~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 23, 2016

**S. 986**

Introduced by Senators Shealy, L. Martin, Campsen, Turner, Young, McElveen, M.B. Matthews and Williams

S. Printed 3/23/16--S. [SEC 3/24/16 3:25 PM]

Read the first time January 13, 2016.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 986) to amend Sections 16-15-90 and 16-15-100 South Carolina Code of Laws, 1976, relating to prostitution, to increase the penalties for solicitation of prostitution, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 1 and inserting:

/ SECTION 1. Section 16-15-90 of the 1976 Code is amended to read:

“Section 16-15-90. (A) It shall be unlawful to~~:~~

~~(1)~~ ~~Engage~~ engage in prostitution~~;~~ or

~~(2)~~ ~~Aid~~ knowingly aid or abet prostitution ~~knowingly;~~

~~(3)~~ ~~Procure or solicit for the purpose of prostitution;~~

~~(4)~~ ~~Expose indecently the private person for the purpose of prostitution or other indecency;~~

~~(5)~~ ~~Reside in, enter or remain in any place, structure, building, vehicle, trailer or conveyance for the purpose of lewdness, assignation or prostitution;~~

~~(6)~~ ~~Keep or set up a house of ill fame, brothel or bawdyhouse;~~

~~(7)~~ ~~Receive any person for purposes of lewdness, assignation or prostitution into any vehicle, conveyance, trailer, place, structure or building;~~

~~(8)~~ ~~Permit any person to remain for the purpose of lewdness, assignation or prostitution in any vehicle, conveyance, trailer, place, structure or building;~~

~~(9)~~ ~~Direct, take or transport, offer or agree to take or transport or aid or assist in transporting any person to any vehicle, conveyance, trailer, place, structure or building or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation;~~

~~(10)~~ ~~Lease or rent or contract to lease or rent any vehicle, conveyance, trailer, place, structure or building or part thereof believing or having reasonable cause to believe that it is intended to be used for any of the purposes herein prohibited; or~~

~~(11)~~ ~~Aid, abet, or participate knowingly in the doing of any of the acts herein prohibited~~.

(B) A person who violates this section is guilty of a misdemeanor, and, upon conviction:

(1) for a first offense, must be fined not more than two hundred dollars or imprisoned not more than thirty days, or both;

(2) for a second offense, must be fined not more than one thousand dollars or imprisoned not more than six months, or both;

(3) for a third or subsequent offense, must be fined not more than three thousand dollars or imprisoned not more than one year, or both.

(C) It is an affirmative defense to a prosecution for a violation of this section that, during the commission of the offense, the defendant was a victim of trafficking in persons as defined by Section 16-3-2010(10).” /

Amend the bill further, as and if amended, by striking SECTION 2 and inserting:

/ SECTION 2. Section 16-15-100 of the 1976 Code is amended to read:

“Section 16-15-100. (A) It shall ~~further~~ be unlawful to:

(1) procure or solicit for the purpose of prostitution;

~~(1)~~(2) ~~Procure~~ procure a ~~female~~ person to be an inmate for a house of prostitution;

~~(2)~~(3) ~~Cause~~ cause, induce, persuade, or encourage by promise, threat, violence, or by any scheme or device a ~~female~~ person to become a prostitute or to remain an inmate of a house of prostitution;

~~(3)~~(4) ~~Induce~~ induce, persuade, or encourage a ~~female~~ person to come into or leave this State for the purpose of prostitution or to become an inmate in a house of prostitution;

~~(4)~~(5) ~~Receive~~ receive or give or agree to receive or give any money or thing of value for procuring or attempting to procure ~~any female~~ a person to become a prostitute or an inmate in a house of prostitution;

~~(5)~~(6) ~~Accept~~ accept or receive knowingly any money or other thing of value without consideration from a prostitute; ~~or~~

(7) expose indecently the private person for the purpose of prostitution or other indecency;

(8) reside in, enter, or remain in a place, structure, building, vehicle, trailer, or conveyance for the purpose of lewdness, assignation, or prostitution;

(9) keep or set up a house of ill fame, brothel, or bawdyhouse;

(10) receive a person for purposes of lewdness, assignation, or prostitution into a vehicle, conveyance, trailer, place, structure, or building;

(11) permit a person to remain for the purpose of lewdness, assignation, or prostitution in a vehicle, conveyance, trailer, place, structure, or building;

(12) direct, take, or transport, offer or agree to take or transport, or aid or assist in transporting a person to a vehicle, conveyance, trailer, place, structure, or building, or to another person with knowledge or having reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation;

(13) lease, rent, or contract to lease or rent a vehicle, conveyance, trailer, place, structure, building, or part thereof believing or having reasonable cause to believe that it is intended to be used for any of the purposes herein prohibited; or

~~(6)~~(14) ~~Aid~~ knowingly aid, abet, or participate ~~knowingly~~ in the doing of any of the acts ~~herein~~ prohibited in this section.

(B)(1) A person who violates a provision of this section is guilty of a misdemeanor, and, upon conviction:

(a) for a first offense, must be fined not less than two hundred fifty dollars and not more than one thousand dollars or imprisoned not more than thirty days, or both;

(b) for a second offense, must be fined not less than five hundred dollars and not more than three thousand dollars or imprisoned not more than six months, or both. If the court makes a specific finding on the record that based on the circumstances of the case the person should register as a sex offender, the person is required to register with the sex offender registry pursuant to Article 7, Chapter 3, Title 23. Five years from the date the person originally registered, SLED shall remove the person’s name and other information concerning the person from the registry;

(c) for a third or subsequent offense, must be fined not less than one thousand five hundred dollars and not more than five thousand dollars or imprisoned not more than one year, or both. The person is required to register with the sex offender registry pursuant to Article 7, Chapter 3, Title 23. Five years from the date the person originally registered, the person may petition the court of conviction to remove the person’s name and other information concerning the person from the registry. If the court, in its discretion, grants the person’s petition, SLED shall remove the person’s name and other information concerning the person from the registry.

(2) A person who violates a provision of this section where the prostitute is severely or profoundly mentally disabled, is guilty of a felony and, upon conviction, must be fined not less than one thousand five hundred dollars and not more than five thousand dollars or imprisoned not more than two years, or both. The person is required to register with the sex offender registry pursuant to Article 7, Chapter 3, Title 23. Five years from the date the person originally registered, the person may petition the court of conviction to remove the person’s name and other information concerning the person from the registry. If the court, in its discretion, grants the person’s petition, SLED shall remove the person’s name and other information concerning the person from the registry.” /

Renumber sections to conform.

Amend title to conform.

Majority favorable. Minority unfavorable.

BRAD HUTTO GERALD MALLOY

For Majority. For Minority.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Fiscal Impact Summary**

This bill would have no expenditure impact on the general fund, federal funds, or other funds.

**Explanation of Fiscal Impact**

**State Expenditure**

This bill increases the penalties for the solicitation of prostitution, for the establishment or keeping of a brothel or house of prostitution, and for causing or inducing another to participate in prostitution. It also establishes the affirmative defense of being a victim of human trafficking and further increases the penalties for soliciting, causing, or inducing another for prostitution where the prostitute has a mental disability.

The Judicial Department reports that this bill would have no expenditure impact on the general fund, federal funds, or other funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTIONS 16-15-90 AND 16-15-100 SOUTH CAROLINA CODE OF LAWS, 1976, RELATING TO PROSTITUTION, TO INCREASE THE PENALTIES FOR SOLICITATION OF PROSTITUTION, ESTABLISHING OR KEEPING A BROTHEL OR HOUSE OF PROSTITUTION, OR CAUSING OR INDUCING ANOTHER TO PARTICIPATE IN PROSTITUTION; TO ESTABLISH THE AFFIRMATIVE DEFENSE OF BEING A VICTIM OF HUMAN TRAFFICKING; AND TO FURTHER INCREASE THE PENALTIES FOR SOLICITING, CAUSING, OR INDUCING ANOTHER FOR PROSTITUTION WHERE THE PROSTITUTE HAS A MENTAL DISABILITY.

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

SECTION 1. Section 16-15-90 of the 1976 Code is amended to read:

“Section 16-15-90. (A) It shall be unlawful to~~:~~

~~(1)~~ ~~Engage~~ engage in prostitution~~;~~ or

~~(2)~~ ~~Aid~~ knowingly aid or abet prostitution ~~knowingly;~~

~~(3)~~ ~~Procure or solicit for the purpose of prostitution;~~

~~(4)~~ ~~Expose indecently the private person for the purpose of prostitution or other indecency;~~

~~(5)~~ ~~Reside in, enter or remain in any place, structure, building, vehicle, trailer or conveyance for the purpose of lewdness, assignation or prostitution;~~

~~(6)~~ ~~Keep or set up a house of ill fame, brothel or bawdyhouse;~~

~~(7)~~ ~~Receive any person for purposes of lewdness, assignation or prostitution into any vehicle, conveyance, trailer, place, structure or building;~~

~~(8)~~ ~~Permit any person to remain for the purpose of lewdness, assignation or prostitution in any vehicle, conveyance, trailer, place, structure or building;~~

~~(9)~~ ~~Direct, take or transport, offer or agree to take or transport or aid or assist in transporting any person to any vehicle, conveyance, trailer, place, structure or building or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation;~~

~~(10)~~ ~~Lease or rent or contract to lease or rent any vehicle, conveyance, trailer, place, structure or building or part thereof believing or having reasonable cause to believe that it is intended to be used for any of the purposes herein prohibited; or~~

~~(11)~~ ~~Aid, abet, or participate knowingly in the doing of any of the acts herein prohibited~~.

(B) A person who violates this section is guilty of a misdemeanor and, upon conviction:

(1) for a first offense, must be fined not more than two hundred dollars or imprisoned not more than thirty days, or both;

(2) for a second offense, must be fined not more than one thousand dollars or imprisoned not more than six months, or both;

(3) for a third or any subsequent offense, must be fined not more than three thousand dollars or imprisoned not more than one year, or both.

(C) It is an affirmative defense to a prosecution for a violation of this section that, during the commission of the offense, the defendant was a victim of trafficking in persons as defined by Section 16-3-2010(10).”

SECTION 2. Section 16-15-100 of the 1976 Code is amended to read:

“Section 16-15-100. (A) It shall ~~further~~ be unlawful to:

(1) procure or solicit for the purpose of prostitution;

~~(1)~~(2) ~~Procure~~ procure a ~~female~~ person to be an inmate for a house of prostitution;

~~(2)~~(3) ~~Cause~~ cause, induce, persuade or encourage by promise, threat, violence or by any scheme or device a ~~female~~ person to become a prostitute or to remain an inmate of a house of prostitution;

~~(3)~~(4) ~~Induce~~ induce, persuade or encourage a ~~female~~ person to come into or leave this State for the purpose of prostitution or to become an inmate in a house of prostitution;

~~(4)~~(5) ~~Receive~~ receive or give or agree to receive or give any money or thing of value for procuring or attempting to procure ~~any female~~ a person to become a prostitute or an inmate in a house of prostitution;

~~(5)~~(6) ~~Accept~~ accept or receive knowingly any money or other thing of value without consideration from a prostitute; ~~or~~

(7) expose indecently the private person for the purpose of prostitution or other indecency;

(8) reside in, enter, or remain in any place, structure, building, vehicle, trailer, or conveyance for the purpose of lewdness, assignation, or prostitution;

(9) keep or set up a house of ill fame, brothel, or bawdyhouse;

(10) receive any person for purposes of lewdness, assignation, or prostitution into any vehicle, conveyance, trailer, place, structure or building;

(11) permit any person to remain for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, trailer, place, structure, or building;

(12) direct, take, or transport, offer or agree to take or transport or aid or assist in transporting any person to any vehicle, conveyance, trailer, place, structure, or building, or to any other person with knowledge or having reasonable cause to believe that the purpose of such directing, taking or transporting is prostitution, lewdness or assignation;

(13) lease or rent or contract to lease or rent any vehicle, conveyance, trailer, place, structure or building or part thereof believing or having reasonable cause to believe that it is intended to be used for any of the purposes herein prohibited; or

~~(6)~~(14) ~~Aid~~ knowingly aid, abet or participate ~~knowingly~~ in the doing of any of the acts ~~herein~~ prohibited in this section.

(B)(1) A person who violates a provision of this section is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, must be fined not less than two hundred fifty dollars and not more than five hundred dollars or imprisoned for not more than thirty days, or both;

(b) for a second offense, must be fined not less than five hundred dollars and not more than one thousand five hundred dollars or imprisoned for not more than six months, or both;

(c) for a third or any subsequent offense, must be fined not less than one thousand five hundred dollars and not more than three thousand dollars or imprisoned for not more than one year, or both.

(2) A person who violates a provision of this section where the prostitute has a mental disability, is guilty of a misdemeanor and, upon conviction:

(a) for a first offense, must be fined not less than five hundred dollars and not more than one thousand dollars or imprisoned not more than sixty days, or both;

(b) for a second offense, must be fined not less than one thousand dollars and not more than three thousand dollars or imprisoned not more than one year, or both;

(c) for a third or any subsequent offense, must be fined not less than three thousand dollars and not more than six thousand dollars or imprisoned not more than two years, or both.”

SECTION 3. Section 16-15-110 of the 1976 Code is repealed.

SECTION 4. This act takes effect upon approval by the Governor.

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