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HOUSE BILL 161

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

INTRODUCED BY

T. Ryan Lane

AN ACT

RELATING TO CRIME; CREATING AN AFFIRMATIVE DEFENSE TO THE  
CHARGE OF PROSTITUTION FOR VICTIMS OF HUMAN TRAFFICKING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 30, Article 52 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] AFFIRMATIVE DEFENSE TO THE CHARGE OF  
PROSTITUTION--PROOF REQUIRED.--

A. A person charged with prostitution pursuant to  
Section 30-9-2 NMSA 1978 may assert as an affirmative defense  
that the defendant is a victim of human trafficking when the  
offense was committed as a direct result of the actions of a  
person charged with human trafficking.

B. To assert the affirmative defense provided for  
in Subsection A of this section, the defendant charged with the

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1 offense must demonstrate by a preponderance of the evidence  
2 that the defendant was a victim of human trafficking at the  
3 time of the offense. Official documentation from a federal,  
4 state, local or tribal government agency demonstrating that the  
5 defendant was a victim of human trafficking at the time of the  
6 offense shall create a presumption that the defendant's  
7 participation in the offense was a direct result of the actions  
8 of a person charged with human trafficking. An official  
9 determination from a court that the defendant was a victim of  
10 human trafficking at the time of the offense is not required to  
11 assert this affirmative defense."

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