

House Bill 770

By: Representatives Efration of the 104th, Welch of the 110th, Houston of the 170th, Atwood of the 179th, Evans of the 42nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 16-5-46 of the Official Code of Georgia Annotated, relating to
2 trafficking of persons for labor or sexual servitude, so as to provide for and revise defined
3 terms; to change penalty provisions; to remove a potential defense to a charge of trafficking
4 of persons for labor or sexual servitude; to provide for related matters; to repeal conflicting
5 laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 16-5-46 of the Official Code of Georgia Annotated, relating to trafficking of
9 persons for labor or sexual servitude, is amended by revising subsections (a) and (f) and by
10 adding a new subsection to read as follows:

11 "(a) As used in this Code section, the term:

12 (1) 'Developmental disability' shall have the same meaning as set forth in Code Section
13 37-1-1.

14 ~~(1)~~(2) 'Coercion' means:

15 (A) Causing or threatening to cause bodily harm to any person, physically restraining
16 or confining any person, or threatening to physically restrain or confine any person;

17 (B) Exposing or threatening to expose any fact or information or disseminating or
18 threatening to disseminate any fact or information that would tend to subject a person
19 to criminal or immigration proceedings, hatred, contempt, or ridicule;

20 (C) Destroying, concealing, removing, confiscating, or possessing any actual or
21 purported passport or other immigration document, or any other actual or purported
22 government identification document, of any person;

23 (D) Providing a controlled substance, ~~as such term is defined by Code Section~~
24 ~~16-13-21~~, to such person for the purpose of compelling such person to engage in labor
25 or sexual servitude against his or her will; or

26 (E) Causing or threatening to cause financial harm to any person or using financial
27 control over any person.

28 (3) 'Controlled substance' shall have the same meaning as set forth in Code Section
29 16-13-21.

30 ~~(2)~~(4) 'Deception' means:

31 (A) Creating or confirming another's impression of an existing fact or past event which
32 is false and which the accused knows or believes to be false;

33 (B) Maintaining the status or condition of a person arising from a pledge by that person
34 of his or her personal services as security for a debt, if the value of those services as
35 reasonably assessed is not applied toward the liquidation of the debt or the length and
36 nature of those services are not respectively limited and defined, or preventing a person
37 from acquiring information pertinent to the disposition of such debt; or

38 (C) Promising benefits or the performance of services which the accused does not
39 intend to deliver or perform or knows will not be delivered or performed. Evidence of
40 failure to deliver benefits or perform services standing alone shall not be sufficient to
41 authorize a conviction under this Code section.

42 ~~(3)~~(5) 'Labor servitude' means work or service of economic or financial value which is
43 performed or provided by another person and is induced or obtained by coercion or
44 deception.

45 ~~(4)~~(6) 'Performance' shall have the same meaning as set forth in Code Section 16-12-100.

46 ~~(5)~~(7) 'Sexually explicit conduct' shall have the same meaning as set forth in Code
47 Section 16-12-100.

48 ~~(6)~~(8) 'Sexual servitude' means:

49 (A) Any sexually explicit conduct or performance involving sexually explicit conduct
50 for which anything of value is directly or indirectly given, promised to, or received by
51 any person, which conduct is induced or obtained ~~by coercion or deception or which~~
52 ~~conduct is induced or obtained from a person;~~

53 (i) By coercion or deception;

54 (ii) From an individual who is under the age of 18 years;

55 (iii) From an individual whom the accused believes to be under the age of 18 years;

56 or

57 (iv) From an individual who has a developmental disability;

58 (B) Any sexually explicit conduct or performance involving sexually explicit conduct
59 which is performed or provided by any person, which conduct is induced or obtained
60 ~~by coercion or deception or which conduct is induced or obtained from a person;~~

61 (i) By coercion or deception;

62 (ii) From an individual who is under the age of 18 years;

63 (iii) From an individual whom the accused believes to be under the age of 18 years;

64 or

65 (iv) From an individual who has a developmental disability."

66 "(f)(1) Except as provided in paragraph (2) of this subsection, any ~~accused person~~ who
67 commits the offense of trafficking a person for labor or sexual servitude shall be guilty
68 of a felony, and upon conviction thereof, shall be punished by imprisonment for not less
69 than ten nor more than 20 years; and a fine not to exceed \$100,000.00, ~~or both.~~

70 (2) Any ~~accused person~~ who commits the offense of trafficking a person for labor or
71 sexual servitude against ~~a person~~ an individual who is under the age of 18 years shall be
72 guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for
73 not less than ten nor more than 20 years; and a fine not to exceed \$100,000.00, ~~or both;~~
74 provided, however, that if the offense is committed against ~~a person~~ an individual under
75 18 years of age and such ~~person~~ individual under the age of 18 years was coerced or
76 deceived into being trafficked for labor or sexual servitude, the ~~accused person~~ shall be
77 guilty of a felony, and upon conviction thereof, shall be punished by imprisonment for
78 not less than 25 nor more than 50 years or life imprisonment; and a fine not to exceed
79 \$100,000.00, ~~or both."~~

80 "(k) The sole fact that an undercover operative or law enforcement officer was involved
81 in the detection and investigation of an offense under this Code section shall not constitute
82 a defense to prosecution under this Code section; provided, however, that Code Section
83 16-3-25 may still provide an absolute defense."

84 **SECTION 2.**

85 All laws and parts of laws in conflict with this Act are repealed.