

CHAPTER 107

CRIMINAL LAW AND PROCEDURE

SENATE BILL 15-030

BY SENATOR(S) Carroll, Cadman, Aguilar, Baumgardner, Cooke, Donovan, Garcia, Grantham, Guzman, Heath, Hill, Jahn, Johnston, Jones, Kefalas, Kerr, Lambert, Lundberg, Martinez Humenik, Merrifield, Newell, Roberts, Scheffel, Scott, Sonnenberg, Steadman, Todd, Ulibarri, Woods;
also REPRESENTATIVE(S) Foote, Becker K., Buckner, Carver, Conti, Court, DelGrosso, Dore, Duran, Fields, Ginal, Kagan, Klingenschmitt, Landgraf, Lawrence, Lebsock, Lee, Lontine, Lundeen, McCann, Melton, Mitsch Bush, Moreno, Nordberg, Pabon, Pettersen, Primavera, Priola, Rankin, Ransom, Rosenthal, Roupe, Ryden, Salazar, Sias, Singer, Tate, Tyler, Van Winkle, Williams, Winter, Hullinghorst.

AN ACT

CONCERNING REMOVING CULPABILITY FOR PROSTITUTION FOR A VICTIM OF HUMAN TRAFFICKING.

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

SECTION 1. In Colorado Revised Statutes, **add** 18-7-201.3 as follows:

18-7-201.3. Affirmative defense - human trafficking - expungement of record protective order - definitions. (1) A PERSON CHARGED WITH PROSTITUTION, AS DESCRIBED IN SECTION 18-7-201 OR ANY CORRESPONDING MUNICIPAL CODE OR ORDINANCE, FOR AN OFFENSE COMMITTED ON OR AFTER JULY 1, 2015, WHICH OFFENSE WAS COMMITTED AS A DIRECT RESULT OF BEING A VICTIM OF HUMAN TRAFFICKING, MAY ASSERT AS AN AFFIRMATIVE DEFENSE THAT HE OR SHE IS A VICTIM OF HUMAN TRAFFICKING AS DEFINED IN SUBSECTION (4) OF THIS SECTION. TO ASSERT THE AFFIRMATIVE DEFENSE PURSUANT TO THIS SUBSECTION (1), THE PERSON CHARGED WITH THE OFFENSE MUST DEMONSTRATE BY A PREPONDERANCE OF THE EVIDENCE THAT HE OR SHE WAS A VICTIM OF HUMAN TRAFFICKING AT THE TIME OF THE OFFENSE. AN OFFICIAL DETERMINATION OR DOCUMENTATION IS NOT REQUIRED TO ASSERT AN AFFIRMATIVE DEFENSE PURSUANT TO THIS SUBSECTION (1), BUT OFFICIAL DOCUMENTATION FROM A FEDERAL, STATE, LOCAL, OR TRIBAL GOVERNMENT AGENCY INDICATING THAT THE DEFENDANT WAS A VICTIM AT THE TIME OF THE OFFENSE CREATES A PRESUMPTION THAT HIS OR HER PARTICIPATION IN THE OFFENSE WAS A DIRECT RESULT OF BEING A VICTIM.

(2)(a) ON OR AFTER JANUARY 1, 2016, A PERSON CHARGED WITH OR CONVICTED

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

OF PROSTITUTION, AS DESCRIBED IN SECTION 18-7-201 OR ANY CORRESPONDING MUNICIPAL CODE OR ORDINANCE, FOR AN OFFENSE COMMITTED BEFORE JULY 1, 2015, WHICH OFFENSE WAS COMMITTED AS A DIRECT RESULT OF BEING A VICTIM OF HUMAN TRAFFICKING, AS DEFINED IN SUBSECTION (4) OF THIS SECTION, MAY APPLY TO THE COURT FOR A SEALING OF HIS OR HER RECORDS PURSUANT TO SECTION 24-72-702 OR 24-72-706, C.R.S., AS APPLICABLE.

(b) A JUVENILE CHARGED WITH OR ADJUDICATED OF PROSTITUTION, AS DESCRIBED IN SECTION 18-7-201 OR ANY CORRESPONDING MUNICIPAL CODE OR ORDINANCE, FOR AN OFFENSE COMMITTED BEFORE JULY 1, 2015, WHICH OFFENSE WAS COMMITTED AS A DIRECT RESULT OF BEING A VICTIM OF HUMAN TRAFFICKING, AS DEFINED IN SUBSECTION (4) OF THIS SECTION, MAY APPLY TO THE COURT FOR EXPUNGEMENT OF HIS OR HER RECORD PURSUANT TO SECTION 19-1-306, C.R.S.

(c) AN OFFICIAL DETERMINATION OR DOCUMENTATION IS NOT REQUIRED TO GRANT A MOTION PURSUANT TO THIS SUBSECTION (2), BUT OFFICIAL DOCUMENTATION FROM A FEDERAL, STATE, LOCAL, OR TRIBAL GOVERNMENT AGENCY INDICATING THAT THE DEFENDANT WAS A VICTIM AT THE TIME OF THE OFFENSE CREATES A PRESUMPTION THAT HIS OR HER PARTICIPATION IN THE OFFENSE WAS A DIRECT RESULT OF BEING A VICTIM.

(3) AT THE REQUEST OF A PERSON WHO ASSERTED THE AFFIRMATIVE DEFENSE PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE COURT MAY AT ANY TIME ISSUE A PROTECTIVE ORDER CONCERNING PROTECTING THE CONFIDENTIALITY OF THE PERSON ASSERTING THE AFFIRMATIVE DEFENSE.

(4) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "HUMAN TRAFFICKING" MEANS AN OFFENSE DESCRIBED IN PART 5 OF ARTICLE 3 OF THIS TITLE OR ANY CONDUCT THAT, IF IT OCCURRED PRIOR TO THE ENACTMENT OF SUCH PART 5, WOULD CONSTITUTE AN OFFENSE OF HUMAN TRAFFICKING PURSUANT TO PART 5 OF ARTICLE 3 OF THIS TITLE.

(b) "VICTIM OF HUMAN TRAFFICKING" MEANS A "VICTIM" AS DEFINED IN SECTION 18-3-502 (12).

SECTION 2. In Colorado Revised Statutes, 18-3-505, **add** (4) (i) as follows:

18-3-505. Human trafficking council - created - duties - repeal. (4) The council shall hold its first meeting on or before November 1, 2014, at a time and place to be designated by the executive director of the department of public safety, or by his or her designee. The council shall meet at least four times each year and shall carry out the following duties:

(i) ON OR AFTER JANUARY 1, 2019, PERFORM A POST-ENACTMENT REVIEW OF SECTION 18-7-201.3 AND REPORT ITS FINDINGS TO THE JUDICIARY COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 16, 2015