

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 15-0559.02 Jane Ritter x4342

SENATE BILL 15-030

SENATE SPONSORSHIP

Carroll, Cadman

HOUSE SPONSORSHIP

(None),

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 **CONCERNING REMOVING CULPABILITY FOR PROSTITUTION FOR A**
102 **VICTIM OF HUMAN TRAFFICKING.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill creates an affirmative defense to the crime of prostitution on or after July 1, 2015, if the person committed the act as a direct result of being a victim of human trafficking.

A person charged with or convicted of prostitution before July 1, 2015, may petition to have the court vacate his or her record of any conviction for that offense. The court may grant the motion upon a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

finding that the defendant's participation in the offense was a direct result of being a victim of human trafficking.

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

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

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

22 (2) (a) ON OR AFTER JANUARY 1, 2016, A PERSON CHARGED WITH
23 OR CONVICTED OF PROSTITUTION, AS DESCRIBED IN SECTION 18-7-201 OR
24 ANY CORRESPONDING MUNICIPAL CODE OR ORDINANCE, FOR AN OFFENSE
25 COMMITTED BEFORE JULY 1, 2015, WHICH OFFENSE WAS COMMITTED AS

1 A DIRECT RESULT OF BEING A VICTIM OF HUMAN TRAFFICKING, AS DEFINED
2 IN SUBSECTION (4) OF THIS SECTION, MAY APPLY TO THE COURT FOR A
3 SEALING OF HIS OR HER RECORDS PURSUANT TO SECTION 24-72-702,
4 C.R.S., OR 24-72-706, C.R.S., AS APPLICABLE.

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

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

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

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

27 (a) "HUMAN TRAFFICKING" MEANS AN OFFENSE DESCRIBED IN PART

1 5 OF ARTICLE 3 THIS TITLE OR ANY CONDUCT THAT, IF IT OCCURRED PRIOR
2 TO THE ENACTMENT OF SUCH PART 5, WOULD CONSTITUTE AN OFFENSE OF
3 HUMAN TRAFFICKING PURSUANT TO PART 5 OF ARTICLE 3 OF THIS TITLE.

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

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

8 **18-3-505. Human trafficking council - created - duties - repeal.**

9 (4) The council shall hold its first meeting on or before November 1,
10 2014, at a time and place to be designated by the executive director of the
11 department of public safety, or by his or her designee. The council shall
12 meet at least four times each year and shall carry out the following duties:

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

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