

1 HOUSE BILL 508

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Stephanie Maez

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10 AN ACT

11 RELATING TO COMMERCIAL SEXUAL ACTIVITY; INCREASING PENALTIES
12 FOR SEXUAL EXPLOITATION OF CHILDREN BY PROSTITUTION,
13 PATRONIZING PROSTITUTES, PROMOTING PROSTITUTION, ACCEPTING THE
14 EARNINGS OF A PROSTITUTE AND HUMAN TRAFFICKING.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 30-6A-4 NMSA 1978 (being Laws 1984,
18 Chapter 92, Section 4, as amended) is amended to read:

19 "30-6A-4. SEXUAL EXPLOITATION OF CHILDREN BY
20 PROSTITUTION.--

21 A. Any person knowingly receiving any pecuniary
22 profit as a result of a child under the age of sixteen engaging
23 in a prohibited sexual act with another is guilty of a ~~second~~
24 ~~degree felony, unless the child is under the age of thirteen,~~
25 ~~in which event the person is guilty of a]~~ first degree felony.

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1 B. Any person hiring or offering to hire a child
2 over the age of thirteen and under the age of sixteen to engage
3 in any prohibited sexual act is guilty of a [~~second~~] first
4 degree felony.

5 C. Any parent, legal guardian or person having
6 custody or control of a child under sixteen years of age who
7 knowingly permits that child to engage in or to assist any
8 other person to engage in any prohibited sexual act or
9 simulation of such an act for the purpose of producing any
10 visual or print medium depicting such an act is guilty of a
11 third degree felony."

12 SECTION 2. Section 30-9-3 NMSA 1978 (being Laws 1963,
13 Chapter 303, Section 9-12, as amended) is amended to read:

14 "30-9-3. PATRONIZING PROSTITUTES.--

15 A. Patronizing prostitutes consists of:

16 [~~A.~~] (1) entering or remaining in a house of
17 prostitution or any other place where prostitution is
18 practiced, encouraged or allowed with intent to engage in a
19 sexual act with a prostitute; or

20 [~~B.~~] (2) knowingly hiring or offering to hire
21 a prostitute, or one believed by the offeror to be a
22 prostitute, to engage in a sexual act with the actor or
23 another.

24 B. As used in this section, "a sexual act" means
25 sexual intercourse, cunnilingus, fellatio, masturbation of

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

4 C. Whoever commits patronizing prostitutes is
5 guilty of a [~~petty~~] misdemeanor, unless such crime is a second
6 or subsequent conviction, in which case such person is guilty
7 of a [~~misdemeanor~~] fourth degree felony."

8 **SECTION 3.** Section 30-9-4 NMSA 1978 (being Laws 1963,
9 Chapter 303, Section 9-13, as amended) is amended to read:

10 "30-9-4. PROMOTING PROSTITUTION.--

11 A. Promoting prostitution consists of any person,
12 acting other than as a prostitute or patron of a prostitute:

13 [~~A.~~] (1) knowingly establishing, owning,
14 maintaining or managing a house of prostitution or a place
15 where prostitution is practiced, encouraged or allowed, or
16 participating in the establishment, ownership, maintenance or
17 management thereof;

18 [~~B.~~] (2) knowingly entering into any lease or
19 rental agreement for any premises [~~which~~] that a person
20 partially or wholly owns or controls, knowing that [~~such~~] the
21 premises are intended for use as a house of prostitution or as
22 a place where prostitution is practiced, encouraged or allowed;

23 [~~C.~~] (3) knowingly procuring a prostitute for
24 a house of prostitution or for a place where prostitution is
25 practiced, encouraged or allowed;

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1 [~~D-~~] (4) knowingly inducing another to become
2 a prostitute;

3 [~~E-~~] (5) knowingly soliciting a patron for a
4 prostitute or for a house of prostitution or for any place
5 where prostitution is practiced, encouraged or allowed;

6 [~~F-~~] (6) knowingly procuring a prostitute for
7 a patron and receiving compensation therefor;

8 [~~G-~~] (7) knowingly procuring transportation
9 for, paying for the transportation of or transporting a person
10 within the state with the intention of promoting that person's
11 engaging in prostitution;

12 [~~H-~~] (8) knowingly procuring through promises,
13 threats, duress or fraud any person to come into the state or
14 causing a person to leave the state for the purpose of
15 prostitution; or

16 [~~I-~~] (9) under pretense of marriage, knowingly
17 detaining a person or taking a person into the state or causing
18 a person to leave the state for the purpose of prostitution.

19 B. Whoever commits promoting prostitution is guilty
20 of a [~~fourth~~] third degree felony."

21 SECTION 4. Section 30-9-4.1 NMSA 1978 (being Laws 1981,
22 Chapter 233, Section 4) is amended to read:

23 "30-9-4.1. ACCEPTING EARNINGS OF A PROSTITUTE.--

24 A. Accepting the earnings of a prostitute consists
25 of accepting, receiving, levying or appropriating money or

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1 anything of value, without consideration, from the proceeds of
2 the earnings of a person engaged in prostitution with the
3 knowledge that the person is engaged in prostitution and that
4 the earnings are derived from engaging in prostitution, or
5 knowingly owning or knowingly managing a house or other place
6 where prostitution is practiced or allowed and living or
7 deriving support or maintenance, in whole or in part, from the
8 earnings or proceeds of a person engaged in prostitution at
9 that house or place.

10 B. Whoever commits accepting the earnings of a
11 prostitute is guilty of a [~~fourth~~] third degree felony."

12 **SECTION 5.** Section 30-52-1 NMSA 1978 (being Laws 2008,
13 Chapter 17, Section 1) is amended to read:

14 "30-52-1. HUMAN TRAFFICKING.--

15 A. Human trafficking consists of a person
16 knowingly:

17 (1) recruiting, soliciting, enticing,
18 transporting or obtaining by any means another person with the
19 intent or knowledge that force, fraud or coercion will be used
20 to subject the person to labor, services or commercial sexual
21 activity;

22 (2) recruiting, soliciting, enticing,
23 transporting or obtaining by any means a person under the age
24 of eighteen years with the intent or knowledge that the person
25 will be caused to engage in commercial sexual activity; or

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1 (3) benefiting, financially or by receiving
2 anything of value, from the labor, services or commercial
3 sexual activity of another person with the knowledge that
4 force, fraud or coercion was used to obtain the labor, services
5 or commercial sexual activity.

6 B. The attorney general and the district attorney
7 in the county of jurisdiction have concurrent jurisdiction to
8 enforce the provisions of this section.

9 C. Whoever commits human trafficking is guilty of a
10 [~~third~~] second degree felony; except if the victim is under the
11 age of

12 [~~(1)~~] sixteen, the person is guilty of a
13 [~~second~~] first degree felony [~~or~~

14 ~~(2) thirteen, the person is guilty of a first~~
15 ~~degree felony].~~

16 D. Prosecution pursuant to this section shall not
17 prevent prosecution pursuant to any other provision of the law
18 when the conduct also constitutes a violation of that other
19 provision.

20 E. In a prosecution pursuant to this section, a
21 human trafficking victim shall not be charged with accessory to
22 the crime of human trafficking.

23 F. A person convicted of human trafficking shall,
24 in addition to any other punishment, be ordered to make
25 restitution to the victim for the gross income or value of the

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1 victim's labor or services and any other actual damages in
2 accordance with Section 31-17-1 NMSA 1978.

3 G. As used in this section:

4 (1) "coercion" means:

5 (a) causing or threatening to cause harm
6 to any person;

7 (b) using or threatening to use physical
8 force against any person;

9 (c) abusing or threatening to abuse the
10 law or legal process;

11 (d) threatening to report the
12 immigration status of any person to governmental authorities;
13 or

14 (e) knowingly destroying, concealing,
15 removing, confiscating or retaining any actual or purported
16 government document of any person; and

17 (2) "commercial sexual activity" means any
18 sexual act or sexually explicit exhibition for which anything
19 of value is given, promised to or received by any person."

20 SECTION 6. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2015.