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CRIMES AND OFFENSES

Crimes Against the Person: Amend Section 47 of Article 3 of Chapter 5 of Title 16 of the Official Code of Georgia Annotated, Relating to Kidnapping, False Imprisonment, and Related Offenses, so as to Require Certain Businesses and Establishments Post a Model Notice so as to Enable Persons Who Are the Subject of Human Trafficking to Obtain Help and Services; Provide for the Georgia Bureau of Investigation to Develop and Post the Model Notice on Its Website; Provide for Penalties; Provide an Expiration Date for the Act; Provide for Related Matters; Provide for an Effective Date; Repeal Conflicting Laws; and for Other Purposes

CODE SECTION:	O.C.G.A. § 16-5-47 (new)
BILL NUMBER:	HB 141
ACT NUMBER:	191
GEORGIA LAWS:	2013 Ga. Laws 620
SUMMARY:	The Act requires certain types of businesses to post a notice with information to assist victims of human trafficking. Most importantly, the notice must include the toll-free telephone number to the National Human Trafficking Resource Center hotline. Further, the Act provides for a misdemeanor fine of not more than $500 for the first offense if a business fails to post the required notice within thirty days after being notified of a violation by a law enforcement officer. A subsequent violation is subject to a fine of not more than $5,000.
EFFECTIVE DATE:	September 15, 2013

History

In past years, Georgia's reputation for sex trafficking has been one of the worst in the country.[1] Moreover, some consider Atlanta a hub for human trafficking.[2] During the 2001 legislative session, the Georgia General Assembly responded to this growing epidemic by making it a felony offense to prostitute a minor.[3] Further, the legislature enacted House Bill (HB) 200 in 2011.[4] HB 200 discouraged the trafficking of persons for labor and sexual servitude by providing greater protections for victims, increasing the penalties for the accused, and providing training to law enforcement agents.[5] Finally, the General Assembly passed HB 1176 in 2012, which amended the Mandatory Child Abuse Reporting Law to include sexual exploitation in the definition of sexual abuse of minors and removed the statute of limitations for prosecuting the offense of trafficking a minor for sexual servitude.[6] These initiatives demonstrate that Georgia is committed to reducing the prevalence of human trafficking in the state.[7] In 2012, Shared Hope International conducted a comprehensive legislative analysis and issued report cards for all fifty states through its Protected Innocence Challenge.[8] Georgia received a final score of 80 and was one of only seven states to receive a B grade, the highest given to any state reviewed in the report.[9]

Despite the efforts of legislatures and volunteer groups across the nation, the number of children victimized by human trafficking

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1. April Hunt, *Child Sex-Trafficking Bill Easily Clears House,* ATLANTA J-CONST. Mar. 3, 2011, *available at* 2011 WLNR 4149959.

2. *See* Brandon Howard & Laurin Nutt, *Crimes and Offenses HB 200*, 28 GA. ST. U. L. REV. 131 (2011).

3. *See* Paul Menair, *Prostitution: Increase Penalties for Offenses of Pimping and Pandering of a Minor*, 18 GA. ST. U. L. REV. 32, 44 (2001) (citing 2001 Ga. Laws 92, § 2, at 93).

4. *See generally* Howard & Nutt, *supra* note 2, at 133.

5. *Id.* at 133–34.

6. THE GEORGIA GENERAL ASSEMBLY JOINT HUMAN TRAFFICKING STUDY COMMISSION, DRAFT REPORT OF THE JOINT HUMAN TRAFFICKING STUDY COMMISSION, at 3 (2012). [hereinafter COMMISSION REPORT], *available at* http://www.house.ga.gov/Documents/CommitteeDocuments/2013/HumanTraffickingStudy/Jt_Human_Trafficking_FINAL_Report.pdf.

7. *Id.* at 8.

8. *Id.* at 8–9.

9. *Id.* at 2.

remains high.[10] According to one expert, the best data available suggests that between 100,000 and 300,000 American children are victimized by child prostitution every year.[11]

In 2012, the General Assembly passed House Resolution (HR) 1151, which created the Joint Human Trafficking Commission (the "Commission").[12] The Commission was ordered to "undertake a study of the conditions, needs, issues, and problems [related to human trafficking] and recommend any action or legislation which the commission deem[ed] necessary or appropriate."[13] Representative Edward Lindsey (R-54th) and Senator Renee Unterman (R-45th) co-chaired the Commission.[14] Other members of the Committee included representatives and senators from the General Assembly, judges, members of law enforcement, and a district attorney.[15]

In its report, the Commission made a number of legislative proposals, including a recommendation that the General Assembly mandate the posting of the National Human Trafficking Resources Center hotline number at certain business establishments.[16] To put the Commission proposal into effect, Representative Lindsey introduced HB 141 during the 2013 legislative session.[17]

Bill Tracking of HB 141

Consideration and Passage by the House

Representatives Edward Lindsey (R-54th), Alisha Morgan (D-39th), Buzz Brockway (R-102nd), Margaret Kaiser (D-59th), and Sheila Jones (D-53rd) sponsored HB 141.[18] The House read the bill for the first time on January 30, 2013, and for the second time on

10. *Id.* at 5.

11. LINDA SMITH, SAMANTHA VARDAMAN & MELISSA SNOW, THE NATIONAL REPORT ON DOMESTIC MINOR SEX TRAFFICKING: AMERICA'S PROSTITUTED CHILDREN, 4 (2009) (quoting Ernie Allen, National Center for Missing and Exploited Children), *available at* http://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf.

12. HR 1151, as passed, 2012 Ga. Gen. Assem.

13. *Id.*, p. 2, ln. 42–44.

14. *See* Telephone Interview with Rep. Edward Lindsey (R-54th) (May 28, 2013) [hereinafter Lindsey Interview].

15. COMMISSION REPORT, *supra* note 6, at 1.

16. *Id.* at 10–12.

17. HB 141, as introduced, 2013 Ga. Gen. Assem.

18. *Id.*

January 31, 2013.[19] Speaker of the House David Ralston (R-7th) assigned HB 141 to the House Judiciary Non-Civil Committee, which favorably reported a Committee substitute on February 21, 2013.[20] The Committee substitute made several substantive changes. First, it delegated the responsibility for developing the model notice to the Georgia Bureau of Investigation.[21] Second, the Committee substitute defined the term "Adult entertainment establishment" and added a requirement that the notice be posted in businesses falling within that definition.[22] Third, the Committee substitute specified when businesses must have the model notice posted.[23] Fourth, the Committee added language to exclude businesses that offer massages by a licensed massage therapist from the list of establishments required to post the notice.[24] Two trade organizations for licensed massage therapists testified at the House Committee hearing to request this change.[25] The language of the model notice was also simplified at the request of a Committee member.[26] Moreover, the substitute specified how law enforcement will contact a business to notify it of a violation, increased the fine for a second violation, and removed the possibility of imprisonment for a second violation.[27] Finally, the Committee substitute added a sunset provision for January 1, 2024.[28]

The House read the Committee substitute on February 27, 2013 and considered three floor amendments.[29] The first amendment, offered by Representative Lindsey and Representative Jay Roberts (R-155th), added language exempting farmers from the posting

19. State of Georgia Final Composite Status Sheet, HB 141, May 9, 2013.
20. *Id.*
21. HB 141 (HCS), § 1, p. 2, ln. 58, 2013 Ga. Gen. Assem.
22. *Id.* § 1, p. 1, ln. 15–28.
23. *Id.* § 1, p. 2, ln. 55.
24. *Id.* § 1, p. 3, ln. 83–84.
25. Video Recording of House Judiciary Non-Civil Committee Meeting, Feb. 13, 2013 at 36 min., 20 sec. (remarks by Terry Barton, American Massage Therapy Association of Georgia), http://media.legis.ga.gov/hav/13_14/2013/committees/judinon/judinon021313EDITED.wmv [hereinafter House Committee Video].
26. HB 141 (HCS), § 1, p. 3, ln. 82–85, 2013 Ga. Gen. Assem.; House Committee Video, *supra* note 25, at 49 min., 45 sec. (remarks by Rep. Ed Setzler (R-35th)).
27. HB 141 (HCS), § 1, p. 4, ln. 103–06, 2013 Ga. Gen. Assem.
28. *Id.* § 1, p. 4, ln. 107–08.
29. Video Recording of House Proceedings, Feb. 27, 2013 at 1 hr., 45 min., 5 sec. (remarks by Rep. Edward Lindsey (R-54th)), http://www.gpb.org/lawmakers/2013/day-25.

requirement because they do not maintain an office.[30] Representative Ed Setzler (R-35th) offered the second amendment, which moved the sunset date to 2019, thus making it more likely the legislators who considered the bill will be in office to consider extending it.[31] The first two amendments were adopted without objection.[32] Representative John David Pezold (R-133rd) introduced the third amendment, which would have made posting the notice optional.[33] The House defeated Representative Pezold's amendment by a vote of 163 to 9.[34] The House then adopted the Committee substitute by a vote of 171 to 1.[35]

Consideration and Passage by the Senate

Senator Jesse Stone (R-23rd) sponsored HB 141 in the Senate, and the bill was first read on February 28, 2013.[36] Lieutenant Governor Casey Cagle (R) referred the bill to the Judiciary Non-Civil Committee, which favorably reported a substitute on March 14, 2013.[37] The Committee made only minor changes to HB 141, adding a definition of agricultural products and removing a reference to the Code section that previously provided that definition.[38] The bill was read a second time on March 20, 2013 and a third time on March 21, 2013.[39] On March 21, 2013, the Senate passed the Committee substitute by a vote of 47 to 1.[40] On March 25, 2013, the House agreed to the Senate Committee substitute by a vote of 168 to 2.[41] Governor Nathan Deal signed the Act on May 6, 2013.[42]

30. *Id.* at 1 hr., 45 min., 12 sec. (remarks by Rep. Edward Lindsey (R-54th)).
31. *Id.* at 1 hr., 56 min., 8 sec. (remarks by Rep. Ed Setzler (R-35th)).
32. *Id.* at 1 hr., 58 min., 55 sec. (remarks by Speaker of the House David Ralston (R-7th)).
33. *Id.* at 1 hr., 52 min., 42 sec. (remarks by Rep. Carolyn Hugley (D-136th)).
34. Georgia House of Representatives Voting Record, HB 141 (Feb. 27, 2013).
35. *Id.*
36. State of Georgia Final Composite Status Sheet, HB 141, May 9, 2013.
37. *Id.*
38. HB 141 (SCS), § 1, p. 29–35, 52–53, 2013 Ga. Gen. Assem.
39. State of Georgia Final Composite Status Sheet, HB 141, May 9, 2013.
40. Georgia Senate Voting Record, HB 141 (Mar. 21, 2013).
41. Georgia House of Representatives Voting Record, HB 141 (Mar. 25, 2013).
42. State of Georgia Final Composite Status Sheet, HB 141, May 9, 2013.

The Act

The Act amends Title 16 of the Official Code of Georgia Annotated for the purpose of requiring certain businesses in Georgia to post a notice with information to assist victims of human trafficking. The first section of the Act creates a new Code section, 16-5-47, which provides definitions of various terms, including those that describe the businesses the Act affects.[43] Moreover, subsection (b) of the newly created Code section identifies the deadline for when businesses must have the notice posted.[44] Code section 16-5-47(b) identifies which businesses must post the notice and where that notice must be posted.[45]

Code section 16-5-47(c) establishes a deadline for the Georgia Bureau of Investigation to develop a model notice and make it available for download on its website.[46] Subsection (c) further specifies the minimum size and suggested language of the notice.[47] Code section 16-5-47(d) then outlines the method of enforcement and penalties for failure to post the notice.[48] A business's first violation is a misdemeanor punishable by a fine of up to $500; further, a second violation is a high and aggravated misdemeanor and is punishable by a fine of not more than $5,000.[49] Finally, subsection (e) sets forth a sunset provision to automatically repeal the bill on January 1, 2019, if it is not extended by an Act of the General Assembly.[50]

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43. O.C.G.A. § 16-5-47(a) (Supp. 2013).
44. O.C.G.A. § 16-5-47(b) (Supp. 2013).
45. O.C.G.A. § 16-5-47(b)(1)–(13) (Supp. 2013). The Act requires the following businesses and other establishments to post the notice: adult entertainment establishments; bars; airports; rail stations; bus stops; truck stops; emergency rooms; urgent care centers; farm labor contractors and day haulers; privately operated job recruitment centers; safety rest areas located along interstate highways; hotels; and business establishments that offer massage or bodywork services by a person who is not a massage therapist. *Id.* The businesses required to post the notice were chosen because they are places where human trafficking victims are likely to be. House Committee Video, *supra* note 25, at 59 sec. (remarks by Rep. Edward Lindsey (R-54th)). Further, the locations were chosen based on similar laws enacted by twelve other states, including Alabama, Tennessee, and Texas. Video Recording of Senate Proceedings, Mar. 21, 2012 at 1 hr., 34 min. (remarks by Sen. Renee Unterman (R-45th)) [hereinafter Senate Floor Video].
46. O.C.G.A. § 16-5-47(c) (Supp. 2013).
47. *Id.*
48. O.C.G.A. § 16-5-47(d) (Supp. 2013).
49. *Id.*
50. O.C.G.A. § 16-5-47(e) (Supp. 2013).

Analysis

Concerns About Enforcement and Breadth of the Act

As a threshold matter, there may be issues enforcing the mandate that certain establishments post the notice. While the Act imposes criminal penalties and fines for not doing so, it is silent as to how day-to-day enforcement will occur. Representative Edward Lindsey (R-54th) believes that volunteer groups will play a vital role in ensuring that businesses comply with Act.[51] Although volunteers do not have enforcement powers, they can inform businesses that fail to post the notice that they are violating the law.[52] The volunteers can then follow up to see if the notice has indeed been posted and report businesses that fail to take action.[53] This method of enforcement has proven successful in other states that have enacted similar legislation.[54]

The breadth of businesses that the Act affects is also a concern. For example, even luxurious hotels and bars will be required to post the notice. The thought behind this concern is that human trafficking victims are less likely to be in luxurious establishments and posting the notice may detract from the luxurious atmosphere the patrons of these establishments expect. However, Representative Lindsey (R-54th) noted that no industry brought objections to his attention, other than those made by licensed massage therapists.[55] Even though some may think posting the notice in upscale businesses may be unwarranted, most luxurious establishments recognize the seriousness of the problem and would like to be part of the solution.[56]

Concerns about the large number of businesses affected by the Act may also be quelled by the fact that a number of businesses have already begun to post similar notices voluntarily.[57] In the eight

51. Lindsey Interview, *supra* note 14.
52. *Id.*
53. *Id.*
54. *Id.*
55. House Committee Video, *supra* note 25, at 9 min., 31 sec. (remarks by Rep. Edward Lindsey (R-54th)).
56. *Id.*
57. House Committee Video, *supra* note 25, at 20 min., 27 sec. (remarks by Emily Laney, State Co-Director, Not for Sale Georgia).

months prior to the passage of HB 141, Not For Sale Georgia, a national anti-human-trafficking organization, distributed notices containing the hotline number to over 500 businesses.[58] Approximately eighty to ninety percent of these businesses opted to post the notice.[59] Moreover, most of the businesses that declined did so because of corporate restraints.[60]

Although there are a few concerns about the breadth and enforcement of the Act, HB 141 remains a small but important step in Georgia's effort to combat human trafficking.

Toll-Free Hotline Number and the Act's Effect

The toll free number listed on the notice connects a victim to the National Human Trafficking Resource Center hotline operated by the Polaris Project in Washington, D.C.[61] Operators are available twenty-four hours a day, seven days a week.[62] Moreover, the hotline has the capacity to communicate with callers in 170 different languages.[63] Professionals who operate the hotline receive sixty hours of training and help determine the situation the caller is in.[64] If necessary, the operator will contact law enforcement officers to assist the victim.[65] Since December 2007, the hotline has received more than 60,000 calls from every state in the country and connected more than 6,700 potential victims to services.[66]

Prior to the passage of HB 141, persons in Georgia called the hotline 1,221 times.[67] As more businesses begin posting the mandated notice, many expect the number of Georgia callers to increase.[68]

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58. *Id.*
59. *Id.*
60. *Id.*
61. *Id.*
62. *Id.*
63. House Committee Video, *supra* note 25, at 27 min., 16 sec. (remarks by Emily Laney, State Co-Director, Not for Sale Georgia).
64. COMMISSION REPORT, *supra* note 6, at 10.
65. *Id.*
66. *Id.*
67. Senate Floor Video, *supra* note 45, at 1 hr., 34 min. (remarks by Sen. Renee Unterman (R-45th)).
68. House Committee Video, *supra* note 25, at 26 min., 49 sec. (remarks by Stephanie Davis, Executive Director, Georgia Women for Change).

Combating Human Trafficking in Georgia Going Forward

In the future, Georgia lawmakers plan to focus on reducing the demand for human trafficking in the state.[69] Further, on March 18, 2013, Georgia Attorney General Sam Olens (R) announced the creation of the "Georgia's Not Buying It" campaign to combat child sex trafficking.[70] The campaign is a public-private partnership between the Attorney General's office, law enforcement, non-profit advocates, and the Governor's Office for Children and Families.[71] The campaign will feature public service announcements from local professional athletes.[72] Since the campaign's inception, the Attorney General's office has worked with groups to train and educate law enforcement officers, as well as the hotel industry, about human trafficking.[73]

Georgia has taken important strides in the fight against human trafficking, but the battle is far from over. HB 141 should not be seen as an ending point; instead, it is yet another step on the long road of eradicating human trafficking in Georgia.

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69. COMMISSION REPORT, *supra* note 6, at 12.

70. Press Advisory, Ga. Dept. of Law, Attorney General Olens, Law Enforcement Announce Campaign to Fight Sex Trafficking (Mar. 18, 2013), http://law.ga.gov/press-releases/2013-03-18/attorney-general-olens-law-enforcement-announce-campaign-fight-sex.

71. *Id.*

72. *Id.*

73. *Id.*