

House Bill 770 (AS PASSED HOUSE AND SENATE)

By: Representatives Efstration 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), (d), and (f) and
10 by 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~~ individual, physically
16 restraining or confining any ~~person~~ individual, or threatening to physically restrain or
17 confine any ~~person~~ individual;

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

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

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

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

29 (3) 'Controlled substance' shall have the same meaning as set forth in Code Section
 30 16-13-21.

31 ~~(2)~~(4) 'Deception' means:

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

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

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

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

47 ~~(4)~~(6) 'Performance' shall have the same meaning as set forth in Code Section 16-12-100.

48 ~~(5)~~(7) 'Sexually explicit conduct' shall have the same meaning as set forth in Code
 49 Section 16-12-100.

50 ~~(6)~~(8) 'Sexual servitude' means:

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

55 (A) By coercion or deception;

56 (B) From an individual who is under the age of 18 years;

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

58 (D) From an individual who has a developmental disability; or

59 (E) From an individual whom the accused believes to have a developmental disability
 60 or

61 ~~(B) Any sexually explicit conduct or performance involving sexually explicit conduct~~
 62 ~~which is performed or provided by any person, which conduct is induced or obtained~~

63 ~~by coercion or deception or which conduct is induced or obtained from a person under~~
 64 ~~the age of 18 years."~~

65 "(d) The age of consent for sexual activity or the accused's lack of knowledge of the age
 66 or developmental disability of the ~~person~~ individual being trafficked shall not constitute a
 67 defense in a prosecution for a violation of this Code section."

68 "(f)(1) Except as provided in paragraph (2) of this subsection, any ~~accused person~~ who
 69 commits the offense of trafficking ~~a person~~ an individual for labor or sexual servitude
 70 shall be guilty of a felony, and upon conviction thereof, shall be punished by
 71 imprisonment for not less than ten nor more than 20 years; and a fine not to exceed
 72 \$100,000.00, ~~or both~~.

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

84 "(k) The sole fact that an undercover operative or law enforcement officer was involved
 85 in the detection and investigation of an offense under this Code section shall not constitute
 86 a defense to prosecution under this Code section; provided, however, that Code Section
 87 16-3-25 may still provide an absolute defense."

88 **SECTION 2.**

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