’ **service programs**

SECTION 4. Section 16‑3‑2050 of the 1976 Code, as last amended by Act 7 of 2015, is amended by adding an appropriately lettered subsection to read:

 “( ) To the extent that funds are appropriated, the task force may make grants to or contract with a state agency, local government, or private victim’s service organization to develop or expand service programs for victims. A recipient of a grant or contract shall report annually to the task force the number and demographic information of all victims receiving services pursuant to the grant or contract.”

**Severability clause**

SECTION 5. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

**Time effective**

SECTION 6. This act takes effect upon approval by the Governor.

Ratified the 4th day of June, 2015.

Approved the 8th day of June, 2015.

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