



2018 Legislative Summary: *Human Trafficking*

During the 2018 legislative session, the Indiana General Assembly considered three bills that proposed significant changes to the current statutes. One bill, HB1230 School Safety, proposed that educators be required to receive training in how to recognize that a student is potentially being trafficked. Although this bill ultimately did not pass, it may be considered in the special session that Governor Eric Holcomb has requested later this spring. The two bills, HEA1191 Suspected Human Trafficking and HEA1270 Criminal Law Matters, both passed and make changes to criminal statutes pertaining to human trafficking of children and adults.

HEA1191 Suspected Human Trafficking (Engleman)

Removes the requirement that licensed health care providers (including behavioral health) must report adult patients who are suspected of being victims of human trafficking to law enforcement. Licensed providers are required to provide information about resources and services that are available to suspected victims of human trafficking.

*Rationale: A law passed in the 2017 session needed to be revised so that licensed medical and behavioral health practitioners would not be penalized by losing their professional licensure for not reporting a suspected adult victim of human trafficking. They explained in testimony that this process would go against recommended best practice of working with victims of human trafficking where the goal is to get the person help to get out of their trafficking situation, not be arrested and potentially prosecuted for any actions committed while being in a coercive or forced scenario by a trafficker. *Note: professionals are still mandated to report children ages 17 and under to law enforcement or Department of Child Services if suspected to be victims of human trafficking.*

HEA1270 Criminal Law Matters (Siegrist)

Makes the following changes to the human and sexual trafficking statute:

- Reclassifies the term “human and sexual trafficking” to “human trafficking,” which includes labor and sexual trafficking
- Creates separate offenses for labor and sexual trafficking
- Removes the element of force from forced labor, marriage, prostitution, and participating in sexual conduct
- Removes involuntary servitude from the human trafficking statute
- Removes that a solicitor must know that a person is a victim of human trafficking before committing the offense
- Clarifies human sexual trafficking and child sexual trafficking under the “sex offender” and “sex or violent offender” statutes
- Clarifies definitions of “force,” “threat of force,” “coercion,” and “fraud”
- Expands the rape shield statute for victims of human trafficking
- Adds an element to the defense of prosecution under the offenses of sexual misconduct with a minor and promotion of sexual trafficking of a younger child
- Prohibits defense of prosecution that the child consented to engage in prostitution or sexual conduct or that the intended victim of the offense is a law enforcement officer
- Requires law enforcement to immediately notify the Department of Child Services when they detain a suspected victim of human trafficking under the age of 18
- Requests the legislative study of human trafficking in Indiana involving law enforcement, creation of programs, and review of the penalties for human trafficking crimes
- Requires the Commission on Improving the Status of Children to study what specific authority law enforcement has to take custody of or detain a child who is possibly a victim of human trafficking and who is possibly a Child in Need of Services (CHINS)

Adds an exemption for the transfer or receipt of reasonable charges and fees for adoption services provided by an attorney from a profiting from an adoption offense. Also provides a defense to the crime of maintaining a common nuisance in certain circumstances.

Rationale: These changes bring Indiana in-line with other states’ laws that are recommended as best practices.