

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 554 Session of
2017

INTRODUCED BY GREENLEAF, LEACH, BREWSTER, RESCHENTHALER,
FARNESE, YAW, FONTANA, COSTA, RAFFERTY, TARTAGLIONE, BOSCOLA,
BARTOLOTTA, STREET, DINNIMAN, BROWNE, HUGHES, LAUGHLIN,
BLAKE, HAYWOOD, SCAVELLO AND BROOKS, MARCH 24, 2017

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 5, 2018

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in human trafficking, further providing for
4 definitions, repealing provisions relating to appropriate
5 implementation for minor victims of human trafficking,
6 providing for special relief to restore victim's dignity and
7 autonomy and for safe harbor for sexually exploited children,
8 establishing the Safe Harbor for Sexually Exploited Children
9 Fund and imposing penalties; ~~in riot, disorderly conduct and~~ <--
10 ~~related offenses, further providing for the offense of~~
11 ~~obstructing highways and other public passages; in public~~
12 ~~indecent, further providing for the offense of prostitution~~
13 ~~and related offenses; and, in juvenile matters, providing for~~
14 ~~immunity and for dependency in lieu of delinquency.~~ <--

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

17 Section 1. Section 3001 of Title 18 of the Pennsylvania
18 Consolidated Statutes is amended by adding definitions to read:
19 § 3001. Definitions.

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

1 * * *

2 "County agency." A county children and youth social service
3 agency established under section 405 of the act of June 24, 1937
4 (P.L.2017, No.396), known as the County Institution District
5 Law, and supervised by the department under Article IX of the
6 act of June 13, 1967 (P.L.31, No.21), known as the Human
7 Services Code.

8 * * *

9 "Department." The Department of Human Services of the
10 Commonwealth.

11 * * *

12 "Fund." The Safe Harbor for Sexually Exploited Children
13 Fund.

14 * * *

15 "Sexually exploited child." An individual under 18 years of
16 age who:

17 (1) is a victim of sexual servitude; or

18 (2) is a victim of an offense under 18 U.S.C. § 1591

19 (relating to sex trafficking of children or by force, fraud,
20 or coercion).

21 * * *

22 Section 2. Section 3053 of Title 18 is repealed:

23 [§ 3053. Appropriate implementation for minor victims of human
24 trafficking.

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

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

1 § 3056. Special relief to restore victim's dignity and
2 autonomy.

3 (a) General rule.--An individual who is a victim of human
4 trafficking and has been tattooed with an identifying mark of
5 human trafficking as a direct result of being trafficked may be
6 eligible for special relief.

7 (b) Form of special relief.--

8 (1) An individual who is a victim of human trafficking
9 may be reimbursed from the fund for the costs of removing or
10 covering up a tattoo with an identifying mark.

11 (2) No reimbursement may be paid if the individual has
12 incurred reimbursable expenses of less than \$100, and no
13 reimbursement may exceed \$10,000 per individual.

14 (3) If a reimbursement paid from the fund to an
15 individual is later recovered by an insurance settlement,
16 civil suit settlement or restitution, the individual shall
17 pay to the fund an amount equal to the reimbursement.

18 Section 4. Chapter 30 of Title 18 is amended by adding a
19 subchapter to read:

20 SUBCHAPTER D.1

21 SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN

22 Sec.

23 3061. Statewide protocol.

24 3062. Specialized services for sexually exploited children.

25 3063. Law enforcement training.

26 3064. Safe Harbor for Sexually Exploited Children Fund.

27 3065. SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN.

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28 § 3061. Statewide protocol.

29 The department shall develop a Statewide protocol to
30 efficiently and effectively coordinate the provision of

1 specialized services to sexually exploited children.

2 § 3062. Specialized services for sexually exploited children.

3 The department shall, in conjunction with county agencies:

4 (1) Develop and provide specialized programs and
5 services for sexually exploited children that address a
6 victim's needs, including the following:

7 (i) Safe and stable housing.

8 (ii) Access to education.

9 (iii) Employment and life-skills training.

10 (iv) Comprehensive case management.

11 (v) Physical and behavioral health care, including
12 trauma therapy.

13 (vi) Treatment for drug or alcohol dependency.

14 (vii) Medical and dental care.

15 (viii) Access to personal care items and adequate
16 clothing.

17 (ix) Other needs that sexually exploited children
18 may have as determined by the department or the county
19 agencies.

20 (2) Ensure that providers of the specialized programs
21 and services provided under paragraph (1) receive sufficient
22 training and understand the unique circumstances surrounding
23 the victimization of sexually exploited children.

24 § 3063. Law enforcement training.

25 The Municipal Police Officers' Education and Training
26 Commission and the Pennsylvania State Police shall provide
27 training to appropriate law enforcement officers. The training
28 shall include:

29 (1) Methods used to identify a sexually exploited child.

30 (2) Methods used to interview and engage with a sexually

1 exploited child.

2 (3) Methods to assist victims to access specialized
3 programs and services for a sexually exploited child.

4 (4) METHODS TO MINIMIZE TRAUMA IN THE DETENTION OF A <--
5 SEXUALLY EXPLOITED CHILD.

6 § 3064. Safe Harbor for Sexually Exploited Children Fund.

7 (a) Establishment.--

8 (1) The Safe Harbor for Sexually Exploited Children Fund
9 is established in the State Treasury and shall be
10 administered by the department.

11 (2) Appropriations for transfers to the fund and fines
12 paid and interest accrued on money collected under subsection
13 (b) shall be deposited into the fund.

14 (3) In addition to money that may be appropriated by the
15 General Assembly, the department may apply for and expend
16 Federal grants and contributions from other public, quasi-
17 public or private sources to assist in implementing this
18 subchapter.

19 (4) Money in the fund shall be used as follows:

20 (i) At least 50% of the fund may be expended by the
21 department to provide victim services either directly by
22 the department or through grants.

23 (ii) At least 40% of the fund may be expended to
24 increase public awareness through an anti-demand
25 campaign.

26 (iii) Not more than 10% of the fund may be expended
27 by the department for the costs of operating and
28 maintaining the fund.

29 (b) Fines.--Notwithstanding any law to the contrary, the
30 finances provided by this subsection shall be in addition to any

1 fine authorized or required by law:

2 (1) An individual who is convicted of an offense under
3 section 3011 (relating to trafficking in individuals), 3012
4 (relating to involuntary servitude), 3013 (relating to
5 patronizing a victim of sexual servitude) or 5902(b) or (b.1)
6 (relating to prostitution and related offenses) shall be
7 ordered to pay a fine of \$5,000 for each offense.

8 (2) An individual who is convicted of an offense under
9 section 5902(e) shall be ordered to pay a fine of \$2,500 for
10 each offense.

11 (3) An individual who is convicted of an offense under
12 section 5902(e), when the individual knew or should have
13 known the victim was under 18 years of age, shall be ordered
14 to pay a fine of \$5,000 for each offense.

15 ~~Section 5. Sections 5507 and 5902 of Title 18 are amended by <--~~
16 ~~adding subsections to read:~~

17 ~~§ 5507. Obstructing highways and other public passages.~~

18 ~~* * *~~

19 ~~(a.1) Sexually exploited children. If it is determined by a~~
20 ~~law enforcement officer, after a reasonable detention for~~
21 ~~investigative purposes, that a person suspected of or charged~~
22 ~~with a violation under this section is a person under 18 years~~
23 ~~of age and is determined to be a sexually exploited child as~~
24 ~~defined in section 3001 (relating to definitions), the person:~~

25 ~~(1) Shall be immune from prosecution under this section.~~

26 ~~(2) May not be jailed, fined, prosecuted, charged or~~
27 ~~otherwise penalized under this section.~~

28 ~~(3) Shall be treated as a sexually exploited child in~~
29 ~~accordance with Chapter 30 (relating to human trafficking).~~

30 ~~* * *~~

1 ~~§ 5902. Prostitution and related offenses.~~

2 * * *

3 ~~(a.2) Sexually exploited children. If it is determined by a~~
4 ~~law enforcement officer, after a reasonable detention for~~
5 ~~investigative purposes, that a person suspected of or charged~~
6 ~~with a violation under subsection (a) is a person under 18 years~~
7 ~~of age and is determined to be a sexually exploited child as~~
8 ~~defined in section 3001 (relating to definitions), the person:~~

9 ~~(1) Shall be immune from prosecution under this section.~~

10 ~~(2) May not be jailed, fined, prosecuted, charged or~~
11 ~~otherwise penalized under this section.~~

12 ~~(3) Shall be treated as a sexually exploited child in~~
13 ~~accordance with Chapter 30 (relating to human trafficking).~~

14 * * *

15 Section 6. Title 42 is amended by adding sections to read:

16 ~~§ 6328. Immunity.~~

17 ~~A juvenile shall not be charged and shall be immune from~~
18 ~~prosecution for the following offenses if committed by a child~~
19 ~~who is determined to be a sexually exploited child as defined in~~
20 ~~18 Pa.C.S. § 3001 (relating to definitions):~~

21 ~~(1) Prostitution and related offenses as defined in 18~~
22 ~~Pa.C.S. § 5902(a)(1) and (2) (relating to prostitution and~~
23 ~~related offenses).~~

24 ~~(2) Obstructing highways and other public passages as~~
25 ~~defined in 18 Pa.C.S. § 5507 (relating to obstructing~~
26 ~~highways and other public passages).~~

27 ~~§ 3065. SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN.~~

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28 ~~(A) SAFE HARBOR.--IF IT IS DETERMINED BY A LAW ENFORCEMENT~~
29 ~~OFFICER, AFTER REASONABLE DETENTION FOR INVESTIGATIVE PURPOSES,~~
30 ~~THAT AN INDIVIDUAL IS UNDER 18 YEARS OF AGE AND IS DETERMINED TO~~

1 BE A SEXUALLY EXPLOITED CHILD AS DEFINED IN SECTION 3001
2 (RELATING TO DEFINITIONS), THE INDIVIDUAL SHALL BE IMMUNE FROM:

3 (1) PROSECUTION OR ADJUDICATION AS A DELINQUENT CHILD
4 FOR A VIOLATION OF SECTIONS 5507 (RELATING TO OBSTRUCTING
5 HIGHWAYS AND OTHER PUBLIC PASSAGES) AND 5902(A) (RELATING TO
6 PROSTITUTION AND RELATED OFFENSES).

7 (2) REVOCATION OF AN EXISTING TERM OF PROBATION OR
8 PAROLE ARISING FROM A CONVICTION OR ADJUDICATION FOR ANOTHER
9 OFFENSE, IF THE REVOCATION IS BASED ON CONDUCT UNDER
10 PARAGRAPH (1).

11 (B) EXCEPTIONS TO SAFE HARBOR.--THE SAFE HARBOR UNDER
12 SUBSECTION (A) SHALL NOT:

13 (1) INTERFERE WITH OR PREVENT AN INVESTIGATION, ARREST,
14 CHARGE, PROSECUTION, DELINQUENCY ADJUDICATION OR REVOCATION
15 FOR VIOLATIONS OTHER THAN A VIOLATION UNDER SUBSECTION (A).

16 (2) BAR THE ADMISSION OF EVIDENCE IN CONNECTION WITH THE
17 INVESTIGATION AND PROSECUTION FOR A VIOLATION OTHER THAN A
18 VIOLATION UNDER SUBSECTION (A).

19 (3) BAR THE ADMISSION OF EVIDENCE IN CONNECTION WITH AN
20 INVESTIGATION AND PROSECUTION OF AN INDIVIDUAL WHO DOES NOT
21 QUALIFY FOR SAFE HARBOR AS PROVIDED UNDER THIS SECTION.

22 (C) DETAINMENT.--AN INDIVIDUAL DETERMINED TO BE A SEXUALLY
23 EXPLOITED CHILD AS DEFINED IN SECTION 3001 (RELATING TO
24 DEFINITIONS) SHALL BE DETAINED NO LONGER THAN NECESSARY AND ONLY
25 TO ASSIST THE CHILD IN SECURING SPECIALIZED SERVICES AVAILABLE
26 UNDER SECTION 3062 (RELATING TO SPECIALIZED SERVICES FOR
27 SEXUALLY EXPLOITED CHILDREN) OR TO REFER THE CHILD TO A COUNTY
28 AGENCY IF REQUIRED UNDER 42 PA.C.S. § 6329 (RELATING TO
29 DEPENDENCY IN LIEU OF DELINQUENCY).

30 (D) IMMUNITY.--IN ADDITION TO ANY OTHER IMMUNITY OR

1 LIMITATION ON CIVIL LIABILITY, A LAW ENFORCEMENT OFFICER OR
2 PROSECUTING ATTORNEY WHO, ACTING IN GOOD FAITH, INVESTIGATES,
3 DETAINS, CHARGES OR INSTITUTES DELINQUENCY PROCEEDINGS AGAINST
4 AN INDIVIDUAL WHO IS THEREAFTER DETERMINED TO BE ENTITLED TO
5 IMMUNITY UNDER THIS SECTION, SHALL NOT BE SUBJECT TO CIVIL
6 LIABILITY FOR THE ACTIONS.

7 SECTION 5. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:
8 § ~~6329~~ 6328. Dependency in lieu of delinquency. <--

9 (a) Referral to county agency.--The offenses provided under
10 subsection (b) shall be referred to a county agency under 23
11 Pa.C.S. §§ 6362 (relating to responsibilities of county agency
12 for child protective services) and 6375 (relating to county
13 agency requirements for general protective services) if the
14 offense:

15 (1) Is committed by a child as a direct result of being
16 a sexually exploited child as defined in 18 Pa.C.S. § 3001
17 (relating to definitions).

18 ~~(2) Is committed by a child under 18 years of age.~~ <--

19 ~~(3)~~ (2) Is directly related to having been subject to <--
20 human trafficking as defined in 18 Pa.C.S. § 3001.

21 (b) Eligible offenses.--Eligible offenses for referral to a
22 county agency include the following:

23 (1) 18 Pa.C.S. § 3503 (relating to criminal trespass).

24 (2) 18 Pa.C.S. § 4914 (relating to false identification
25 to law enforcement authorities).

26 (3) 18 Pa.C.S. § 5503 (relating to disorderly conduct).

27 (4) 18 Pa.C.S. § 5506 (relating to loitering and
28 prowling at night time).

29 (5) An offense for simple possession of a controlled
30 substance under section 13(a)(16) and (31) of the act of

1 April 14, 1972 (P.L.233, No.64), known as The Controlled
2 Substance, Drug, Device and Cosmetic Act.

3 (c) Delinquency proceedings.--

4 (1) If an offense listed in subsection (b) is referred
5 to a county agency, delinquency proceedings under Chapter 63
6 (relating to juvenile matters) may not be commenced
7 immediately.

8 (2) If treatment and social services are unsuccessful
9 while the dependency petition is pending, as evidenced by the
10 child's behavior, and the county agency believes that
11 juvenile justice services are necessary and warranted, the
12 county agency shall refer the child's case to the juvenile
13 probation department or district attorney's office for the
14 commencement of delinquency proceedings.

15 (d) Record expungement.--Upon the final discharge of
16 supervision, juvenile court records relating to an offense
17 listed in subsection (b) shall be expunged by the court under 18
18 Pa.C.S. § 9123 (relating to juvenile records).

19 Section 7 6. This act shall take effect in 60 days.

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