February 8, 2013

SENATE BILL No. 509

DIGEST OF SB 509 (Updated February 5, 2013 12:22 pm - DI 106)

Citations Affected: IC 35-42.

Synopsis: Human trafficking. Makes it promotion of human trafficking of a minor to knowingly or intentionally recruit, harbor, or transport a child less than 18 years of age with the intent of: (1) engaging the child in forced labor or involuntary servitude; or (2) inducing or causing the child to engage in prostitution or an unlawful performance that includes sexual conduct. (Current law applies only to a child less than 16 years of age and does not apply to an unlawful performance.) Makes it sexual trafficking of a minor to knowingly or intentionally sell or transfer custody of a child less than 18 years of age for sexual purposes. (Current law applies only to a child less than 16 years of age).

Effective: July 1, 2013.

Waterman, Young R Michael,
Tomes, Zakas, Randolph

January 14, 2013, read first time and referred to Committee on Corrections & Criminal Law.
February 7, 2013, amended, reported favorably — Do Pass.

C o p y

February 8, 2013

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

C o p y

SENATE BILL No. 509

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 35-42-3.5-1, AS AMENDED BY P.L.72-2012, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) A person who, by force, threat of force, or fraud, knowingly or intentionally recruits, harbors, or transports another person:

(1) to engage the other person in:
(A) forced labor; or
(B) involuntary servitude; or

(2) to force the other person into:
(A) marriage;
(B) prostitution; or
(C) participating in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking, a Class B felony.

(b) A person who knowingly or intentionally recruits, harbors, or transports a child less than:

(1) ~~sixteen (16)~~ **eighteen (18)** years of age with the intent of:

~~(1)~~ **(A)** engaging the child in:
~~(A)~~ **(i)** forced labor; or
~~(B)~~ **(ii)** involuntary servitude; or
~~(2)~~ **(B)** inducing or causing the child to:
~~(A)~~ **(i)** engage in prostitution; or
(ii) engage in a performance or incident that includes sexual conduct in violation of IC 35-42-4-4(b) (child exploitation); or
~~(B)~~ **(2) sixteen (16) years of age with the intent of inducing or causing the child to** participate in sexual conduct (as defined by IC 35-42-4-4);

commits promotion of human trafficking of a minor, a Class B felony. Except as provided in subsection (e), it is not a defense to a prosecution under this subsection that the child consented to engage in prostitution or to participate in sexual conduct.

(c) A person who is at least eighteen (18) years of age who knowingly or intentionally sells or transfers custody of a child less than ~~sixteen (16)~~ **eighteen (18)** years of age for the purpose of prostitution or participating in sexual conduct (as defined by IC 35-42-4-4) commits sexual trafficking of a minor, a Class A felony.

(d) A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into:

(1) forced labor;
(2) involuntary servitude; or
(3) prostitution;

commits human trafficking, a Class C felony.

(e) It is a defense to a prosecution under subsection ~~(b)(2)(B)~~ **(b)(2)** if:

(1) the child is at least fourteen (14) years of age but less than sixteen (16) years of age and the person is less than eighteen (18) years of age; or
(2) all the following apply:
(A) The person is not more than four (4) years older than the victim.
(B) The relationship between the person and the victim was a dating relationship or an ongoing personal relationship. The term "ongoing personal relationship" does not include a family relationship.
(C) The crime:
(i) was not committed by a person who is at least twenty-one (21) years of age;

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(ii) was not committed by using or threatening the use of deadly force;
(iii) was not committed while armed with a deadly weapon;
(iv) did not result in serious bodily injury;
(v) was not facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge; and
(vi) was not committed by a person having a position of authority or substantial influence over the victim.

(D) The person has not committed another sex offense (as defined in IC 11-8-8-5.2), including a delinquent act that would be a sex offense if committed by an adult, against any other person.

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 509, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 18, strike "sixteen (16)" and insert "**eighteen (18)**".

and when so amended that said bill do pass.

(Reference is to SB 509 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 10, Nays 0.

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