

Senate Bill 512

By: Senators Still of the 48th, Kennedy of the 18th, Gooch of the 51st, Esteves of the 6th, Dolezal of the 27th and others

**AS PASSED SENATE**

A BILL TO BE ENTITLED

AN ACT

1 To amend Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to  
2 payment and disposition of fines and forfeitures, so as to create the Victims of Human  
3 Trafficking Fund and the Victims of Human Trafficking Fund Commission; to provide for  
4 definitions; to provide for appointment of members of the commission and personnel; to  
5 provide for duties of the commission and allow for expenses; to provide for  
6 recommendations of changes in state programs, laws, and policies; to provide for acceptance  
7 of federal funds and individual donations; to provide for fines and penalties; to provide for  
8 collection of fines and disposition of moneys collected; to provide for a duty to collect; to  
9 provide for a cause of action and forfeiture; to amend Code Section 16-6-13.3 of the Official  
10 Code of Georgia Annotated, relating to civil forfeiture of proceeds and property, so as to  
11 provide for the forfeiture of proceeds or money which is used, intended for use, used in any  
12 manner to facilitate, or derived from the criminal offense of trafficking of persons for labor  
13 or sexual servitude; to amend Title 16 of the Official Code of Georgia Annotated, relating  
14 to crimes and offenses, so as to provide for a required human trafficking training program  
15 for hotels; to provide for definitions; to provide for retraining; to provide that the provisions  
16 of Code Section 16-6-16, relating to masturbation for hire, shall be applicable only to persons  
17 above a certain age; to amend Code Sections 17-10-21 and 35-3-37 of the Official Code of  
18 Georgia Annotated, relating to vacating of sentence for trafficking victim defendants and  
19 review of individual's criminal history record information, definitions, privacy

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20 considerations, written application requesting review, and inspection, respectively, so as to  
21 authorize certain relief for defendants conditionally discharged for possession of controlled  
22 substances or sentenced as a first offender; to provide for related matters; to provide for a  
23 contingent effective date and automatic repeal; to repeal conflicting laws; and for other  
24 purposes.

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

26 **PART I**  
27 **SECTION 1-1.**

28 Chapter 21 of Title 15 of the Official Code of Georgia Annotated, relating to payment and  
29 disposition of fines and forfeitures, is amended by adding a new article to read as follows:

30 "ARTICLE 12

31 15-21-220.

32 This article is enacted pursuant to Article III, Section IX, Paragraph VI(o) of the  
33 Constitution, which provision authorizes additional penalty assessments for violations  
34 relating to certain sexual crimes and provides that the proceeds derived therefrom may be  
35 used for the purpose of meeting the costs of care and rehabilitative and social services for  
36 certain individuals in this state who have been sexually exploited.

37 15-21-221.

38 As used in this article, the term:

39 (1) 'Commission' means the Victims of Human Trafficking Fund Commission.

40 (2) 'Fund' means the Victims of Human Trafficking Fund.

41 (3) 'Safe house' means a licensed residential facility that provides safe and secure shelter.

42 (4) 'Sexually explicit conduct' shall have the same meaning as set forth in Code  
43 Section 16-12-100.

44 (5) 'Sexually exploited victim' means a person who:

45 (A) Has been the victim of trafficking of persons for sexual servitude in violation of  
46 Code Section 16-5-46;

47 (B) Has engaged in sodomy, prostitution, solicitation of sodomy, or masturbation for  
48 hire; or

49 (C) Has been the victim of sexually explicit conduct for the purpose of producing any  
50 print or visual medium.

51 (6) 'Visual medium' shall have the same meaning as set forth in Code Section 16-12-100.

52 15-21-222.

53 (a) There is established the Victims of Human Trafficking Fund Commission which is  
54 assigned to the Division of Family and Children Services of the Department of Human  
55 Resources for administrative purposes only, as prescribed in Code Section 50-4-3.

56 (b) There is created the Victims of Human Trafficking Fund as a separate fund in the state  
57 treasury. The state treasurer shall credit to the fund all amounts transferred to the fund and  
58 shall invest the fund moneys in the same manner as authorized for investing other moneys  
59 in the state treasury.

60 (c) The commission may authorize the disbursement of available money from the fund,  
61 after appropriation thereof, for purposes of providing care, rehabilitative services,  
62 residential housing, health services, and social services, including establishing safe houses,  
63 to sexually exploited victims and to a person, entity, or program eligible pursuant to criteria  
64 to be set by the commission. The commission shall also consider disbursement of available  
65 money from the fund to a person, entity, or program devoted to awareness and prevention  
66 of becoming a sexually exploited victim. The commission may also authorize the  
67 disbursement of fund money for the actual and necessary operating expenses that the

68 commission incurs in performing its duties; provided, however, that such disbursements  
69 shall be kept at a minimum in furtherance of the primary purpose of the fund, which is to  
70 disburse money to provide care and rehabilitative and social services to sexually exploited  
71 victims.

72 15-21-223.

73 (a) The commission shall consist of six members. Five of the members shall serve for  
74 terms of two years, except that, with respect to the first members appointed, two members  
75 shall be appointed for terms of three years, two members for terms of two years, and one  
76 member for a term of one year. The director of the Division of Family and Children  
77 Services of the Department of Human Services shall be a permanent member of the  
78 commission. The chairperson of the Criminal Justice Coordinating Council, the  
79 commissioner of behavioral health and developmental disabilities, the director of the  
80 Division of Family and Children Services of the Department of Human Services, the  
81 President of the Senate, and the Speaker of the House of Representatives shall each appoint  
82 one member of the commission. The Governor shall establish initial terms of office for all  
83 members of the commission within the limitations of this subsection.

84 (b) In the event of death, resignation, disqualification, or removal for any reason of any  
85 member of the commission, the vacancy shall be filled in the same manner as the original  
86 appointment, and the successor shall serve for the unexpired term.

87 (c) Membership on the commission shall not constitute public office, and no member shall  
88 be disqualified from holding public office by reason of his or her membership.

89 (d) The Governor shall designate a chairperson of the commission from among the  
90 members, which chairperson shall serve in that position at the pleasure of the Governor.  
91 The commission may elect such other officers and committees as it considers appropriate.

92 (e) The commission, with the approval of the Governor, may employ such professional,  
93 technical, or clerical personnel as deemed necessary to carry out the purposes of this  
94 article.

95 15-21-224.

96 Members of the commission shall serve without compensation but shall receive the same  
97 expense allowance per day as that received by a member of the General Assembly for each  
98 day such member of the commission is in attendance at a meeting of such commission, plus  
99 either reimbursement for actual transportation costs while traveling by public carrier or the  
100 same mileage allowance for use of a personal car in connection with such attendance as  
101 members of the General Assembly receive. Such expense and travel allowance shall be  
102 paid in lieu of any per diem, allowance, or other remuneration now received by any such  
103 member for such attendance. Expense allowances and other costs authorized in this Code  
104 section shall be paid from moneys in the fund.

105 15-21-225.

106 (a) The commission shall:

107 (1) Meet at such times and places as it shall determine necessary or convenient to  
108 perform its duties on the call of the chairperson or the Governor;

109 (2) Maintain minutes of its meetings;

110 (3) Adopt rules and regulations for the transaction of its business;

111 (4) Accept applications for disbursements of available money from the fund;

112 (5) Develop a state-wide protocol for helping to coordinate the delivery of services to  
113 sexually exploited victims;

114 (6) Provide oversight and accountability for any program that receives disbursements  
115 from the fund;

116 (7) Maintain records of all its expenditures, funds received as gifts and donations, and  
117 disbursements made from the fund; and

118 (8) Conform to the standards and requirements prescribed by the state accounting officer  
119 pursuant to Chapter 5B of Title 50.

120 (b) The commission shall utilize existing state resources and staff of participating  
121 departments whenever practicable.

122 15-21-226.

123 The commission may recommend to the Governor and the General Assembly changes in  
124 state programs, laws, policies, budgets, and standards relating to the care and rehabilitation  
125 of sexually exploited victims, changes to improve coordination among state agencies that  
126 provide care and rehabilitative and social services to sexually exploited victims, and  
127 changes to improve the condition of sexually exploited victims who are in need of  
128 rehabilitative and social services.

129 15-21-227.

130 The commission may accept and solicit federal funds granted by Congress or executive  
131 order for the purposes of this article as well as gifts and donations from individuals, private  
132 organizations, or foundations. The acceptance and use of federal funds shall not commit  
133 state funds and shall not place an obligation upon the General Assembly to continue the  
134 purposes for which the federal funds are made available. All such funds received in the  
135 manner described in this Code section shall be transmitted to the state treasurer for deposit  
136 into the fund to be disbursed as other moneys in the fund.

137 15-21-228.

138 (a) In every case in which any court in this state imposes a fine, including costs, for  
139 trafficking a person for sexual servitude in violation of Code Section 16-5-46 or any

140 violation of Code Section 16-6-10, 16-6-11, 16-6-12, 16-6-15, 16-6-16, or 16-12-100, there  
141 shall be imposed an additional penalty of \$2,500.00 if the defendant was 18 years of age  
142 or older at the time of the offense.

143 (b) The penalty provided for in subsection (a) of this Code section shall be in addition to  
144 any amount required to be paid into any pension, annuity, or retirement fund under Title 47  
145 or any other law and in addition to any other amounts provided for in this chapter.

146 (c) The penalty provided for in subsection (a) of this Code section shall be assessed and  
147 collected by the clerk or court officer charged with the duty of collecting moneys arising  
148 from fines and shall be paid over by the last day of the following month to the Georgia  
149 Superior Court Clerks' Cooperative Authority for remittance to the Victims of Human  
150 Trafficking Fund Commission, to be deposited into the Victims of Human Trafficking  
151 Fund.

152 (d) Any person whose duty it is to collect and remit the penalty provided for in  
153 subsection (a) of this Code section who intentionally refuses to so remit shall be guilty of  
154 a misdemeanor.

155 (e)(1) In addition to the costs and fees assessed in subsections (a) through (c) of this  
156 Code section, an individual who is a victim of a violation of Code Section 16-5-46 shall  
157 have a cause of action against any perpetrator and may recover damages and reasonable  
158 attorney's fees.

159 (2) Upon a conviction of any of the offenses provided in subsection (a) of this Code  
160 section, any real or personal property which is, directly or indirectly, used or intended for  
161 use in any manner to facilitate such offense is declared to be contraband and subject to  
162 forfeiture in accordance with the procedures set forth in Chapter 16 of Title 9."

163 **SECTION 1-2.**

164 Code Section 16-6-13.3 of the Official Code of Georgia Annotated, relating to civil forfeiture  
165 of proceeds and property, is amended by revising subsection (b) as follows:

166 "(b) Any property which is, directly or indirectly, used or intended for use in any manner  
167 to facilitate a violation of Code Section 16-6-10, 16-6-11, ~~or 16-6-12,~~ or 16-5-46 and any  
168 proceeds are declared to be contraband and no person shall have a property right in them."

169

**PART II**

170

**SECTION 2-1.**

171 Title 16 of the Official Code of Georgia Annotated, relating to crimes and offenses, is  
172 amended by revising Article 3 of Chapter 5, relating to kidnapping, false imprisonment, and  
173 related offenses, by adding a new Code section to read as follows:

174 "16-5-48.

175 (a) As used in this Code section, the term:

176 (1) 'Employee' means any person employed by a hotel that:

177 (A) Has frequent or regular interactions with guests, such as front desk staff, hotel  
178 porters, hotel concierges, restaurant waiting and bartending staff, room service staff,  
179 and temporary employees;

180 (B) Is in a management position; or

181 (C) Has access to the guests' rooms, including housekeeping staff.

182 (2) 'Hotel' shall have the same meaning as defined in Code Section 16-5-47.

183 (b) Every hotel proprietor shall require its employees to complete a training course on  
184 recognizing and reporting instances of suspected human trafficking. Such training course  
185 shall be an online course provided by the Criminal Justice Coordinating Council at no cost  
186 to the hotel proprietor nor employees or an alternative online or in-person training course  
187 approved by the Georgia Bureau of Investigation. The Criminal Justice Coordinating  
188 Council shall approve or deny the use of any alternative online or in-person training course  
189 within 60 days of the submission of such training course for approval.

190 (c) Each hotel employee shall complete the required training course described in  
 191 subsection (b) of this Code section within six months of being employed by a hotel and  
 192 thereafter at least once during each consecutive period of two calendar years, commencing  
 193 with the date on which he or she last completed the required training course, for as long as  
 194 he or she is employed by a hotel."

195 **SECTION 2-2.**

196 Said title is further amended by revising Code Section 16-6-16, relating to masturbation for  
 197 hire, as follows:

198 "16-6-16.

199 (a) A person 18 years of age or older, including a masseur or masseuse, commits the  
 200 offense of masturbation for hire when he or she erotically stimulates the genital organs of  
 201 another, whether resulting in orgasm or not, by manual or other bodily contact exclusive  
 202 of sexual intercourse or by instrumental manipulation for money or the substantial  
 203 equivalent thereof.

204 (b) A person committing the offense of masturbation for hire shall be guilty of a  
 205 misdemeanor."

206 **PART III**

207 **SECTION 3-1.**

208 Code Section 17-10-21 of the Official Code of Georgia Annotated, relating to vacating of  
 209 sentence for trafficking victim defendants, is amended by revising paragraphs (1) and (4) and  
 210 subparagraph (A) of paragraph (5) of subsection (a) as follows:

211 "(a)(1) A defendant convicted of an offense and sentenced, or a defendant sentenced  
 212 pursuant to Code Section 42-8-60 or 16-13-2, as a direct result of the defendant being the  
 213 victim of an offense of trafficking under Code Section 16-5-46 may petition the court  
 214 imposing the sentence to vacate such conviction and sentence or such sentence imposed

215 pursuant to Code Section 42-8-60 or 16-13-2. Such court shall maintain the jurisdiction,  
216 power, and authority to vacate such conviction and sentence.”

217 “(4) If the prosecuting attorney, to the court, consents in writing to the vacatur of such  
218 conviction or fails to respond to such petition within 30 days of service, the court  
219 imposing the conviction and sentence or sentence imposed pursuant to Code Section 42-  
220 8-60 or 16-13-2 shall, without notice or hearing, issue an order vacating the conviction  
221 and sentence and shall also issue an order restricting access to criminal history record  
222 information for such offense.

223 (5)(A) If the prosecuting attorney, to the court, objects in writing to the petition, the  
224 court shall hold a hearing within 90 days of the filing of the petition. The court shall  
225 hear evidence and determine, by a preponderance of the evidence, whether the  
226 defendant committed such offense as a direct result of being the victim of an offense  
227 of trafficking under Code Section 16-5-46. If the court finds, by a preponderance of the  
228 evidence, that the defendant committed such offense as a direct result of being the  
229 victim of an offense of trafficking under Code Section 16-5-46, the court may issue an  
230 order vacating the conviction and sentence or sentence imposed pursuant to Code  
231 Section 42-8-60 or 16-13-2. The vacatur of a sentence under this chapter or a sentence  
232 imposed pursuant to Code Section 42-8-60 or 16-13-2 shall result in the discharge and  
233 dismissal of the action.”

234 **SECTION 3-2.**

235 Code Section 35-3-37 of the Official Code of Georgia Annotated, relating to review of  
236 individual’s criminal history record information, definitions, privacy considerations, written  
237 application requesting review, and inspection, is amended by revising subparagraphs (A),  
238 (C), and (D) of paragraph (6) of subsection (j) as follows:

239 “(6)(A) A defendant convicted of an offense and sentenced, or a defendant sentenced  
240 pursuant to Code Section 42-8-60 or 16-13-2, while such individual was a victim of an

241 offense of trafficking under Code Section 16-5-46 may petition the court imposing the  
242 sentence to restrict such conviction and sentence or such sentence imposed pursuant to  
243 Code Section 42-8-60 or 16-13-2. Such court shall maintain the jurisdiction, power, and  
244 authority to restrict such conviction and sentence.”

245 “(C) If the prosecuting attorney, to the court, consents in writing to the restriction of  
246 such conviction and sentence or fails to respond to such petition within 30 days of  
247 service, the court imposing the conviction and sentence or sentence imposed pursuant  
248 to Code Section 42-8-60 or 16-13-2 shall, without notice or hearing, issue an order  
249 restricting ~~the conviction and sentence~~ access to the criminal history record of such  
250 offense.

251 (D) If the prosecuting attorney, to the court, objects in writing to the petition, the court  
252 shall determine, by a preponderance of the evidence, whether the defendant committed  
253 such offense while such individual was a victim of an offense of trafficking under  
254 Code Section 16-5-46. If the court finds, by a preponderance of the evidence, that the  
255 defendant committed such offense while such individual was a victim of an offense of  
256 trafficking under Code Section 16-5-46, the court may issue an order restricting ~~the~~  
257 ~~conviction and sentence~~ access to the criminal history record of such offense. The court  
258 shall hold a hearing within 90 days of the filing of the petition to hear evidence for  
259 purposes of making a determination under this subparagraph or make a determination  
260 upon the pleadings or record.”

#### 261 PART IV

#### 262 SECTION 4-1.

263 (a) Except as provided in subsection (b) of this section, this Act shall become effective on  
264 July 1, 2024.

265 (b) Section 1-1 of this Act shall become effective on July 1, 2025, provided that a  
266 constitutional amendment is passed by the General Assembly and is ratified by the voters in

267 the November, 2024, General Election amending the Constitution of Georgia to authorize the  
268 General Assembly to provide specific funding to the Victims of Human Trafficking Fund.  
269 If such an amendment to the Constitution of Georgia is not so ratified, Section 1-1 of this Act  
270 shall not become effective and shall stand repealed by operation of law on January 1, 2025.

271

**SECTION 4-2.**

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