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HOUSE BILL 556

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Gail Chasey

AN ACT

RELATING TO PROSTITUTION; PROVIDING FOR A PRESUMPTION OF
COERCION FOR SOMEONE ARRESTED FOR PROSTITUTION UNDER THE AGE OF
EIGHTEEN; ENACTING THE SAFE HARBOR ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 4 of this act may be cited as the "Safe Harbor Act".

SECTION 2. [NEW MATERIAL] RESTRICTIONS ON
INTERROGATION.--

A. If a person arrested for prostitution pursuant
to Section 30-9-2 NMSA 1978 is a minor child, a victim advocate
or attorney must be present before the child can be
interrogated. Reasonable attempts shall be made to have a
parent or adult family member present before the child is
interrogated.

underscoring material = new
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1 B. Translation services shall be provided for a
2 person arrested for prostitution pursuant to Section 30-9-2
3 NMSA 1978, if required. Interrogation of the person shall not
4 occur in the absence of a translator.

5 **SECTION 3. [NEW MATERIAL] REQUIREMENT TO PROVIDE**
6 **INFORMATION.--**

7 A. A person arrested for prostitution pursuant to
8 Section 30-9-2 NMSA 1978 shall be informed that the person has
9 the opportunity to consult with and use the services of a
10 victim's advocate.

11 B. A person arrested for prostitution pursuant to
12 Section 30-9-2 NMSA 1978 shall be informed of social services
13 available to victims of crime.

14 **SECTION 4. [NEW MATERIAL] DEFINITION.--**As used in the
15 Safe Harbor Act, "victim advocate" means a person provided by a
16 state or nonprofit agency with experience in providing services
17 for victims of crime through a nonprofit agency with expertise
18 in providing services for victims of crime.

19 **SECTION 5.** Section 30-9-2 NMSA 1978 (being Laws 1963,
20 Chapter 303, Section 9-11, as amended) is amended to read:

21 "30-9-2. PROSTITUTION.--

22 A. Prostitution consists of knowingly engaging in
23 or offering to engage in a sexual act for hire.

24 ~~[As used in this section, "sexual act" means sexual~~
25 ~~intercourse, cunnilingus, fellatio, masturbation of another,~~

.192505.2

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1 ~~anal intercourse or the causing of penetration to any extent~~
2 ~~and with any object of the genital or anal opening of another,~~
3 ~~whether or not there is any emission.]~~

4 B. Whoever commits prostitution is guilty of a
5 petty misdemeanor, unless such crime is a second or subsequent
6 conviction, in which case such person is guilty of a
7 misdemeanor.

8 C. In a prosecution under this section for a person
9 under the age of eighteen years, there shall be a presumption
10 that the person was coerced into committing the offense by
11 another person and is a victim of sexual exploitation of
12 children by prostitution pursuant to Section 30-6A-4 NMSA 1978.

13 D. As used in this section, "sexual act" means
14 sexual intercourse, cunnilingus, fellatio, masturbation of
15 another, anal intercourse or the causing of penetration to any
16 extent and with any object of the genital or anal opening of
17 another, whether or not there is any emission."

18 **SECTION 6. EFFECTIVE DATE.**--The effective date of the
19 provisions of this act is July 1, 2013.