

JOINT STATE GOVERNMENT COMMISSION

General Assembly of the Commonwealth of Pennsylvania

LEGISLATIVE UPDATE

**HUMAN TRAFFICKING IN PENNSYLVANIA:
A Review of the Act of July 2, 2014, P.L. 945, No.105**

OCTOBER 2014



Serving the Pennsylvania General Assembly Since 1937

The Joint State Government Commission was created by the act of July 1, 1937 (P.L.2460, No.459), as amended, and serves as the primary and central non-partisan, bicameral research and policy development agency for the General Assembly of Pennsylvania.

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October 2014

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To the Members of the General Assembly of Pennsylvania:

The Joint State Government Commission is pleased to present this legislative update, *Human Trafficking in Pennsylvania: A Review of the Act of July 2, 2014, P.L. 945, No.105*. This update provides a history of the development of Chapter 30 as part of Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes. The statutory provisions were first proposed by the Advisory Committee on Human Trafficking, which was formed pursuant to 2010 Senate Resolution No. 253.

On behalf of the Joint State Government Commission, I would like to recognize the members of the Advisory Committee for their dedication to address the problem of human trafficking in Pennsylvania.

Respectfully submitted,

Glenn J. Pasewicz
Executive Director

JOINT STATE GOVERNMENT COMMISSION

The Joint State Government Commission was created in 1937 as the primary and central non-partisan, bicameral research and policy development agency for the General Assembly of Pennsylvania.¹

A fourteen-member Executive Committee comprised of the leadership of both the House of Representatives and the Senate oversees the Commission. The seven Executive Committee members from the House of Representatives are the Speaker, the Majority and Minority Leaders, the Majority and Minority Whips, and the Majority and Minority Caucus Chairs. The seven Executive Committee members from the Senate are the President Pro Tempore, the Majority and Minority Leaders, the Majority and Minority Whips, and the Majority and Minority Caucus Chairs.

By statute, the Executive Committee selects a chairman of the Commission from among the members of the General Assembly. Historically, the Executive Committee has also selected a Vice-Chair or Treasurer, or both, for the Commission.

The studies conducted by the Commission are authorized by statute or by a simple or joint resolution. In general, the Commission has the power to conduct investigations, study issues, and gather information as directed by the General Assembly. The Commission provides in-depth research on a variety of topics, crafts recommendations to improve public policy and statutory law, and works closely with legislators and their staff.

A Commission study may involve the appointment of a legislative task force, composed of a specified number of legislators from the House of Representatives or the Senate, or both, as set forth in the enabling statute or resolution. In addition to following the progress of a particular study, the principal role of a task force is to determine whether to authorize the publication of any report resulting from the study and the introduction of any proposed legislation contained in the report. However, task force authorization does not necessarily reflect endorsement of all the findings and recommendations contained in a report.

¹ Act of July 1, 1937 (P.L.2460, No.459), amended by the act of June 26, 1939 (P.L.1084, No.380), the act of March 8, 1943 (P.L.13, No.4), the act of May 15, 1955 (P.L.1605, No.535), the act of December 8, 1959 (P.L.1740, No.646), and the act of November 20, 1969 (P.L.301, No.128).

Some studies involve an appointed advisory committee of professionals or interested parties from across the Commonwealth with expertise in a particular topic; others are managed exclusively by Commission staff with the informal involvement of representatives of those entities that can provide insight and information regarding the particular topic. When a study involves an advisory committee, the Commission seeks consensus among the members.² Although an advisory committee member may represent a particular department, agency, association, or group, such representation does not necessarily reflect the endorsement of the department, agency, association, or group of all the findings and recommendations contained in a study report.

Over the years, nearly one thousand individuals from across the Commonwealth have served as members of the Commission's numerous advisory committees or have assisted the Commission with its studies. Members of advisory committees bring a wide range of knowledge and experience to deliberations involving a particular study. Individuals from countless backgrounds have contributed to the work of the Commission, such as attorneys, judges, professors and other educators, state and local officials, physicians and other health care professionals, business and community leaders, service providers, administrators and other professionals, law enforcement personnel, and concerned citizens. In addition, members of advisory committees donate their time to serve the public good; they are not compensated for their service as members. Consequently, the Commonwealth of Pennsylvania receives the financial benefit of such volunteerism, along with the expertise in developing statutory language and public policy recommendations to improve the law in Pennsylvania.

The Commission periodically reports its findings and recommendations, along with any proposed legislation, to the General Assembly. Certain studies have specific timelines for the publication of a report, as in the case of a discrete or timely topic; other studies, given their complex or considerable nature, are ongoing and involve the publication of periodic reports. Completion of a study, or a particular aspect of an ongoing study, generally results in the publication of a report setting forth background material, policy recommendations, and proposed legislation. However, the release of a report by the Commission does not necessarily reflect the endorsement by the members of the Executive Committee, or the Chair or Vice-Chair of the Commission, of all the findings, recommendations, or conclusions contained in the report.

A report containing proposed legislation may also contain official comments, which may be used in determining the intent of the General Assembly.³

² Consensus does not necessarily reflect unanimity among the advisory committee members on each individual policy or legislative recommendation. However, it does, at a minimum, reflect the views of a substantial majority of the advisory committee, gained after lengthy review and discussion.

³ 1 Pa.C.S. § 1939 (“The comments or report of the commission . . . which drafted a statute may be consulted in the construction or application of the original provisions of the statute if such comments or report were published or otherwise generally available prior to the consideration of the statute by the General Assembly”).

Since its inception, the Commission has published more than 350 reports on a sweeping range of topics, including administrative law and procedure; agriculture; athletics and sports; banks and banking; commerce and trade; the commercial code; crimes and offenses; decedents, estates, and fiduciaries; detectives and private police; domestic relations; education; elections; eminent domain; environmental resources; escheats; fish; forests, waters, and state parks; game; health and safety; historical sites and museums; insolvency and assignments; insurance; the judiciary and judicial procedure; labor; law and justice; the legislature; liquor; mechanics' liens; mental health; military affairs; mines and mining; municipalities; prisons and parole; procurement; state-licensed professions and occupations; public utilities; public welfare; real and personal property; state government; taxation and fiscal affairs; transportation; vehicles; and workers' compensation.

Following the completion of a report, subsequent action on the part of the Commission may be required, and, as necessary, the Commission will draft legislation and statutory amendments, update research, track legislation through the legislative process, attend hearings, and answer questions from legislators, legislative staff, interest groups, and constituents.

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INTRODUCTION

Act 105 of 2014 amends Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes to update, modernize, and enhance Chapter 30 (Human Trafficking).⁴ The act, introduced as 2012 Senate Bill No. 1587 on August 20, 2012, and reintroduced as 2013 Senate Bill No. 75 on January 9, 2013, was based on the recommendations of the Joint State Government Commission's Advisory Committee on the Human Trafficking.

This report summarizes the development of the Act 105 -- from the creation of the Advisory Committee to the publication of a report in June 2012, and from the initial introduction of the legislation in August 2012 to its enactment in July 2014. Specifically, this report contains the following:

- A summary of the Joint State Government Commission's Advisory Committee and subcommittee process, including a discussion of the publication of a final report containing proposed legislation and background information regarding human trafficking matters.
- An explanation of how the human trafficking law changes current law in terms of terminology, prosecution of human traffickers, prevention of human trafficking, and protection of human trafficking victims.
- Act 105 of 2014,⁵ which is interspersed with Source Notes setting forth the basis of the statutory provisions, Notes providing explanatory material regarding the statute or current law, and Comments interpreting the statute.
- The authorization of the Joint State Government Commission to study the problem of human trafficking.

⁴ Act of July 2, 2014 (P.L.945, No.105).

⁵ Additions to the statutory language are underlined, and deletions are bracketed.

DEVELOPMENT OF THE HUMAN TRAFFICKING RECOMMENDATIONS

Authorization

On April 20, 2010, the Pennsylvania Senate passed Senate Resolution No. 253, which directed the Joint State Government Commission to:

[e]stablish an advisory committee to study the problem of human trafficking; to propose policies and procedures to assist in the prevention and prosecution of human trafficking; and to make recommendations on how to strengthen State and local efforts to prevent human trafficking, protect and assist human trafficking victims and prosecute offenders.

Advisory Committee Process

Following passage of 2010 Senate Resolution No. 253, the Joint State Government Commission formed an Advisory Committee of experts to guide and assist in the study of human trafficking. The committee was comprised of 29 individuals from across Pennsylvania, representing federal, state and local authorities, victim service providers, law enforcement, prosecutors, academics, and advocates.

The Advisory Committee held its first meeting on October 15, 2010, at which time three subcommittees were formed: Prevention and Awareness, Investigations and Prosecutions, and Protection and Support. Each subcommittee met over the next year, primarily by teleconference, to make recommendations in each area of study.

As a result of the Advisory Committee deliberations, consensus was reached on the statutory framework of a new Human Trafficking Chapter under Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes at its January 5, 2012 meeting. The proposed statutory recommendations formed the basis of the Advisory Committee's June 2012 report.

General Contents of the June 2012 Report

The June 2012 report contains a blend of background information outlining the problem of human trafficking in the international, national, state and local contexts, along with governmental responses to combat trafficking at those levels. The primary

recommendations of the Advisory Committee are contained within the statutory recommendations. The proposed legislation focuses on prosecution, prevention, and protection by more clearly defining sex and labor trafficking, increasing the fines and penalties for trafficking and involuntary servitude, adding penalties for business entities, (including license revocation and forfeiture of contracts), implementing participation in the national human trafficking hotline, creating the Pennsylvania Council for the Prevention of Human Trafficking, increasing training for first responders, and expanding the resources available to victim service providers.

Introduced on August 20, 2012 by Senator Stewart J. Greenleaf, 2012 Senate Bill No. 1587 was based on the Advisory Committee's recommendations and included implementation of participation in the national human trafficking hotline. Shortly after the bill's introduction, however, the free-standing National Human Trafficking Resource Center Hotline Notification Act was enacted.⁶ The proposed human trafficking recommendations, without the hotline provisions, were re-introduced on January 9, 2013, as Senate Bill No. 75.

A number of amendments were made to 2013 Senate Bill No. 75 as it worked its way through the legislative process and this report has been prepared to identify those source notes and official comments that were contained in the June 2012 Report and that remain relevant to the enacted provisions.

The proposed legislation in the June 2012 Report contained official comments, developed by the Joint State Government Commission and the Advisory Committee. Notes followed the proposed statutory provisions and set forth explanatory material or background information regarding the current law. Transitional language (provisions regarding applicability, repeals and the effective date of the proposed legislation) followed the statutory recommendations.

⁶ Act of October 25, 2012, (P.L.1618, No.197); 43 P.S. §§ 1491-1499.

SUMMARY OF CHANGES ENACTED BY ACT 105 OF 2014

The amendments to 18 Pa.C.S. Ch. 30 (Human Trafficking) made by Act 105 of 2014 address the three areas of study of the advisory committee: prosecution, protection and prevention.

Prosecution

The following sections are part of new 18 Pa.C.S. Ch. 30 Subch. B (Prosecution of Human Trafficking) and incorporate some of the provisions of the current trafficking in persons law:

Definitions (§ 3006)

Under the prior provisions of 18 Pa.C.S. “criminal coercion,” “forced labor or services” and “traffics” were defined in § 3001. The type of coercion encompassed by the new legislation is much broader, as seen in § 3012. Similarly, “traffics” is much more broadly defined in new § 3011. Additionally, the definition of “forced labor or services” found in previous § 3003 could have been interpreted to restrict the prior law to labor trafficking only.

The definitions of “human trafficking,” “involuntary servitude” “labor servitude,” and “sexual servitude” are all entwined in the offense of “human trafficking.” “Human trafficking” is divided into two separate offenses: trafficking in individuals and involuntary servitude, to ensure that both the persons who arrange for an individual to be subjected to involuntary servitude (a procurer, “coyote” or other person recruiting and transporting individuals) and the persons who then maintain that individual in a state of involuntary servitude are subject to the Pennsylvania Human Trafficking Act. Involuntary servitude is further divided into two types, labor servitude and sexual servitude, in recognition that the circumstances of, and remedies and penalties for those conditions may differ.

Sexual servitude may be induced by force, fraud or coercion, as set forth in § 3012(b). However, in the case of a minor, this is a strict liability provision: ANY sex act or performance involving a sex act or performance that is induced or obtained meets the definition of “sexual servitude” without a showing of force, fraud or coercion.

Serious harm details the type of threatened harm, both physical and/or nonphysical, that can induce individuals to perform services against their will. It relies on a “reasonable person in like circumstances” standard to determine the validity of the threat.

Debt coercion focuses on the exploitation of the debtor based on the existence of a debt. It includes both debt owed directly and a situation in which a trafficker has knowledge of a victim's debt to a third party and uses that knowledge to coerce the services of the debtor.

Financial harm includes exploitation of usury laws, violations of minimum hour and wage laws and contracts involving wage forfeitures.

Minor is defined as an individual under the age of 18 for purposes of violations of this act involving children. An individual under the age of 21 may be considered a minor for purposes of dependency services under the Juvenile Act, and this definition in no way is intended to limit access to those services.

Extortion is designed to cross-reference and encompass existing criminal acts defined in the Title 18 (the Crimes Code) to avoid inconsistent references to the same types of behavior.

Commission, involuntary servitude, labor, labor servitude, record, service, and victim are definitions that are self-explanatory.

Trafficking in individuals (§ 3011)

This section creates a second degree felony offense for arranging in any way for an individual to be subjected to involuntary servitude, or for benefiting financially from such an endeavor. Trafficking in minors is a first degree felony. Under the prior law, 18 Pa.C.S. § 3002 defined trafficking more narrowly: it was treated as a second degree felony unless the victim was under age 18 or suffered serious bodily injury, in which case it became a first degree felony offense.

Involuntary servitude (§ 3012)

This section creates a first degree felony offense for subjecting an individual to involuntary servitude and provides a detailed list of the various ways in which an individual may be induced to or obtained for involuntary servitude.

Patronizing a victim of sexual servitude (§ 3013)

This section creates a second degree felony offense for knowingly engaging in any sex act or performance involving a victim of human trafficking. Provision is also made for the detention and interrogation of persons arrested for patronizing a prostitute to determine if the arrestee did so knowing that the person is a human trafficking victim. Persons not acquitted or those who have not had the charges dismissed against them under this section are subject to a \$500 fine to be added to the grant program established under § 3031.

Unlawful conduct with respect to documents (§ 3014)

This section creates a third degree felony offense for tampering with or withholding an individual's passport, immigration documents or other government identification document in order to prevent the individual from leaving a situation involving involuntary servitude.

Non-payment of wages (§ 3015)

This provision creates a criminal offense for refusing to pay wages for labor services or inflicting other financial harm as part of, in connection with or in addition to engaging in human trafficking.

Obstruction of justice (§ 3016)

A person who engages in witness or victim intimidation or obstructs governmental operations in order to prevent enforcement of this act will be subject to the same penalties as for the original offense under investigation.

Violation by business entities (§ 3017)

Business entities that aid or participate in human trafficking are subject to fines, revocation of charter or certificate to do business in Pennsylvania and any other equitable relief, including asset forfeiture or restitution. Fines under this section will be used to support the grant program established under this act.

Non-defenses to human trafficking (§ 3018)

The following conditions are not a defense to prosecution of a person charged with human trafficking:

- prior sexual history of the victim or opinion evidence as to the victims past sexual conduct and reputation;
- the age of the victim with respect to the age of consent to sex or legal age of marriage;
- consent by the victim to employment contract, even if fraud is absent, if force or coercion were involved in the making;
- defendant's lack of knowledge of the age of a person in cases involving the sexual servitude of a minor is not a defense, except as provided in other Pennsylvania law governing mistake of age.

Victim protection during prosecution (§ 3019)

This section deals with human trafficking victims during criminal proceedings, both when a trafficker is charged and when the victim is charged with criminal activity. Subsection (a) attempts to shield victims' names from public disclosure.

Subsection (b) creates an affirmative defense that the defendant was compelled to engage in prostitution and related charges by coercion or threats to use unlawful force against the defendant or the person or another.

Subsection (c) and (d) provides for a diversionary program for first offenses involving misdemeanors such as loitering or trespass if the violation is a direct result of the person being a victim of human trafficking.

Subsections (d) through (g) address the ability to petition to vacate a conviction of prostitution, criminal trespass, disorderly conduct, loitering and prowling at night time, obstructing highways and other public passages or simple possession of a controlled substance. An individual convicted of any of these crimes may introduce official documentation from a governmental entity or service agency that the person was a human trafficking victim at the time of the offense, to create the presumption that the person's participation in the offense currently charged was a direct result of being a victim.

Restitution (§ 3020)

A victim or any person who would be entitled to restitution as a survivor who violates the trafficking law or knowingly participated in trafficking activities is barred from receiving restitution.

Asset forfeiture (§ 3021)

Prior provision § 3004 provided for asset forfeiture, and new § 3021 draws heavily on that language, with one significant change. § 3021(d) provided the following:

The Attorney General or district attorney, where appropriate, may sell the property. The proceeds from a sale shall first be used to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance of the proceeds shall be distributed under subsection (m).

This disposition has been changed as follows:

- The balance remaining after disposition under subsection (d) is to be paid as follows:
 - Any law enforcement agency shall be reimbursed if it has used its own funds in the detection, investigation, apprehension and prosecution of human traffickers.
 - The remaining balance shall be divided as follows:
 - 30% to the prosecuting attorney's office for use in investigation and prosecution of human trafficking cases
 - 70% to the Pennsylvania Commission on Crime and Delinquency – one-half to fund the grant program established in § 3031 and one-

half to the Office of Victims' Services in PCCD to provide services to human trafficking victims.

Forfeiture of professional licenses (§ 3022)

The state professional license of an individual who knowingly employs or permits the employment of a human trafficking victim is suspended for one year under this provision.

Cumulative remedies (§ 3023)

This section clarifies that remedies under the Pennsylvania Human Trafficking Act are in addition to any other criminal penalties or forfeitures authorized under state law.

Sentencing (§3024)

The Pennsylvania Commission on Sentencing is authorized to provide sentencing enhancements for courts to consider in human trafficking cases.

Data collection (§ 3025)

A common concern regarding human trafficking is the lack of available data to gauge the magnitude of the problem. This provision creates an opportunity for Pennsylvania to gather information.

Prevention

Grants (§ 3031)

This section establishes a grant program administered by PCCD to provide financial assistance to units of local government and non-governmental victims' service organizations to provide services to human trafficking victims. The grant program is funded by fines imposed under Sections 3013 and 3017 and by a share of any asset forfeitures under § 3021.

Protection

Civil causes of action (§ 3051)

This provision authorizes victims to bring a private cause of action against the person who subjected them to trafficking and involuntary servitude. Relief may include actual damages, compensatory damages, punitive damages or injunctive or other appropriate relief. Attorneys' fees and costs may be awarded and treble damages may be incurred in cases of willful and malicious conduct. Multiple victims may join suit against a single trafficker, and a single victim may join multiple persons who had a role in their

victimization in the same suit. Generally, there is a five-year statute of limitations. The statute of limitations is tolled under this statute until a minor attains 30 years of age. The defendant may not assert a statute of limitations defense if the expiration of the statute is due to intentional conduct by the defendant knowingly inducing or coercing the plaintiff to delay filing an action. In cases of sexual servitude, multiple non-defenses are enumerated. Specific definitions relating to the sex trade are also included in this section.

Protection of victims (§ 3052)

This section attempts to identify and secure the safety of human trafficking victims and their families.

Appropriate implementation for minor victims (§ 3053)

The provision of services to minors who are victims of human trafficking are to be carried out in a manner that is in the best interest of the minor and appropriate to the particular situation.

Services (§ 3054)

A model informational form is to be developed by PCCD to inform victims of procedures for repatriation. The form shall also include a directory of local victim services agencies, including those that can assist in obtaining legal immigrant status, and a directory of federal and State benefits available to victims of human trafficking. Victims are eligible for benefits and compensation under the Crime Victims Act. Law enforcement cooperation in providing certifications needed to obtain legal immigrant status is also authorized.

Services to victims in shelters (§ 3056)

This section governs admission of human trafficking victims to shelters.

Other Statutory Provisions

Amendments are made to 18 Pa.C.S. § 5708 (order authorizing interception of wire, electronic or oral communications) and 42 Pa.C.S. § 9720.2 (sentencing for trafficking of persons) to correct cross-references to the new sections of 18 Pa.C.S. Ch. 30.

Amendments are made to 42 Pa.C.S. §§ 4415 and 4436 (relating to confidential communications in presence of interpreter) to extend the protection of confidential communications to those between a victim and a human trafficking caseworker.

Under amendments to 42 Pa.C.S. §§ 5552, trafficking and sexual servitude involving a minor are added to the list of sexual offenses that extend the statute of limitations until the minor reaches 50 years of age. A ten-year statute of limitations runs

after the victim reaches 18 years of age for labor servitude. Human trafficking and involuntary servitude of adults have ten-year statute of limitations.

42 Pa.C.S. § 5945.3 is added to preserve the confidentiality of communications between a victim and a human trafficking caseworker in the same way as similar communications between a victim and a sexual assault counselor are protected.

42 Pa.C.S. § 9738, which authorizes victim impact statements generally, is amended to specifically authorize them by human trafficking victims.

Under amendments to 42 Pa.C.S. § 9799.14, a conviction for trafficking in minors resulting in the sexual servitude of a minor is added as a Tier II sexual offense under Megan's Law.

HUMAN TRAFFICKING AMENDMENTS WITH COMMENTS (ACT 105 OF 2014)

2014 Act No. 105 Act of July 2, 2014

AN ACT

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, extensively revising the law on human trafficking in the areas of prosecution, prevention, victim protection, evidentiary confidentiality, limitation of actions, victim impact statements and classification of sexual offenses; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 911(h)(1)(i) of Title 18 of the Pennsylvania Consolidated Statutes is amended and (h)(1) last sentence is carried without amendment to read:

§ 911. Corrupt organizations.

* * *

(h) Definitions.--As used in this section:

(1) "Racketeering activity" means all of the following:

(i) An act which is indictable under any of the following provisions of this title:

- Chapter 25 (relating to criminal homicide)
- Section 2706 (relating to terroristic threats)
- Chapter 29 (relating to kidnapping)
- Chapter 30 (relating to human trafficking [of persons])
- Chapter 33 (relating to arson, criminal mischief and other property destruction)
- Chapter 37 (relating to robbery)
- Chapter 39 (relating to theft and related offenses)
- Section 4108 (relating to commercial bribery and breach of duty to act disinterestedly)
- Section 4109 (relating to rigging publicly exhibited contest)
- Section 4117 (relating to insurance fraud)
- Chapter 47 (relating to bribery and corrupt influence)
- Chapter 49 (relating to falsification and intimidation)
- Section 5111 (relating to dealing in proceeds of unlawful activities)
- Section 5512 (relating to lotteries, etc.)
- Section 5513 (relating to gambling devices, gambling, etc.)

Section 5514 (relating to pool selling and bookmaking)
Chapter 59 (relating to public indecency).

* * *

An act which otherwise would be considered racketeering activity by reason of the application of this paragraph, shall not be excluded from its application solely because the operative acts took place outside the jurisdiction of this Commonwealth, if such acts would have been in violation of the law of the jurisdiction in which they occurred.

* * *

Section 2. The heading of Chapter 30 and sections 3001, 3002, 3003 and 3004 of Title 18 are repealed:

[CHAPTER 30
TRAFFICKING OF PERSONS

§ 3001. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Criminal coercion." The term includes conduct defined as criminal coercion by section 2906 (relating to criminal coercion).

"Forced labor or services." Labor or services that are performed or provided by another person which are obtained or maintained when a person:

(1) attempts to cause, causes or by threat of physical menace puts another person in fear of bodily injury;

(2) physically restrains or threatens to physically restrain another person unlawfully;

(3) abuses or threatens to abuse the law or legal process;

(4) possesses except as required by Federal immigration law or regulation, destroys, conceals, removes or confiscates any actual or purported passport or other immigration document of another person, or any other actual or purported government identification document of another person; or

(5) engages in criminal coercion of another person.

"Traffics." Recruits, entices, harbors, transports or provides or obtains by any means.

§ 3002. Trafficking of persons.

(a) Offense defined.--A person commits an offense if the person knowingly traffics or knowingly attempts to traffic another person, knowing that the other person will be subjected to forced labor or services.

(b) Grading.--An offense under subsection (a) shall be graded a felony of the second degree unless the other person suffers bodily injury or the other person is an individual under 18 years of age, in which case it shall be graded as a felony of the first degree.

§ 3003. Restitution for offenses.

(a) General rule.--A person convicted of an offense under this chapter shall, in addition to any other remedy deemed appropriate by the court, be sentenced to pay the victim restitution, including the greater of:

(1) the gross income or value to the person to whom the labor or services were performed by the victim; or

(2) the value of the victim's labor based on the minimum wage of this Commonwealth.

(b) Private remedies.--Nothing in this section shall be construed to preclude any other remedy at law or in equity.

§ 3004. Forfeiture.

(a) General rule.--The following shall be subject to forfeitures to the Commonwealth, and no property right shall exist in them:

(1) All assets, foreign or domestic:

(i) Of an individual, entity or organization engaged in planning or perpetrating an act in this Commonwealth which violates section 3002 (relating to trafficking of persons) and all assets, foreign or domestic, affording a person a source of influence over such individual, entity or organization.

(ii) Acquired or maintained by a person with the intent and for the purpose of supporting, planning, conducting or concealing an act in this Commonwealth which violates section 3002.

(iii) Derived from, involved in or used or intended to be used to commit an act in this Commonwealth which violates section 3002.

(2) All assets within this Commonwealth:

(i) Of an individual, entity or organization engaged in planning or perpetrating an act which violates section 3002.

(ii) Acquired or maintained with the intent and for the purpose of supporting, planning, conducting or concealing an act which violates section 3002.

(iii) Derived from, involved in or used or intended to be used to commit an act which violates section 3002.

(b) Process and seizures.--Property subject to forfeiture under this section may be seized by the law enforcement authority upon process issued by any court of common pleas having jurisdiction over the property.

(c) Custody of property.--

(1) Property taken or detained under this section shall not be subject to replevin but is deemed to be in the custody of the law enforcement authority subject only to the orders and decrees of the court of common pleas having jurisdiction over the forfeiture proceedings and of the district attorney.

(2) When property is seized under this section, the law enforcement authority shall place the property under seal and either:

(i) remove the property to a place designated by it; or

(ii) require that the district attorney take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(d) Transfer of property.--Whenever property is forfeited under this section, the property shall be transferred to the custody of the district attorney. The district attorney, where appropriate, may retain the property for official use or sell the property, but the proceeds from any such sale shall be used to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance of the proceeds shall be used for the enforcement of the criminal laws of Pennsylvania.

(e) Proceedings and petition.--The proceedings for the forfeiture or condemnation of property, the retention or sale of which is provided for in this section, shall be in rem, in which the Commonwealth shall be the plaintiff and the property the defendant. A petition shall be filed in the court of common pleas of the judicial district where the property is located, verified by oath or affirmation of an officer or citizen, containing the following:

- (1) A description of the property seized.
- (2) A statement of the time and place where seized.
- (3) The owner, if known.
- (4) The person or persons in possession, if known.
- (5) An allegation that the property is subject to forfeiture pursuant to this section and an averment of material facts upon which forfeiture action is based.

(6) A prayer for an order of forfeiture that the property be adjudged forfeited to the Commonwealth and condemned unless cause be shown to the contrary.

(f) Service.--A copy of the petition required under subsection (e) shall be served personally or by certified mail on the owner or the person or persons in possession at the time of the seizure. The copy shall have endorsed a notice as follows:

To the claimant of within described property:

You are required to file an answer to this petition, setting forth your title in and right to possession of the property within 30 days from the service of this notice. You are also notified that, if you fail to file the answer, a decree of forfeiture and condemnation will be entered against the property.

The notice shall be signed by the district attorney, deputy district attorney or assistant district attorney.

(g) Notice.--

(1) If the owner of the property is unknown or there was no person in possession of the property when seized or if the owner or such person or persons in possession at the time of the seizure cannot be personally served or located within the jurisdiction of the court, notice of the petition shall be given by the Commonwealth through an advertisement in only one newspaper of general circulation published in the county where the property shall have been seized, once a week for two successive weeks. No other advertisement of any sort shall be necessary, any other law to the contrary notwithstanding.

(2) The notice shall contain a statement of the seizure of the property with a description of the property and the place and date of seizure and shall direct any claimants to the property to file a claim on or before a date given in the notice, which date shall not be less than 30 days from the date of the first publication.

(3) If no claims are filed within 30 days of publication, the property shall summarily forfeit to the Commonwealth.

(h) Unknown owner.--For purposes of this section, the owner or other such person cannot be found in the jurisdiction of the court if:

(1) a copy of the petition is mailed to the last known address by certified mail and is returned without delivery;

(2) personal service is attempted once but cannot be made at the last known address; and

(3) a copy of the petition is left at the last known address.

(i) Waiver of notice.--The notice provisions of this section are automatically waived if the owner, without good cause, fails to appear in court in response to a subpoena on the underlying criminal charges. Forty-five days after such a failure to appear, if good cause has not been demonstrated, the property shall summarily forfeit to the Commonwealth.

(j) Hearing date.--Upon the filing of a claim for the property setting forth a right of possession, the case shall be deemed at issue, and a date and time shall be fixed for the hearing.

(k) Burden of proof.--At the hearing, if the Commonwealth produces evidence that the property in question was unlawfully used, possessed or otherwise subject to forfeiture under this section, the burden shall be upon the claimant to show by a preponderance of the evidence:

(1) That the claimant is the owner of the property or the holder of a chattel mortgage or contract of conditional sale thereon.

(2) That the claimant lawfully acquired the property.

(3) That the property was not unlawfully used or possessed by the claimant. If it appears that the property was unlawfully used or possessed by a person other than the claimant, then the claimant shall show that the unlawful use or possession was without his knowledge or consent. Such absence of knowledge or consent must be reasonable under the circumstances presented.

(l) Claims of ownership.--If a person claiming the ownership of or right of possession to or claiming to be the holder of a chattel mortgage or contract of conditional sale upon the property, the disposition of which is provided for in this section, prior to the sale presents a petition to the court alleging lawful ownership, right of possession, a lien or reservation of title to the property and if, on public hearing, due notice of which having been given to the district attorney, the claimant shall prove by a preponderance of the evidence that the property was lawfully acquired, possessed and used by him or, it appearing that the property was unlawfully used by a person other than the claimant, that the unlawful use was without the claimant's knowledge or consent, then the court may order the property returned or delivered to the claimant. Such absence of knowledge or consent must be reasonable under the circumstances presented. Otherwise, it shall be retained for official use or sold in accordance with this section.]

Section 3. Title 18 is amended by adding a chapter to read:

CHAPTER 30
HUMAN TRAFFICKING

Subchapter

A. General Provisions

B. Prosecution of Human Trafficking

C. Prevention of Human Trafficking

D. Protection of Victims of Human Trafficking

E. Miscellaneous Provisions

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

3001. Definitions.

§ 3001. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Commission." The Pennsylvania Commission on Crime and Delinquency.

"Debt coercion." Exploitation of the status or condition of a debtor arising from a pledge by the debtor of the personal services of the debtor or an individual under the debtor's control as a security or payment for debt, if any of the following apply:

(1) The value of those services as reasonably assessed is not applied toward the liquidation of the debt.

(2) The length and nature of those services are not respectively limited and defined.

(3) The principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.

(4) The debtor is coerced to perform sex acts as payment for the debt.

(5) The creditor controls and determines the movement, housing and services performed by the debtor until repayment of the debt.

"Extortion." As defined in section 3923 (relating to theft by extortion).

"Financial harm." Includes any of the following:

(1) A violation of the act of March 30, 1859 (P.L.318, No.318), entitled "An act for the better securing the Payment of the Wages of Labor in certain counties of this Commonwealth."

(2) A violation of the act of May 23, 1887 (P.L.181, No.122), entitled "An act to regulate the employment of labor."

(3) A criminal violation of the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law (Usury Law).

(4) A violation of Chapter 2 of the act of June 23, 1978 (P.L.537, No.93), known as the Seasonal Farm Labor Act.

(5) A violation of any other law of this Commonwealth governing the payment of wages for labor or services.

"Human trafficking." Any activity in violation of section 3011 (relating to trafficking in individuals) either alone or in conjunction with an activity in violation of section 3012 (relating to involuntary servitude).

"Involuntary servitude." Labor servitude or sexual servitude.

"Labor." Work or service of economic or financial value.

"Labor servitude." Labor which is performed or provided by another individual and is induced or obtained by any of the means set forth in section 3012(b).

"Minor." An individual who is less than 18 years of age.

"Record." Information, regardless of physical form or characteristics, that documents a transaction or activity and that is created, received or retained under law or in connection with a transaction, business or activity. The term includes any of the following:

(1) A document, paper, letter, map, book, tape, photograph, film or sound recording.

(2) Information stored or maintained electronically.

(3) A data-processed or image-processed document.

"Serious harm." Any harm, whether physical or nonphysical, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances as the victim of human trafficking to perform or to continue performing labor or a service, a commercial sex act or a performance involving sex acts in order to avoid incurring that harm.

"Service." Any act committed at the behest of, under the supervision of or for the benefit of another.

"Sex act." Any touching or exposure of the sexual or other intimate parts of any individual for the purpose of gratifying sexual desire of any individual.

"Sexual servitude." Any sex act or performance involving a sex act for which anything of value is directly or indirectly given, promised to or received by any individual or which is performed or provided by any individual and is induced or obtained from:

(1) A minor.

(2) Any other individual by any of the means set forth in section 3012(b).

"Victim of human trafficking" or "victim." An individual who has been subjected to human trafficking.

Comment to § 3001

This chapter established two separate offenses: trafficking in individuals and involuntary servitude. Both offenses are included under the rubric of “human trafficking,” to ensure that both the persons who arrange for an individual to be subjected to involuntary servitude and the persons who then maintain that individual in a state of involuntary servitude are both subject to this chapter. Involuntary servitude is further divided into two types, labor servitude and sexual servitude, in recognition that the circumstances of, and remedies and penalties for, those conditions may differ.

As defined, debt coercion focuses on the exploitation of the debtor based on the existence of a debt. Therefore, it includes those situations in which a trafficker has knowledge of a human trafficking victim’s debt to a third party and uses that knowledge to coerce the services of the debtor.

The definition of “financial harm” found in this section includes violations of Pennsylvania’s usury law.

A minor is defined as a child under the age of 18 for purposes of violations of this chapter involving children. However, a child under the age of 21 who is a human trafficking victim may also be considered a dependent child under the Juvenile Act (42 Pa.C.S. Ch. 63), and this definition is not intended to limit such a child’s access to dependency services.

Sexual servitude of minors may encompass violations of several existing provisions of 18 Pa.C.S.: §§ 5902 (prostitution and related offenses), 5903 (obscene and other sexual materials and performances), 6301 (corruption of minors), 6312 (sexual abuse of children), 6318 (unlawful contact with a minor), 6320 (sexual exploitation of children) and Subchapter C of Chapter 76 (internet child pornography).

SUBCHAPTER B
PROSECUTION OF HUMAN TRAFFICKING

Sec.

- 3011. Trafficking in individuals.
- 3012. Involuntary servitude.
- 3013. Patronizing a victim of sexual servitude.
- 3014. Unlawful conduct regarding documents.
- 3015. Nonpayment of wages.
- 3016. Obstruction of justice.
- 3017. Violation by business entities.
- 3018. Evidence and defenses to human trafficking.
- 3019. Victim protection during prosecution.
- 3020. Restitution.
- 3021. Asset forfeiture.
- 3022. Professional licenses.
- 3023. Cumulative remedies.
- 3024. Sentencing.
- 3025. Data collection.

§ 3011. Trafficking in individuals.

(a) Offense defined.--A person commits a felony of the second degree if the person:

(1) recruits, entices, solicits, harbors, transports, provides, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to involuntary servitude; or

(2) knowingly benefits financially or receives anything of value from any act that facilitates any activity described in paragraph (1).

(b) Trafficking in minors.--A person commits a felony of the first degree if the person engages in any activity listed in subsection (a) that results in a minor's being subjected to sexual servitude.

Comment to § 3011

Sexual servitude of a minor occurs whenever any sexual conduct or performance involving sexual conduct of a minor occurs, regardless of the presence of force, fraud or coercion on the part of the person inducing or receiving the conduct.

§ 3012. Involuntary servitude.

(a) Offense defined.--A person commits a felony of the first degree if the person knowingly, through any of the means described in subsection (b), subjects an individual to labor servitude or sexual servitude, except where the conduct is permissible under Federal or State law other than this chapter.

(b) Means of subjecting an individual to involuntary servitude.--A person may subject an individual to involuntary servitude through any of the following means:

(1) Causing or threatening to cause serious harm to any individual.

- (2) Physically restraining or threatening to physically restrain another individual.
- (3) Kidnapping or attempting to kidnap any individual.
- (4) Abusing or threatening to abuse the legal process.
- (5) Taking or retaining the individual's personal property or real property as a means of coercion.
- (6) Engaging in unlawful conduct with respect to documents, as defined in section 3014 (relating to unlawful conduct regarding documents).
- (7) Extortion.
- (8) Fraud.
- (9) Criminal coercion, as defined in section 2906 (relating to criminal coercion).
- (10) Duress, through the use of or threat to use unlawful force against the person or another.
- (11) Debt coercion.
- (12) Facilitating or controlling the individual's access to a controlled substance.
- (13) Using any scheme, plan or pattern intended to cause the individual to believe that, if the individual does not perform the labor, services, acts or performances, that individual or another individual will suffer serious harm or physical restraint.

Comment to § 3012

Many of the activities described in subsection (b) are already criminalized in other provisions of Title 18, which provide further definition and additional penalties for these activities: §§ 902 (criminal solicitation), 2706(a)(1) (terroristic threats), 2709(a)(1) (harassment), 2901 (kidnapping), 2902 (unlawful restraint), 2903 (false imprisonment), 3922 (theft by deception), 3923 (theft by extortion) and 3926 (theft of services).

§ 3013. Patronizing a victim of sexual servitude.

(a) Offense defined.--A person commits a felony of the second degree if the person engages in any sex act or performance with another individual knowing that the act or performance is the result of the individual being a victim of human trafficking.

(b) Investigation.--An individual arrested for a violation of section 5902(e) (relating to prostitution and related offenses) may be formally detained and questioned by law enforcement personnel to determine if the individual engaged in any sex act or performance with the alleged prostitute knowing that the individual is a victim of human trafficking.

(c) Fine.--A person whose violation of this section results in a judicial disposition other than acquittal or dismissal shall also pay a fine of \$500 to the court, to be distributed to the commission to fund the grant program established under section 3031 (relating to grants).

Comment to § 3013

A prosecution under this section does not preclude charges being filed against the perpetrator for violations of other provisions of this title, such as those relating to patronizing a prostitute, the sexual abuse of children, assault or other related violations.

§ 3014. Unlawful conduct regarding documents.

A person commits a felony of the third degree if, to prevent or restrict or attempt to prevent or restrict, without lawful authority, the ability of an individual to move or travel, the person knowingly destroys, conceals, removes, confiscates or possesses an actual or purported:

- (1) passport or other immigration document of an individual; or
- (2) government identification document of an individual.

§ 3015. Nonpayment of wages.

(a) Offense defined.--A person who, in connection with, as a part of or in addition to engaging in human trafficking, willfully or with intent to defraud, fails or refuses to pay wages for or otherwise causes financial harm to an individual in connection with labor services rendered commits:

- (1) A misdemeanor of the third degree if the amount owed to the individual is less than \$2,000.
- (2) A felony of the third degree, if:
 - (i) the amount owed to the individual is equal to or greater than \$2,000;
 - (ii) the failure or refusal constitutes a second or subsequent violation of this section; or
 - (iii) the person falsely denies the amount due or the validity of the debt.

(b) Offenses cumulative.--A person commits a separate offense under this section for each calendar month during which the individual earned wages that the person failed to pay or was otherwise financially harmed.

§ 3016. Obstruction of justice.

A person who commits a violation of Subchapter B of Chapter 49 (relating to victim and witness intimidation) or Chapter 51 (relating to obstructing governmental operations) that in any way interferes with or prevents the enforcement of this chapter shall be subject to the same penalties that may be imposed for the offense for which the person has been charged under this chapter.

Comment to § 3016

Generally, the violations of provisions relating to “obstruction of justice” under Chapters 49 (falsification and intimidation) and 51 (obstructing governmental operations) of Title 18 are treated as misdemeanors of the second degree. In cases where the underlying crime is a felony of the first or second degree, obstruction-type behavior is usually penalized as a felony of the third degree. Accordingly, penalizing activities under this section to the same degree as the underlying offense when human trafficking offenses are involved is a departure from other provisions of Title 18.

§ 3017. Violation by business entities.

(a) Penalty.--Any business entity, including a corporation or unincorporated association, limited liability partnership or company or other legal entity, that knowingly aids or participates in any violation of this chapter, shall be subject to any of the following penalties:

(1) A fine of not more than \$1,000,000.

(2) Revocation of the business entity's:

(i) charter, if it is organized under the laws of this Commonwealth; or

(ii) certificate of authority to do business in this Commonwealth, if the business entity is not organized under the laws of this Commonwealth.

(3) Other relief as the court deems equitable, including forfeiture of assets or restitution as provided in this chapter.

(b) Disposition of fines.--Fines imposed under this section shall be deposited as provided in section 3031 (relating to grants).

§ 3018. Evidence and defenses to human trafficking.

(a) General rule.--Evidence of the following facts or conditions shall not constitute a defense in a prosecution for a violation under this chapter, nor shall the evidence preclude a finding of a violation under this chapter:

(1) Specific instances of past sexual conduct of the victim of human trafficking, opinion evidence of the alleged victim's past sexual conduct and reputation evidence of the alleged victim's past sexual conduct shall not be admissible in a prosecution under this chapter, except evidence of the alleged victim's past sexual conduct with the defendant shall be admissible where consent of the alleged victim is at issue and the evidence is otherwise admissible under the rules of evidence. A defendant who proposes to offer evidence of the alleged victim's past sexual conduct under this paragraph shall file a written motion and offer of proof at the time of trial. If, at the time of trial, the court determines that the motion and offer of proof are sufficient on their faces, the court shall order an in camera hearing and shall make findings on the record as to the relevance and admissibility of the proposed evidence under the standards of this paragraph.

(2) The age of the victim of human trafficking with respect to the age of consent to sex or legal age of marriage.

(b) Victim's consent to employment contract in labor servitude.--The consent of the victim of human trafficking to an employment contract, notwithstanding if there was not fraud involved in the contract's formation, shall not be a defense to labor trafficking if force or coercion as described in section 3012(b) (relating to involuntary servitude) were involved in the making of the contract.

(c) Victim's age in sexual servitude.--Except as provided in section 3102 (relating to mistake as to age), evidence of a defendant's lack of knowledge of a person's age, or a reasonable mistake of age, is not a defense for a violation of this chapter involving the sexual servitude of a minor.

§ 3019. Victim protection during prosecution.

(a) Disclosure of name of victim of human trafficking.--Notwithstanding any other provision of law to the contrary, unless the court otherwise orders in a prosecution involving a victim of human trafficking, an officer or employee of the court may not disclose the identity of the victim of human trafficking to the public. Any record revealing the name of the victim of human trafficking shall not be open to public inspection.

(b) Affirmative defense.--An individual who is charged with any violation under section 5902 (relating to prostitution and related offenses) may offer the defense at trial that he engaged in the conduct charged because he was compelled to do so by coercion or the use of or a threat to use unlawful force against his person or the person of another, which a person of reasonable firmness in his situation would have been unable to resist.

(c) Diversionary program.--An individual who is charged with violating a trespassing, loitering, obstruction of highway, disorderly conduct or simple possession of a controlled substance statute as a direct result of being a victim of human trafficking, where the violation is his first offense, shall be given first consideration for a pretrial diversionary program by the judicial authority with jurisdiction over the violations. If the individual successfully completes the diversionary program, the court shall order that the individual's records of the charge of violating the statute shall be expunged as provided for under section 9122 (relating to expungement).

(d) Motion to vacate conviction.--

(1) An individual convicted under section 3503 (relating to criminal trespass), 5503 (relating to disorderly conduct), 5506 (relating to loitering and prowling at night time), 5507 (relating to obstructing highways and other public passages) or 5902 or an offense for simple possession of a controlled substance committed as a direct result of being a victim of human trafficking may file a motion to vacate the conviction.

(2) In order to be considered, a motion under this subsection must:

(i) Be in writing.

(ii) Be consented to by the attorney for the Commonwealth.

(iii) Describe the supporting evidence with particularity.

(iv) Include copies of any documents showing that the moving party is entitled to relief under this section.

(e) Official documentation.--No official determination or documentation is required to grant a motion under this section, but official documentation from a Federal, State or local government agency indicating that the defendant was a victim at the time of the offense creates a presumption that the defendant's participation in the offense was a direct result of being a victim.

(f) Grant of motion.--The court shall grant the motion if it finds that:

(1) The moving party was convicted of an offense described in subsection (d)(1).

(2) The conviction was obtained as a result of the moving party's having been a victim of human trafficking.

(g) Conviction vacated.--If the motion under subsection (d) is granted, the court shall vacate the conviction, strike the adjudication of guilt and order the expungement of the record of the criminal proceedings. The court shall issue an order to expunge all records

and files related to the moving party's arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings and probation for the offense.

Comment to § 3019

Pennsylvania prohibits release of the names of child victims of sexual or physical abuse in 42 Pa.C.S. § 5988, but defines a child as an individual under the age of 16 (§ 5982), and generally urges the media to exercise restraint in revealing the names and addresses of child victims or witnesses of crimes (§ 5981).

Additionally, Pennsylvania has established an address confidentiality program under the Domestic and Sexual Violence Victim Address Confidentiality Act (Chapter 67 of Title 23 of the Pennsylvania Consolidated Statutes). Program participants may receive a confidential substitute address. To be eligible, the individual must be a victim of sexual assault, defined to be rape, incest, sexual abuse of children, unlawful contact with a minor or sexual exploitation of children, and must certify that they have been subjected to violent acts or threats of violent acts in the past and fear future violent acts.

Law enforcement agencies may access otherwise confidential information from Commonwealth agencies during criminal investigations under the provisions of Title 42, Chapter 87, Subchapter B (relating to availability of otherwise confidential information). Disclosure is limited, and improper disclosure is a felony of the third degree, and also subject to civil damages.

§ 3020. Restitution.

In addition to the provisions of section 1106 (relating to restitution for injuries to person or property), the following shall apply:

- (1) A person who violates this chapter shall be ineligible to receive restitution.
- (2) The following items may be included in an order of restitution:
 - (i) For the period during which the victim of human trafficking was engaged in involuntary servitude, the greater of the following:
 - (A) The value of the victim's time during the period of involuntary servitude as guaranteed under the minimum wage and overtime provisions of the laws of this Commonwealth.
 - (B) The gross income or value to the defendant of the services of the victim.
 - (C) The amount the victim was promised or the amount an individual in the position of the victim would have reasonably expected to earn. This clause shall not apply to the amount an individual would have reasonably expected to earn in an illegal activity.

(ii) The return of property of the victim of human trafficking, cost of damage to the property or the replacement value of the property if taken, destroyed or damaged beyond repair as a result of human trafficking.

(3) Collection and distribution of restitution payments shall be governed by the provisions of 42 Pa.C.S. §§ 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties), 9730 (relating to payment of court costs, restitution and fines) and 9730.1 (relating to collection of court costs, restitution and fines by private collection agency).

§ 3021. Asset forfeiture.

(a) General rule.--The following shall be subject to forfeiture to this Commonwealth, and no property right shall exist in them:

(1) All assets, foreign or domestic:

(i) Of an individual, entity or organization engaged in planning or perpetrating an act in this Commonwealth which violates section 3011 (relating to trafficking in individuals) or 3012 (relating to involuntary servitude).

(ii) Affording a person a source of influence over the individual, entity or organization under subparagraph (i).

(iii) Acquired or maintained by a person with the intent and for the purpose of supporting, planning, conducting or concealing an act in this Commonwealth which violates section 3011 or 3012.

(iv) Derived from, involved in or used or intended to be used to commit an act in this Commonwealth which violates section 3011 or 3012.

(2) All assets within this Commonwealth:

(i) Of an individual, entity or organization engaged in planning or perpetrating an act which violates section 3011 or 3012.

(ii) Acquired or maintained with the intent and for the purpose of supporting, planning, conducting or concealing an act which violates section 3011 or 3012.

(iii) Derived from, involved in or used or intended to be used to commit an act which violates section 3011 or 3012.

(b) Process and seizures.--

(1) Property subject to forfeiture under this section may be seized by a law enforcement agency upon process issued by any court of common pleas having jurisdiction over the property.

(2) Seizure without process may be made if:

(i) the seizure is incident to an arrest or a search under a search warrant or inspection under an administrative inspection warrant;

(ii) the property subject to seizure has been the subject of a prior judgment in favor of the Commonwealth in a criminal injunction or forfeiture proceeding under this chapter;

(iii) there is probable cause to believe that the property is dangerous to health or safety; or

(iv) there is probable cause to believe that the property has been used or is intended to be used in violation of this chapter.

(3) In the event that seizure without process occurs as provided for in paragraph (2), proceedings for the issuance of process shall be instituted promptly.

(c) Custody of property.--

(1) Property taken or detained under this section shall not be subject to replevin but is deemed to be in the custody of the law enforcement agency, the district attorney or the Attorney General subject only to the orders and decrees of the court of common pleas having jurisdiction over the forfeiture proceedings.

(2) When property is seized under this section, the law enforcement agency shall place the property under seal and either:

(i) remove the property to a place designated by it; or

(ii) require that the district attorney take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(d) Transfer of property.--If property is forfeited under this section, the property shall be transferred to the custody of the district attorney if the law enforcement authority seizing the property has county or local jurisdiction, or the Attorney General if the law enforcement authority seizing the property has Statewide jurisdiction. The Attorney General or district attorney, where appropriate, may sell the property. The proceeds from a sale shall first be used to pay all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance of the proceeds shall be distributed under subsection (m).

(e) Proceedings and petition.--

(1) The proceedings for the forfeiture or condemnation of property shall be in rem, in which the Commonwealth shall be the plaintiff and the property the defendant.

(2) A petition shall:

(i) be filed in the court of common pleas of the judicial district where the property is located;

(ii) be verified by oath or affirmation of an officer or citizen; and

(iii) contain the following:

(A) A description of the property seized.

(B) A statement of the time and place where seized.

(C) The owner, if known.

(D) The person or persons in possession, if known.

(E) An allegation that the property is subject to forfeiture under this section and an averment of material facts upon which forfeiture action is based.

(F) A prayer for an order of forfeiture that the property be adjudged forfeited to the Commonwealth and condemned unless cause to the contrary is shown.

(f) Service.--

(1) A copy of the petition required under subsection (e) shall be served personally or by certified mail on the owner or the person or persons in possession at the time of the seizure.

(2) The copy shall have endorsed a notice as follows:

To the claimant of the within described property:

You are required to file an answer to this petition, setting forth your title in and right to possession of the property within 30 days from the service of this notice. You are also notified that, if you fail to file the answer, a decree of forfeiture and condemnation will be entered against the property.

(3) The notice shall be signed by the district attorney, deputy district attorney or assistant district attorney or the Attorney General or a deputy attorney general.

(g) Notice.--

(1) Notice of the petition shall be given by the Commonwealth through an advertisement in only one newspaper of general circulation published in the county where the property shall have been seized, once a week for two successive weeks if:

(i) the owner of the property is unknown;

(ii) there was no person in possession of the property when seized; or

(iii) the owner or the person or persons in possession at the time of the seizure cannot be personally served or located within the jurisdiction of the court.

(2) Notwithstanding any other law to the contrary, no advertisement shall be required.

(3) The notice shall:

(i) contain a statement of the seizure of the property, a description of the property and the place and date of seizure; and

(ii) direct any claimants to the property to file a claim on or before a date given in the notice, which date shall not be less than 30 days from the date of the first publication.

(4) If no claims are filed within 30 days of publication, the property shall summarily forfeit to the Commonwealth.

(h) Unknown owner.--For purposes of this section, the owner or other person cannot be found in the jurisdiction of the court if:

(1) A copy of the petition is mailed to the last known address by certified mail and is returned without delivery.

(2) Personal service is attempted once but cannot be made at the last known address.

(3) A copy of the petition is left at the last known address.

(i) Waiver of notice.--The notice provisions of this section are automatically waived if the owner, without good cause, fails to appear in court in response to a subpoena on the underlying criminal charges. If good cause has not been demonstrated and 45 days have passed since the owner failed to appear, the property shall summarily forfeit to the Commonwealth.

(j) Hearing date.--Upon the filing of a claim for the property setting forth a right of possession, the case shall be deemed at issue, and a date and time shall be fixed for the hearing.

(k) Burden of proof.--If the Commonwealth produces evidence at the hearing under this section that the property in question was unlawfully used, possessed or otherwise

subject to forfeiture under this section, the burden shall be upon the claimant to show by a preponderance of the evidence that:

(1) the claimant is the owner of the property or the holder of a chattel mortgage or contract of conditional sale thereon;

(2) the claimant lawfully acquired the property; and

(3) the property was not unlawfully used or possessed by the claimant. If it appears that the property was unlawfully used or possessed by a person other than the claimant, the claimant shall show that the unlawful use or possession was without his knowledge or consent. The absence of knowledge or consent must be reasonable under the circumstances presented.

(l) Claims of ownership.--

(1) A person may file a petition or answer the Commonwealth's petition alleging:

(i) Ownership of the property.

(ii) A right of possession to the property.

(iii) A lien or reservation of title to the property as the holder of:

(A) a chattel mortgage upon the property; or

(B) a contract of conditional sale upon the property.

(2) A public hearing shall be held, with due notice given to the district attorney or Attorney General.

(3) The court may order the property returned or delivered to the claimant upon proof by a preponderance of the evidence by the claimant that:

(i) the property was lawfully acquired, possessed and used by the claimant; or

(ii) if it appears that the property was unlawfully used by a person other than the claimant, the unlawful use was without the claimant's knowledge or consent. The absence of knowledge or consent must be reasonable under the circumstances presented.

(m) Disposition of proceeds.--Subject to subsection (d), all moneys forfeited and the proceeds from the sale of all property forfeited and seized under this section shall be paid as follows:

(1) Any law enforcement agency shall be reimbursed if it has used its own funds in the detection, investigation, apprehension and prosecution of persons for violation of sections 3011 and 3012.

(2) Any amount remaining after reimbursement under paragraph (1) shall be distributed under the following formula:

(i) Thirty percent to the office of the prosecuting attorney to be used to investigate and prosecute human trafficking cases.

(ii) Seventy percent to the commission, one-half of which shall be used to fund the grant programs established under section 3031 (relating to grants) and one-half to be used by the Office of Victims' Services within the commission to provide services to victims of human trafficking in the manner set forth in Chapter 9 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

(n) Assets located outside United States.--Assets of persons convicted of violations of sections 3011 and 3012 that are located outside the United States shall also be subject to forfeiture to the extent they can be retrieved by the Commonwealth.

§ 3022. Professional licenses.

(a) Suspension of professional license.--The professional license of a licensee who in the course of a violation of this chapter knowingly employs or permits the employment of a victim of human trafficking shall be suspended for a minimum period of one year.

(b) Administrative procedure.--A suspension under subsection (a) shall be subject to 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action).

(c) Definition.--As used in this section, "licensee" shall mean an individual, corporation, partnership, limited liability company or other legal entity that holds a license issued by an administrative board or commission under the Bureau of Professional and Occupational Affairs in the Department of State.

§ 3023. Cumulative remedies.

Any remedies under this chapter shall be in addition to any other criminal penalties or forfeitures authorized under the laws of this Commonwealth.

§ 3024. Sentencing.

The Pennsylvania Commission on Sentencing, in accordance with 42 Pa.C.S. § 2154 (relating to adoption of guidelines for sentencing), shall provide for sentencing enhancements for courts to consider in cases involving trafficking in individuals and involuntary servitude.

Comment to § 3024

Pennsylvania already provides for enhanced sentencing in human trafficking cases in some instances, such as in Title 42:

§ 9720.2. Sentencing for trafficking of persons.

Notwithstanding any other provision of law, a person who commits a violation of 18 Pa.C.S. § 3002 (relating to trafficking of persons) while violating:

- (1) 18 Pa.C.S. § 2901 (relating to kidnapping);**
- (2) 18 Pa.C.S. § 3121 (relating to rape); or**
- (3) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);**

shall be sentenced up to a maximum term of life imprisonment.

§ 3025. Data collection.

The Pennsylvania Commission on Sentencing established in 42 Pa.C.S. § 2151.2 (relating to commission) shall collect data and other relevant information on sentences imposed under this subchapter.

Comment to § 3025

Although two federal pilot projects designed to collect data on human trafficking currently exist at the University of Michigan (Human Trafficking Law Project) and Northeastern University (a partner with the Urban Institute through a U.S. Department of Justice grant), no accurate data is currently available. In addition, no data can be gleaned from the national human trafficking hotline, and there is little data available from individual states. Victim tracking reports for federal trafficking outreach grants provide spotty data as well. Under this provision, Pennsylvania can begin to track some information to gauge the magnitude of the human trafficking problem in Pennsylvania and the effectiveness of this chapter.

SUBCHAPTER C
PREVENTION OF HUMAN TRAFFICKING

Sec.

3031. Grants.

3032. (Reserved).

§ 3031. Grants.

Subject to the availability of funds, the commission shall make grants to State agencies, units of local government and nongovernmental organizations to:

(1) Develop, expand or strengthen programs for victims of human trafficking. Such programs may include:

(i) Health services, including mental health services.

(ii) Temporary and permanent housing placement.

(iii) Legal and immigration services.

(iv) Employment placement, education and training.

(2) Ensure prevention of human trafficking, including increasing public awareness.

(3) Ensure protection of victims of human trafficking, including training of first responders.

§ 3032. (Reserved).

SUBCHAPTER D
PROTECTION OF VICTIMS OF
HUMAN TRAFFICKING

Sec.

3051. Civil causes of action.

3052. Protection of victims.

3053. Appropriate implementation for minor victims of human trafficking.

3054. Services.

3055. Victims in shelters.

§ 3051. Civil causes of action.

(a) General rule.--

(1) An individual who is a victim of human trafficking may bring a civil action against any person that participated in the human trafficking of the individual in the court of common pleas of the county where the individual resides or where any of the alleged violations of this chapter occurred.

(2) An individual who is a victim of the sex trade may bring a civil action in the court of common pleas of the county where the individual resides against a person that:

(i) recruits, profits from or maintains the victim in any sex trade act;

(ii) abuses or causes bodily harm to the victim in any sex trade act; and

(iii) knowingly advertises or publishes advertisements for purposes of recruitment into sex trade activity.

(b) Exception.--This section shall not be construed to create liability for any person who provides goods or services to the general public and to a person who would be liable under subsection (a)(2), absent a showing that the person:

(1) knowingly markets or provides its goods or services to a person liable under subsection (a)(2);

(2) knowingly receives a higher level of compensation from a person liable under subsection (a)(2); or

(3) supervises or exercises control over a person liable under subsection (a)(2).

(c) Damages.--The court may award any of the following forms of relief:

(1) Actual damages.

(2) Compensatory damages.

(3) Punitive damages.

(4) Injunctive relief.

(5) Any other appropriate relief.

(d) Attorney fees and costs.--A prevailing plaintiff who is a victim of human trafficking shall be awarded reasonable attorney fees and costs.

(e) Treble damages.--Treble damages shall be awarded to a victim of human trafficking on proof of actual damages where the defendant's acts were willful and malicious.

(f) Joinder of actions.--In the discretion of the court:

(1) Two or more individuals may join in one action under this section as plaintiffs if their respective actions involve at least one defendant in common.

(2) Two or more persons may be joined in one action under this section as defendants if those persons may be liable to at least one plaintiff in common.

(g) Attempts at avoidance of liability.--No person may avoid liability under this section by:

(1) a conveyance of any right, title or interest in real property; or

(2) an agreement, including an indemnification agreement or hold harmless agreement, that purports to show the consent of the victim of human trafficking.

(h) Statute of limitations.--

(1) An action may be brought under this section by an individual who was the victim of human trafficking while an adult within five years of the last act against that individual that constitutes an offense under this chapter.

(2) An action may be brought under this section by an individual who was a victim of human trafficking while a minor for any offense committed against the victim while the victim was under 18 years of age until that victim reaches 30 years of age.

(i) Estoppel.--A defendant is estopped from asserting a defense of the statute of limitations when the expiration of the statute is due to intentional conduct by the defendant knowingly inducing or coercing the plaintiff to delay the filing of the action.

(j) Nondefenses.--It shall not be a defense to an action under this section that the following occurred:

(1) The victim of the sex trade and the defendant had a consensual sexual relationship.

(2) The defendant is related to the victim of the sex trade by blood or marriage.

(3) The defendant has lived with the victim of the sex trade in any formal or informal household arrangement.

(4) The victim of the sex trade was paid or otherwise compensated for sex trade activity.

(5) The victim of the sex trade engaged in sex trade activity prior to any involvement with the defendant.

(6) The victim of the sex trade continued to engage in sex trade activity following any involvement with the defendant.

(7) The victim of the sex trade made no attempt to escape, flee or otherwise terminate the contact with the defendant.

(8) The victim of the sex trade consented to engage in sex trade activity.

(9) The victim of the sex trade engaged in only a single incident of sex trade activity.

(10) There was no physical contact involved in the sex trade activity.

(11) As a condition of employment, the defendant required the victim of the sex trade to agree not to engage in prostitution.

(12) The defendant's place of business was posted with signs prohibiting prostitution or prostitution-related activities.

(13) The victim of the sex trade has been convicted or charged with prostitution or prostitution-related offenses.

(14) The victim of labor trafficking made no attempt to escape, flee or otherwise terminate the contact with the defendant.

(k) Definitions.--The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Sex trade." An act, which if proven beyond a reasonable doubt, could support a conviction for violation or attempted violation of Chapter 59 (relating to public indecency) or section 6312 (relating to sexual abuse of children).

"Victim of the sex trade." An individual who has:

- (1) been the object of a solicitation for prostitution;
- (2) been the object of a transaction in a sex act;
- (3) been intended or compelled to engage in an act of prostitution;
- (4) been intended or compelled to engage in a sex act;
- (5) been described or depicted in material that advertises an intent or compulsion to engage in sex acts; or
- (6) in the case of obscenity or child pornography, has appeared in or been described or depicted in the offending conduct or material.

§ 3052. Protection of victims.

Law enforcement agencies shall take reasonable steps necessary to identify, protect and assist victims of human trafficking.

§ 3053. Appropriate implementation for minor victims of human trafficking.

The provision of services to a minor victim of human trafficking by the Commonwealth or by any institution or person established or licensed by the Commonwealth shall be carried out in a manner that is in the best interest of the minor and appropriate to the particular situation.

Comment to § 3053

As with any other minor crime victim, minor human trafficking victims may testify under the conditions and procedures established for child victims and witnesses found in 42 Pa.C.S., Ch. 59, Subchapter D (relating to child victims and witnesses).

§ 3054. Services.

(a) Information for victims.--Subject to the availability of funding, the commission shall prepare a model informational form to be used by any person having contact with victims of human trafficking that informs victims of human trafficking, in a language they can understand, of the following:

- (1) The procedure for repatriation to the country of citizenship or lawful residence of the victim of human trafficking.
- (2) A directory of local service organizations for victims of human trafficking.
- (3) A directory of legal services organizations that can assist victims of human trafficking in obtaining or maintaining legal immigration status.
- (4) A directory of benefits for victims of human trafficking under Federal and State laws.

(b) Labor standards and working conditions.--The Department of Labor and Industry shall:

- (1) Administer labor standards regarding wages, hours of work and working conditions under its jurisdiction without regard to the legal status of the individual's right to work in the United States.
 - (2) Report to the appropriate law enforcement agency any evidence of human trafficking that may be discovered during the course of an investigation of wages, hours of work and working conditions.
- (c) Immigration certification.--

(1) The Attorney General, a district attorney or any representative of a law enforcement agency may certify in writing to the United States Department of Justice or other Federal agency, including the United States Department of Homeland Security, that:

(i) an investigation or prosecution under this chapter has begun; and

(ii) an individual who may be a victim of human trafficking is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under Federal law, to qualify for an appropriate special immigrant visa and to access available Federal benefits.

(2) Cooperation with law enforcement agencies shall not be required of a victim of human trafficking who is a minor.

(3) Certification under this subsection may be made available to the victim of human trafficking and the designated legal representative of the victim of human trafficking.

(d) Access to crime victims services.--Victims of human trafficking shall be eligible for benefits and compensation under the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

Comment to § 3054

The “T” and “U” class visas were created under the federal Victims of Trafficking and Violence Protection Act of 2000. The “T” visa is a non-immigrant visa, designed for use by an alien who the Attorney General determines is a victim of a severe form of trafficking in persons, who is in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or a U.S. port of entry on account of such trafficking, who has complied with any reasonable request for assistance in the federal investigation or prosecution of acts of trafficking or has not attained age 15, and who would suffer extreme hardship involving unusual and severe harm upon removal from the United States; the spouse, children, and parents of such an alien who is under 21 if the Attorney General considers it necessary to avoid extreme hardship; or the minor children of such an alien who is 21 years of age or older if they are accompanying or following to join such alien. The total number of aliens who may be issued a “T” visa is limited to 5,000 people (not counting spouses, children or parents of the principal alien) during a fiscal year.

The “U” Visa is also a non-immigrant visa that can be sought by victims of certain crimes who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of a crime, or who are likely to be helpful in the investigation or prosecution of criminal activity.

Qualifying crimes are identified as: abduction, abusive sexual contact, blackmail, domestic violence, extortion, false imprisonment, felonious assault, female genital mutilation, being held hostage, incest, involuntary servitude, kidnapping, manslaughter, murder, obstruction

of justice, peonage, perjury, prostitution, rape, sexual assault, sexual exploitation, slave trade, torture, trafficking, witness tampering, unlawful criminal restraint, other related crimes (includes any similar activity where the elements of the crime are substantially similar and also includes attempt, conspiracy, or solicitation to commit any of the enumerated crimes and other related crimes).

The law enforcement certification USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification (Form I-918B) is a required for “U” visa eligibility. “T” visa applicants are “strongly advised” to submit law enforcement certification USCIS Form I-914B, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking Persons, which can serve as primary evidence that the person was a victim of trafficking and complied with reasonable requests from law enforcement, but may prove those elements through alternative means. Persons receiving “T” and “U” visas may remain in the United States for up to four years.

A victim of human trafficking who is a potential witness against a trafficker may be eligible for a temporary immigration status known as “continued presence.” Federal officials are authorized to submit applications for continued presence. State and local law enforcement officials who identify victims of human trafficking should contact their federal counterparts to ensure submission of the application. The status lasts for one year, but is renewable. No law enforcement certification is required for continued presence and it is not dependent on cooperation by the victim, charges being filed against the trafficker or acceptance of a trafficking case for prosecution. Continued presence can be authorized solely on the basis of a credible uncorroborated victim statement.

§ 3055. Victims in shelters.

(a) Voluntary placement.--Residence of a victim of human trafficking in a shelter or other facility shall be voluntary, and a victim of human trafficking may decline to stay in a shelter or other facility.

(b) Restrictions on admission.--Admission to a shelter:

(1) shall be made without regard to race, religion, ethnic background, sexual orientation, country of origin or culture; and

(2) may not be conditioned on whether the victim of human trafficking is cooperating with a law enforcement agency in its attempts to prosecute persons under this chapter.

SUBCHAPTER E
MISCELLANEOUS PROVISIONS

Sec.

3071. Funding.

3072. Nonexclusivity.

§ 3071. Funding.

In addition to any money that may be appropriated from time to time by the General Assembly for its work, the commission may apply for and expend Federal grants and grants and contributions from other public, quasi-public or private sources to assist in implementing this chapter.

§ 3072. Nonexclusivity.

Remedies under this chapter are not exclusive and shall be in addition to other procedures or remedies for a violation or conduct provided for in other law.

Section 4. Section 5708(1) of Title 18 is amended to read:

§ 5708. Order authorizing interception of wire, electronic or oral communications.

The Attorney General, or, during the absence or incapacity of the Attorney General, a deputy attorney general designated in writing by the Attorney General, or the district attorney or, during the absence or incapacity of the district attorney, an assistant district attorney designated in writing by the district attorney of the county wherein the suspected criminal activity has been, is or is about to occur, may make written application to any Superior Court judge for an order authorizing the interception of a wire, electronic or oral communication by the investigative or law enforcement officers or agency having responsibility for an investigation involving suspected criminal activities when such interception may provide evidence of the commission of any of the following offenses, or may provide evidence aiding in the apprehension of the perpetrator or perpetrators of any of the following offenses:

(1) Under this title:

- Section 911 (relating to corrupt organizations)
- Section 2501 (relating to criminal homicide)
- Section 2502 (relating to murder)
- Section 2503 (relating to voluntary manslaughter)
- Section 2702 (relating to aggravated assault)
- Section 2706 (relating to terroristic threats)
- Section 2709.1 (relating to stalking)
- Section 2716 (relating to weapons of mass destruction)
- Section 2901 (relating to kidnapping)
- Section [3002] 3011 (relating to trafficking [of persons] in individuals)
- Section 3012 (relating to involuntary servitude)
- Section 3121 (relating to rape)
- Section 3123 (relating to involuntary deviate sexual intercourse)
- Section 3124.1 (relating to sexual assault)
- Section 3125 (relating to aggravated indecent assault)
- Section 3301 (relating to arson and related offenses)

Section 3302 (relating to causing or risking catastrophe)
Section 3502 (relating to burglary)
Section 3701 (relating to robbery)
Section 3921 (relating to theft by unlawful taking or disposition)
Section 3922 (relating to theft by deception)
Section 3923 (relating to theft by extortion)
Section 4701 (relating to bribery in official and political matters)
Section 4702 (relating to threats and other improper influence in official and political matters)
Section 5512 (relating to lotteries, etc.)
Section 5513 (relating to gambling devices, gambling, etc.)
Section 5514 (relating to pool selling and bookmaking)
Section 5516 (relating to facsimile weapons of mass destruction)
Section 6318 (relating to unlawful contact with minor)
* * *

Section 5. Sections 4415 and 4436 of Title 42 are amended by adding paragraphs to read:

§ 4415. Confidential communications in presence of interpreter.

An interpreter appointed under this subchapter shall not be compelled to testify in any judicial proceeding or administrative proceeding to any statements made by the person with limited English proficiency and interpreted by the interpreter when the person with limited English proficiency is engaged in a confidential communication as provided by any statute or general rule, including, but not limited to:

* * *

(9) Section 5945.3 (relating to confidential communications with human trafficking caseworkers).

§ 4436. Confidential communications in presence of interpreter.

An interpreter appointed under this subchapter shall not be compelled to testify in any judicial proceeding or administrative proceeding to any statements made by the person who is deaf and interpreted by the interpreter when the person who is deaf is engaged in a confidential communication as provided by any statute or general rule, including, but not limited to:

* * *

(9) Section 5945.3 (relating to confidential communications with human trafficking caseworkers).

Section 6. Section 5552(c)(3) of Title 42 is amended and the subsection is amended by adding paragraphs to read:

§ 5552. Other offenses.

* * *

(c) Exceptions.--If the period prescribed in subsection (a), (b) or (b.1) has expired, a prosecution may nevertheless be commenced for:

* * *

(3) Any sexual offense committed against a minor who is less than 18 years of age any time up to the later of the period of limitation provided by law after the minor has reached 18 years of age or the date the minor reaches 50 years of age. As used in this paragraph, the term "sexual offense" means a crime under the following provisions of Title 18 (relating to crimes and offenses):

Section 3011(b) (relating to trafficking in individuals).

Section 3012 (relating to involuntary servitude) as it relates to sexual servitude.

Section 3121 (relating to rape).

Section 3122.1 (relating to statutory sexual assault).

Section 3123 (relating to involuntary deviate sexual intercourse).

Section 3124.1 (relating to sexual assault).

Section 3125 (relating to aggravated indecent assault).

Section 3126 (relating to indecent assault).

Section 3127 (relating to indecent exposure).

Section 4302 (relating to incest).

Section 4304 (relating to endangering welfare of children).

Section 6301 (relating to corruption of minors).

Section 6312(b) (relating to sexual abuse of children).

Section 6320 (relating to sexual exploitation of children).

* * *

(5) An offense under 18 Pa.C.S. § 3011 or 3012 in which the victim of human trafficking was not a minor any time up to ten years from the date of the last offense under this paragraph committed against the victim.

(6) An offense under 18 Pa.C.S. § 3012 involving labor servitude while the victim was a minor any time up to ten years after the victim reaches 18 years of age.

* * *

Section 7. Title 42 is amended by adding a section to read:

§ 5945.3. Confidential communications with human trafficking caseworkers.

(a) Sexual assault counselors.--An individual qualified as a sexual assault counselor under section 5945.1(a) (relating to confidential communications with sexual assault counselors) may serve as a human trafficking counselor under this section.

(b) Privilege.--

(1) This subsection applies to all of the following:

(i) A human trafficking caseworker.

(ii) An interpreter.

(2) An individual designated in paragraph (1) may not disclose a confidential communication without the written consent of the victim of human trafficking who made the confidential communication.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Confidential communication." All information, oral or written, transmitted between a victim of human trafficking and a human trafficking caseworker in the course of their relationship. The term includes advice, reports, statistical data, memoranda, working papers and records, given or made during that relationship, including matters transmitted between the human trafficking caseworker and the victim through the use of an interpreter.

"Human trafficking caseworker." An individual:

(1) who is engaged by any organization whether financially compensated or not;

(2) whose primary purpose is the rendering of advice or assistance to a victim of human trafficking, as defined in 18 Pa.C.S. § 3001 (relating to definitions); and

(3) who:

(i) holds a master's degree or higher in counseling or a related field;

(ii) has an undergraduate degree or equivalent in a human services profession; or

(iii) is supervised by an individual qualified under subparagraph (i) or (ii) and has at least 80 hours of training received under that supervision in:

(A) the history of human trafficking;

(B) civil law and criminal law as they relate to human trafficking;

(C) societal attitudes toward human trafficking;

(D) peer counseling techniques;

(E) housing, public assistance and other financial resources available to meet the needs of victims of human trafficking;

(F) referral services available to victims of human trafficking;

(G) privileged communications; or

(H) human trauma therapy counseling.

"Interpreter." An individual who translates communications between a human trafficking caseworker and a victim of human trafficking through the use of sign language, visual, oral or written translation.

Section 8. Sections 9720.2, 9738(b) and 9799.14(c) of Title 42 are amended to read:

§ 9720.2. Sentencing for trafficking of persons.

Notwithstanding any other provision of law, a person who commits a violation of 18 Pa.C.S. § [3002] 3011 (relating to trafficking [of persons] in individuals) or 3012 (relating to involuntary servitude) while violating:

(1) 18 Pa.C.S. § 2901 (relating to kidnapping);

(2) 18 Pa.C.S. § 3121 (relating to rape); or

(3) 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse);

shall be sentenced up to a maximum term of life imprisonment.

§ 9738. Victim impact statements.

* * *

(b) Definition.--As used in this section, the term "victim" shall [have the same meaning as in section 479.1 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.] mean a "victim" as defined in:

(1) section 103 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act; or

(2) 18 Pa.C.S. § 3001 (relating to definitions).

§ 9799.14. Sexual offenses and tier system.

* * *

(c) Tier II sexual offenses.--The following offenses shall be classified as Tier II sexual offenses:

- (1) 18 Pa.C.S. § 3011(b) (relating to trafficking in individuals).
[(1)] (1.1) 18 Pa.C.S. § 3122.1(a)(2) (relating to statutory sexual assault).
[(1.1)] (1.2) 18 Pa.C.S. § 3124.2(a.2) and (a.3).
[(1.2)] (1.3) 18 Pa.C.S. § 3126(a)(2), (3), (4), (5), (6) or (8).
- (2) 18 Pa.C.S. § 5902(b.1) (relating to prostitution and related offenses).
- (3) 18 Pa.C.S. § 5903(a)(3)(ii), (4)(ii), (5)(ii) or (6) (relating to obscene and other sexual materials and performances).
- (4) 18 Pa.C.S. § 6312(b) and (c).
- (5) 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).
- (6) 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).
- (7) 18 U.S.C. § 1591 (relating to sex trafficking of children by force, fraud, or coercion).
- (8) 18 U.S.C. § 2243 (relating to sexual abuse of a minor or ward).
- (9) 18 U.S.C. § 2244 (relating to abusive sexual contact) where the victim is 13 years of age or older but under 18 years of age.
- (10) 18 U.S.C. § 2251 (relating to sexual exploitation of children).
- (11) 18 U.S.C. § 2251A (relating to selling or buying of children).
- (12) 18 U.S.C. § 2252(a)(1), (2) or (3).
- (13) 18 U.S.C. § 2260 (relating to production of sexually explicit depictions of a minor for importation into the United States).
- (14) 18 U.S.C. § 2421 (relating to transportation generally).
- (15) 18 U.S.C. § 2422(b).
- (16) 18 U.S.C. § 2423(a).
- (17) A comparable military offense or similar offense under the laws of another jurisdiction or foreign country or under a former law of this Commonwealth.
- (18) An attempt, conspiracy or solicitation to commit an offense listed in paragraph (1), (1.1), (1.2), (1.3), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16) or (17).

* * *

Section 9. Applicability is as follows:

(1) The addition of 18 Pa.C.S. Ch. 30 shall apply to offenses committed on or after the effective date of this section.

(2) Section 2 (repeal of 18 Pa.C.S. §§ 3001, 3002, 3003 and 3004) of this act shall not affect the validity of a prosecution initiated under the repealed sections.

Section 10. This act shall take effect in 60 days.

APPROVED--The 2nd day of July, A.D. 2014.

TOM CORBETT

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE RESOLUTION

No. 253 Session of
2010

INTRODUCED BY GREENLEAF, ORIE, FONTANA, ERICKSON, TARTAGLIONE,
LEACH, STACK, O'PAKE, M. WHITE, PILEGGI, WASHINGTON,
WILLIAMS, DINNIMAN, ALLOWAY AND RAFFERTY, FEBRUARY 26, 2010

REFERRED TO JUDICIARY, FEBRUARY 26, 2010

A RESOLUTION

1 Directing the Joint State Government Commission to establish an
2 advisory committee to study the problem of human trafficking
3 and to make a report to the Senate on the issue of human
4 trafficking, including a proposed State plan for the
5 prevention of human trafficking and any recommendations for
6 changes in State law, policies and procedures.

7 WHEREAS, Human trafficking is defined by Federal law to
8 include:

9 (1) sex trafficking in which a commercial sex act is
10 induced by force, fraud or coercion, or in which the person
11 induced to perform such an act is under 18 years of age; and

12 (2) the recruitment, harboring, transportation,
13 provision or obtaining of a person for labor or services,
14 through the use of force, fraud or coercion for the purpose
15 of involuntary servitude, peonage, debt bondage or slavery;

16 and

17 WHEREAS, More generally, human trafficking is the modern-day
18 practice of slavery and is one of the fastest growing criminal
19 industries in the world, generating billions of dollars by using

1 force, fraud and coercion to subject United States citizens and
2 foreign nationals, both minors and adults, to sexual or labor
3 exploitation; and

4 WHEREAS, Human trafficking does not always involve movement
5 of victims but may encompass both transnational trafficking that
6 crosses borders and domestic or internal trafficking that occurs
7 within a country or a state; and

8 WHEREAS, According to Pennsylvania law enforcement,
9 prosecutors and numerous advocacy organizations at the national,
10 state and local levels, there is both sex trafficking and labor
11 trafficking in Pennsylvania and victims include children and
12 adults, United States citizens and foreign nationals; and

13 WHEREAS, Examples of sex trafficking include:

14 (1) runaway teenage girls who are preyed upon by pimps;

15 (2) adult women who are held against their will and
16 forced into prostitution; and

17 (3) women and girls from other countries who are
18 promised jobs as waitresses but instead are trafficked for
19 prostitution;

20 and

21 WHEREAS, Victims of labor trafficking are typically found in
22 domestic servitude, agriculture, service industries and other
23 low-wage labor industries, where they are threatened, beaten,
24 raped, starved, chained or locked up, isolated and manipulated
25 or psychologically tortured; and

26 WHEREAS, In 2006 the General Assembly enacted 18 Pa.C.S. Ch.
27 30 (relating to trafficking of persons), making human
28 trafficking a second degree felony, unless the perpetrator
29 injures the victim or the victim is under 18 years of age, in
30 which case it is a first degree felony, and including forfeiture

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1 provisions; and

2 WHEREAS, Since enactment, the 2006 law has not been utilized
3 because:

4 (1) there is a lack of knowledge by community members
5 and law enforcement on how to identify and respond to human
6 trafficking cases;

7 (2) there is no centralized venue to convey information
8 on responding to the crime of human trafficking for law
9 enforcement, victim service providers and the public; and

10 (3) traffickers keep victims highly isolated from
11 society, attempting to ensure that the victims do not find
12 out where to turn for help;

13 and

14 WHEREAS, While there are existing coalitions to combat human
15 trafficking in Philadelphia, Pittsburgh and York, there is a
16 need to create a comprehensive Statewide approach to ending this
17 brutal crime through the prosecution of traffickers, the
18 identification of victims, providing services and significantly
19 enhancing community awareness; therefore be it

20 RESOLVED, That the Senate direct the Joint State Government
21 Commission to establish an advisory committee to study the
22 problem of human trafficking; to propose policies and procedures
23 to assist in the prevention and prosecution of human
24 trafficking; and to make recommendations on how to strengthen
25 State and local efforts to prevent human trafficking, protect
26 and assist human trafficking victims and prosecute offenders;
27 and be it further

28 RESOLVED, That the advisory committee be comprised of
29 approximately 30 members and include persons representing all
30 relevant aspects of the criminal justice and social welfare

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1 systems, including representatives of governmental agencies and
2 nongovernmental organizations, especially those specializing in
3 human trafficking, those representing communities
4 disproportionately affected by human trafficking, agencies
5 devoted to child services and runaway services and academic
6 researchers dedicated to the subject of human trafficking; and
7 be it further

8 RESOLVED, That the advisory committee make a report to the
9 Senate on the issue of human trafficking, including a proposed
10 State plan for the prevention of human trafficking and any
11 recommendations for changes in State law, policies and
12 procedures; and be it further

13 RESOLVED, That the advisory committee shall report to the
14 Senate no later than two years from the date that this
15 resolution is adopted.