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H.B. 276
134th General Assembly

Bill Analysis

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Version: As Passed by the House

Primary Sponsors: Reps. Powell and Schmidt

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SUMMARY

- Enacts a criminal prohibition that prohibits a person from receiving or acquiring money or any other thing of value knowing that the money or other thing of value was earned from sexual activity for hire or as a result of the offense of “trafficking in persons.”
- Makes a violation of the prohibition the offense of “receiving proceeds of prostitution,” a third degree felony or second degree felony depending on the circumstances of the offense.
- Adds the offense of “receiving proceeds of prostitution” as a corrupt activity under the Corrupt Activities Law.
- Modifies the definition of “prostitute” used in the Sex Offenses Law by eliminating the requirement that the male or female who engages in sexual activity for hire must have engaged in the activity “promiscuously.”

DETAILED ANALYSIS

Receiving the proceeds of prostitution

Offense

The bill creates a new criminal offense named “receiving proceeds of prostitution.” The prohibition under the offense prohibits a person from receiving or acquiring money or any other thing of value knowing that the money or other thing of value was earned from “sexual activity for hire” (see “**Definitions**,” below) or as a result of a violation of the prohibition under the offense of “trafficking in persons” (see “**Trafficking in persons offense**,”

below).¹ The prohibition does not apply to a prostitute who receives or acquires money or any other thing of value from the prostitute's own engagement in sexual activity for hire.²

Under the bill the offense of "receiving proceeds of prostitution" generally is a third degree felony, but it is a second degree felony if the offender violates the prohibition by knowingly receiving or acquiring money or any other thing of value from a prostitute who is under age 18.³

Allied offenses

Under the bill, a prosecution for a violation of the prohibition under the new offense does not preclude a prosecution for a violation of any other R.C. section. One or more acts, a series of acts, or a course of behavior that can be prosecuted for a violation of the prohibition under the new offense or any other R.C. section may be prosecuted under the new offense, the other R.C. section, or both sections. However, if an offender is convicted of or pleads guilty to a violation of the prohibition under the new offense and also is convicted of or pleads guilty to the offense of "compelling prostitution," "promoting prostitution," "prostitution," "pandering obscenity," or "procuring" based on the same conduct involving the same victim that was the basis of the violation of the prohibition under the new offense, the two offenses are allied offenses of similar import, and thus are subject to merger under existing law, unchanged by the bill, so that the person may be sentenced for only one of the offenses⁴

Corrupt activity

The bill adds the offense of "receiving proceeds of prostitution" to the list of offenses that constitute "corrupt activity" under the Corrupt Activities Law.⁵ Under current law, unchanged by the bill, a person who engages in a "pattern of corrupt activity" may be subject to criminal penalties and fines, property forfeiture, a civil proceeding from a person seeking relief, and a corrupt activity lien.⁶

"Corrupt activity" currently means engaging in, attempting to engage in, conspiring to engage in, or soliciting, coercing, or intimidating another person to engage in: (1) any of a list of offenses specified in continuing law, with some of the offenses being included only when they occur in limited, specified circumstances, (2) any conduct constituting an offense in another state that is substantially similar to any offense included under clause (1), if the defendant was convicted of the conduct in the other state, or (3) "racketeering activity" under federal law, animal or ecological terrorism, or certain organized retail theft conduct. The bill expands the list

¹ R.C. 2907.251(B).

² R.C. 2907.251(C)

³ R.C. 2907.251(D).

⁴ R.C. 2907.251(E) and R.C. 2941.25, not in the bill.

⁵ R.C. 2923.31 to 2923.36, not in the bill except R.C. 2923.31.

⁶ R.C. 2923.32, 2923.34, and 2923.36, not in the bill.

included in clause (1) to also include the offense of “receiving proceeds of prostitution” that it creates.⁷

Under continuing law, a “pattern of corrupt activity” is two or more incidents of corrupt activity, whether or not there has been a prior conviction, that are related to the affairs of the same enterprise, are not isolated, and are not so closely related to each other and connected in time and place that they constitute a single event; at least one of the incidents must have occurred on or after January 1, 1986, and generally, the last of the incidents must have occurred within six years of any of the prior incidents.⁸

Definitions

The bill uses the existing definition of “sexual activity for hire” in the offense of “receiving proceeds of prostitution” that it creates. Existing law defines “sexual activity for hire” as an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any person associated with either such person.⁹

The bill modifies the definition of “prostitute” that applies to the Sex Offenses Law by removing “promiscuously” from the existing law definition. The bill defines “prostitute” as a male or female who engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another. Existing law defines “prostitute” as a male or female who *promiscuously* engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.¹⁰ The term is used in three current R.C. sections, unchanged by the bill but affected by its modification of the term.¹¹ The related, and undefined, term of “prostitution” is used in several other current R. C. sections, unchanged by the bill.¹²

Trafficking in persons offense

Existing law, unchanged by the bill, sets forth the offense of “trafficking in persons,” a first degree felony. The prohibition under the offense prohibits a person from knowingly recruiting, luring, enticing, isolating, harboring, transporting, providing, obtaining, or maintaining, or knowingly attempting to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain, another person if either of the following applies:¹³

⁷ R.C. 2923.31(I).

⁸ R.C. 2923.31(E).

⁹ R.C. 2907.251(A), by reference to 2907.24(E), not in the bill.

¹⁰ R.C. 2907.01 to 2907.38 and 2917.211, not in the bill except 2907.01 and 2907.251.

¹¹ R.C. 2907.22, 2907.23, and 2907.26, not in the bill.

¹² R.C. 1701.91, 2746.02, 3767.01, 3767.04, 3767.05, and 3767.10, not in the bill.

¹³ R.C. 2905.32, not in the bill.

1. The offender knows that the other person will be subjected to involuntary servitude or be compelled to engage in sexual activity for hire, engage in a performance that is obscene, sexually oriented, or nudity oriented, or be a model or participant in the production of material that is obscene, sexually oriented, or nudity oriented; or
2. The other person is under age 18 or is a person with a developmental disability whom the offender knows or has reasonable cause to believe is a person with a developmental disability, and either the offender knows that the other person will be subjected to involuntary servitude or the offender's knowing recruitment, luring, enticement, isolation, harboring, transportation, provision, obtaining, or maintenance of the other person or knowing attempt to recruit, lure, entice, isolate, harbor, transport, provide, obtain, or maintain the other person is for the purpose of the other person to engage in sexual activity for hire with one or more third parties; to engage in a performance for hire that is obscene, sexually oriented, or nudity oriented; or to be a model or participant for hire in the production of material that is obscene, sexually oriented, or nudity oriented.

HISTORY

Action	Date
Introduced	04-27-21
Reported, H. Criminal Justice	03-28-22
Passed House (87-4)	03-30-22
