

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 75 Session of 2013

INTRODUCED BY GREENLEAF, WASHINGTON, VOGEL, FARNESE, YUDICHAK,
TARTAGLIONE, VULAKOVICH, ERICKSON, RAFFERTY, FERLO, SOLOBAY,
VANCE, PILEGGI, HUGHES, BRUBAKER AND LEACH, JANUARY 9, 2013

REFERRED TO JUDICIARY, JANUARY 9, 2013

AN ACT

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

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

9 Section 1. Section 911(h)(1)(i) of Title 18 of the
10 Pennsylvania Consolidated Statutes is amended to read:

11 § 911. Corrupt organizations.

12 * * *

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

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

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

17 Chapter 25 (relating to criminal homicide)

18 Section 2706 (relating to terroristic threats)

19 Chapter 29 (relating to kidnapping)

1 Chapter 30 (relating to human trafficking [of
2 persons])

3 Chapter 33 (relating to arson, criminal mischief
4 and other property destruction)

5 Chapter 37 (relating to robbery)

6 Chapter 39 (relating to theft and related
7 offenses)

8 Section 4108 (relating to commercial bribery and
9 breach of duty to act disinterestedly)

10 Section 4109 (relating to rigging publicly
11 exhibited contest)

12 Section 4117 (relating to insurance fraud)

13 Chapter 47 (relating to bribery and corrupt
14 influence)

15 Chapter 49 (relating to falsification and
16 intimidation)

17 Section 5111 (relating to dealing in proceeds of
18 unlawful activities)

19 Section 5512 (relating to lotteries, etc.)

20 Section 5513 (relating to gambling devices,
21 gambling, etc.)

22 Section 5514 (relating to pool selling and
23 bookmaking)

24 Chapter 59 (relating to public indecency).

25 * * *

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

1 the law of the jurisdiction in which they occurred.

2 * * *

3 Section 2. The heading of Chapter 30 and sections 3001,
4 3002, 3003 and 3004 of Title 18 are repealed:

5 [CHAPTER 30

6 TRAFFICKING OF PERSONS

7 § 3001. Definitions.

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

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

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

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

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

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

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

28 (5) engages in criminal coercion of another person.

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

1 § 3002. Trafficking of persons.

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

6 (b) Grading.--An offense under subsection (a) shall be
7 graded a felony of the second degree unless the other person
8 suffers bodily injury or the other person is an individual under
9 18 years of age, in which case it shall be graded as a felony of
10 the first degree.

11 § 3003. Restitution for offenses.

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

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

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

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

22 § 3004. Forfeiture.

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

26 (1) All assets, foreign or domestic:

27 (i) Of an individual, entity or organization engaged
28 in planning or perpetrating an act in this Commonwealth
29 which violates section 3002 (relating to trafficking of
30 persons) and all assets, foreign or domestic, affording a

1 person a source of influence over such individual, entity
2 or organization.

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

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

10 (2) All assets within this Commonwealth:

11 (i) Of an individual, entity or organization engaged
12 in planning or perpetrating an act which violates section
13 3002.

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

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

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

23 (c) Custody of property.--

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

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

1 either:

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

3 or

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

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

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

25 (1) A description of the property seized.

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

27 (3) The owner, if known.

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

29 (5) An allegation that the property is subject to
30 forfeiture pursuant to this section and an averment of

1 material facts upon which forfeiture action is based.

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

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

10 To the claimant of within described property:

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

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

19 (g) Notice.--

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

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

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

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

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

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

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

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

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

29 (k) Burden of proof.--At the hearing, if the Commonwealth
30 produces evidence that the property in question was unlawfully

1 used, possessed or otherwise subject to forfeiture under this
2 section, the burden shall be upon the claimant to show by a
3 preponderance of the evidence:

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

7 (2) That the claimant lawfully acquired the property.

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

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

1 official use or sold in accordance with this section.]

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

3 CHAPTER 30

4 HUMAN TRAFFICKING

5 Subchapter

6 A. General Provisions

7 B. Prosecution of Human Trafficking

8 C. Prevention of Human Trafficking

9 D. Protection of Human Trafficking Victims

10 E. Miscellaneous Provisions

11 SUBCHAPTER A

12 GENERAL PROVISIONS

13 Sec.

14 3001. Definitions.

15 § 3001. Definitions.

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

19 "Commercial sex act." Any sex act on account of which
20 anything of value is given, promised to or received, directly or
21 indirectly, by an individual.

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

24 "Council." The Pennsylvania Council for the Prevention of
25 Human Trafficking, established under section 3031 (relating to
26 Pennsylvania Council for the Prevention of Human Trafficking).

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

1 apply:

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

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

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

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

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

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

16 "Financial harm." Includes any of the following:

17 (1) A violation of the act of March 30, 1859 (P.L.318,
18 No.318), referred to as the Payment of the Wages of Labor
19 Law.

20 (2) A violation of the act of May 23, 1887 (P.L.181,
21 No.122), referred to as the Employment of Labor Regulated
22 Law.

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

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

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

30 "Human trafficking." Any activity in violation of section

1 3011 (relating to trafficking in individuals) either alone or in
2 conjunction with an activity in violation of section 3012
3 (relating to involuntary servitude).

4 "Human trafficking victim" or "victim." An individual who
5 has been subjected to human trafficking.

6 "Involuntary servitude." Includes labor servitude and sexual
7 servitude.

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

9 "Labor servitude." Labor which is performed or provided by
10 another individual and is induced or obtained by any of the
11 means set forth in section 3012(b) (relating to involuntary
12 servitude).

13 "Minor." An individual less than 18 years of age.

14 "Performance involving sexual conduct." Any performance that
15 is described in section 5903 (relating to obscene and other
16 sexual materials and performances).

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

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

24 (2) Information stored or maintained electronically.

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

26 "Serious harm." Any harm, whether physical or nonphysical
27 that is sufficiently serious, under all the surrounding
28 circumstances, to compel a reasonable person of the same
29 background and in the same circumstances as the human
30 trafficking victim to perform or to continue performing labor or

1 a service, a commercial sex act or a performance involving
2 sexual conduct in order to avoid incurring that harm.

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

5 "Sex act." Any touching of the sexual or other intimate
6 parts of any individual for the purpose of gratifying sexual
7 desire of any individual. The term includes any of the
8 following:

9 (1) Touching the individual.

10 (2) Touching by the individual, whether directly or
11 through clothing.

12 (3) Physical contact involving the genitalia of either
13 the human trafficking victim or the perpetrator.

14 (4) Deviate sexual intercourse, indecent contact or
15 sexual intercourse as defined in section 3101 (relating to
16 definitions).

17 (5) Indecent assault, as defined in section 3126
18 (relating to indecent assault).

19 "Sexual conduct." As defined in section 5903(b) (relating to
20 obscene and other sexual materials and performances). The term
21 includes the following:

22 (1) With respect to a minor, any activity under section
23 5903(c).

24 (2) A commercial sex act.

25 "Sexual servitude." Any sexual conduct or performance
26 involving sexual conduct for which anything of value is directly
27 or indirectly given, promised to or received by any individual
28 or which is performed or provided by any individual, and is
29 induced or obtained from:

30 (1) A minor.

1 individual will be subject to involuntary servitude;

2 (2) attempts to engage in any activity described in
3 paragraph (1); or

4 (3) benefits financially or receives anything of value
5 from any act that facilitates any activity described in
6 paragraph (1).

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

11 § 3012. Involuntary servitude.

12 (a) Offense defined.--A person commits a felony of the first
13 degree if the person, through any of the means described in
14 subsection (b), subjects an individual to involuntary servitude.

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

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

20 (2) Physically restraining or threatening to physically
21 restrain another individual.

22 (3) Kidnapping or attempting to kidnap any individual.

23 (4) Abusing or threatening to abuse the legal process.

24 (5) Taking or retaining the individual's personal
25 property or real property as a means of coercion.

26 (6) Engaging in unlawful conduct with respect to
27 documents, as defined in section 3014 (relating to unlawful
28 conduct regarding documents).

29 (7) Extortion or blackmail.

30 (8) Deception or fraud.

1 (9) Criminal coercion, as defined in section 2906
2 (relating to criminal coercion).

3 (10) Duress, under section 309 (relating to duress).

4 (11) Debt coercion.

5 (12) Causing or threatening to cause financial harm to
6 or exerting or threatening to exert financial control over
7 the individual.

8 (13) Facilitating or controlling the individual's access
9 to an addictive controlled substance.

10 (14) Using any scheme, plan or pattern, whether overt or
11 subtle, intended to cause the individual to believe that, if
12 the individual does not perform such labor, services, acts or
13 performances, that individual or another individual will
14 suffer serious harm or physical restraint.

15 § 3013. Patronizing a victim of sexual servitude.

16 (a) Offense defined.--A person commits a felony of the
17 second degree if the person engages in any sexual conduct or
18 performance with another individual knowing or in reckless
19 disregard of the fact that the individual is a human trafficking
20 victim.

21 (b) Investigation.--An individual arrested for a violation
22 of section 5902(e) (relating to prostitution and related
23 offenses) shall be formally detained and questioned by law
24 enforcement personnel to determine if the individual engaged in
25 any sexual conduct or performance with the alleged prostitute
26 knowing or in reckless disregard of the fact that the individual
27 is a human trafficking victim.

28 (c) Fine.--A person whose violation of this subsection
29 results in a judicial disposition other than acquittal or
30 dismissal shall also pay a fine of \$500 to the court, to be

1 distributed to the council to fund the grant program established
2 under section 3036 (relating to grants).

3 § 3014. Unlawful conduct regarding documents.

4 (a) Applicability.--This section applies to an action that
5 is done:

6 (1) in the course of a violation of or with intent to
7 violate section 3011 (relating to trafficking in individuals)
8 or 3012 (relating to involuntary servitude); or

9 (2) to prevent or restrict or to attempt to prevent or
10 restrict, without lawful authority, the ability of an
11 individual to move or travel, in order to maintain the
12 involuntary servitude of that individual.

13 (b) Offense defined.--A person commits a felony of the third
14 degree if the person knowingly destroys, conceals, removes,
15 confiscates or possesses an actual or purported:

16 (1) passport or other immigration document of an
17 individual; or

18 (2) government identification document of an individual.

19 § 3015. Nonpayment of wages.

20 (a) Offense defined.--A person who, willfully or with intent
21 to defraud, fails or refuses to pay wages or otherwise causes
22 financial harm to an individual for labor services rendered is
23 guilty of:

24 (1) A misdemeanor of the third degree if the amount owed
25 to the individual is less than \$2,000.

26 (2) A felony of the third degree, if:

27 (i) the amount owed to the individual is equal to or
28 greater than \$2,000;

29 (ii) the failure or refusal constitutes a second or
30 subsequent violation of this section; or

1 (iii) the person falsely denies the amount due or
2 the validity of the debt.

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

7 § 3016. Obstruction of justice.

8 A person who commits a violation of Subchapter B of Chapter
9 49 (relating to victim and witness intimidation) or Chapter 51
10 (relating to obstructing governmental operations) that in any
11 way interferes with or prevents the enforcement of this chapter
12 shall be subject to the same penalties that may be imposed for
13 the offense for which the person has been charged under this
14 chapter.

15 § 3017. Violation by business entities.

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

21 (1) Either or both of the following:

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

23 (ii) The suspension or revocation of any license,
24 permit or prior approval granted to it by a Commonwealth
25 or local government agency.

26 (2) Either:

27 (i) the revocation of the business entity's charter
28 if it is organized under the laws of this Commonwealth;
29 or

30 (ii) the revocation of the business entity's

1 certificate to do business in this Commonwealth if the
2 business entity is not organized under the laws of this
3 Commonwealth.

4 (3) Such other relief as the court deems equitable,
5 including the forfeiture of assets or other provision for
6 restitution as provided in this chapter.

7 (b) Disposition of fines.--Fines imposed under this section
8 shall be paid to the council to fund the grant program
9 established under section 3036 (relating to grants).

10 (c) Knowledge.--Notwithstanding any exemption from liability
11 provided for in 15 Pa.C.S. §§ 8523 (relating to liability of
12 limited partners to third parties) and 8922 (relating to
13 liability of members), an officer, director, partner, manager or
14 member of any entity found liable under this section:

15 (1) Shall not be liable under this section if the person
16 acted in good faith, in a manner that the person reasonably
17 believed to be in the best interests of the corporation,
18 partnership or company, and with such care, including
19 reasonable inquiry, skill and diligence, as a person of
20 ordinary prudence would use under similar circumstances.

21 (2) Shall be liable under this section if the person has
22 knowledge of such other facts as in the circumstances shows
23 bad faith.

24 § 3018. Nondefenses to human trafficking.

25 (a) Nondefenses to human trafficking involving sexual
26 servitude.--Evidence of the following facts or conditions shall
27 not constitute a defense in a prosecution for a violation under
28 this chapter, nor shall such evidence preclude a finding of a
29 violation under this chapter:

30 (1) A human trafficking victim's prior sexual history or

1 history of participation in commercial sex acts or
2 performances involving sexual conduct, as provided in section
3 3104 (relating to evidence of victim's sexual conduct).

4 (2) A human trafficking victim's consent or permission,
5 or the consent or permission of any other person on the human
6 trafficking victim's behalf to any sexual conduct or
7 performance, as provided in section 311(c) (relating to
8 consent).

9 (3) A human trafficking victim's age with respect to the
10 age of consent to sex or legal age of marriage.

11 (b) Nondefense to human trafficking involving labor
12 servitude.--The human trafficking victim's consent to an
13 employment contract, even if there was not fraud involved in the
14 contract's formation, shall not be a defense to labor
15 trafficking if force or coercion were involved in the making of
16 the contract.

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

22 § 3019. Victim protection during prosecution.

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

30 (b) Affirmative defense.--An individual who is a defendant

1 in a criminal trial may offer a defense at trial that the
2 individual was a human trafficking victim and that the crime was
3 committed as a direct result of the individual's status as a
4 human trafficking victim.

5 (c) Documentation of human trafficking victim status.--
6 Official documentation of the defendant's status as a human
7 trafficking victim at the time of the offense from a Federal,
8 State or local government agency or a victim services agency or
9 organization:

10 (1) Shall create a presumption that the defendant's
11 participation in the offense was a result of having been a
12 human trafficking victim.

13 (2) Shall not be required for granting a motion under
14 this section.

15 (d) Vacation of prior prostitution convictions.--At any time
16 after the entry of a judgment of conviction under section 5902
17 (relating to prostitution and related offenses), upon motion of
18 the attorney for the Commonwealth, the court in which the
19 judgment was entered may vacate the judgment against the
20 defendant upon the ground that the defendant was a human
21 trafficking victim under this chapter or under the Trafficking
22 Victims Protection Act of 2000 (22 U.S.C. § 7101 et seq.) and
23 participation in the offense was a result of having been a human
24 trafficking victim. The attorney for the Commonwealth in the
25 county of such conviction shall forward information regarding
26 the defendant's status as a human trafficking victim to the
27 district attorney of another county in which the defendant faces
28 similar charges.

29 § 3020. Restitution.

30 (a) Order.--The court shall order a person found guilty of a

1 violation of this chapter to pay restitution to the human
2 trafficking victim, under the following conditions:

3 (1) If the human trafficking victim dies as a result of
4 human trafficking, the following shall be entitled to
5 restitution, in the following order:

6 (i) The surviving spouse of the human trafficking
7 victim.

8 (ii) The lineal descendants of the human trafficking
9 victim, per stirpes.

10 (iii) The estate of the human trafficking victim.

11 (2) A person who violates this chapter shall be
12 ineligible to receive restitution as set forth in paragraph
13 (1).

14 (3) A person ordered to pay restitution under this
15 chapter may prove, by clear and convincing evidence, that an
16 individual who would be entitled to restitution as a human
17 trafficking victim under paragraph (1) knowingly participated
18 in trafficking activities, in which case that individual
19 shall not be eligible for restitution.

20 (4) The following items may be included in an order of
21 restitution, in the discretion of the court:

22 (i) The costs of medical and psychological
23 treatment, including:

24 (A) physical and occupational therapy and
25 rehabilitation; and

26 (B) counseling for:

27 (I) a human trafficking victim;

28 (II) an individual responsible for the human
29 trafficking victim's welfare;

30 (III) an individual related to the human

1 trafficking victim within the second degree of
2 consanguinity or affinity;

3 (IV) an individual maintaining a common-law
4 relationship with the human trafficking victim;

5 (V) an individual residing in the same
6 household with the human trafficking victim; or

7 (VI) an individual engaged to be married to
8 the human trafficking victim.

9 (ii) The costs of transportation, temporary housing
10 and child care.

11 (iii) Attorney fees and other court-related costs,
12 including victim advocate fees.

13 (iv) For the period during which the human
14 trafficking victim was engaged in involuntary servitude,
15 the greater of the following:

16 (A) The value of the human trafficking victim's
17 services as guaranteed under the minimum wage and
18 overtime provisions of the laws of this Commonwealth.

19 (B) The gross income or value to the defendant
20 of the human trafficking victim's services.

21 (C) The amount the human trafficking victim was
22 promised, or the amount someone in the human
23 trafficking victim's position would have reasonably
24 expected to earn.

25 (v) The return of property of the human trafficking
26 victim, cost of damage to the property or the full value
27 of the property if taken, destroyed or damaged beyond
28 repair as a result of human trafficking.

29 (vi) Relocation expenses for the human trafficking
30 victim and members of the human trafficking victim's

1 family or household if the relocation is verified as
2 necessary by:

3 (A) a law enforcement official, for the personal
4 safety of the human trafficking victim or the human
5 trafficking victim's family or household members; or

6 (B) a mental health treatment provider, for the
7 emotional well-being of the human trafficking victim.

8 (vii) Repatriation of the human trafficking victim
9 to the human trafficking victim's home country, if
10 applicable.

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

18 (b) Special rule for sexual servitude victims.--An
19 individual who is a victim of sexual servitude:

20 (1) Shall not receive restitution as replacement for
21 income earned in an illegal activity.

22 (2) Shall be entitled to restitution in the form of
23 tuition and fees, not to exceed the average costs of a two-
24 year degree program at a Pennsylvania community college, in
25 order to obtain training or education necessary to become
26 gainfully and legally employed.

27 (c) Limitation on restitution.--Other than amounts allowed
28 under subparagraph (a) (4) (iv), any award made under this section
29 shall be in an amount not exceeding out-of-pocket expenses.

30 (d) Reduction.--Except as otherwise provided in this

1 chapter, an award made under this chapter shall be reduced by
2 the amount of any payments that are received or to be received
3 by the human trafficking victim as a result of the human
4 trafficking and that are derived from one or more of the
5 following:

6 (1) from or on behalf of the person who was convicted of
7 trafficking the human trafficking victim;

8 (2) under any insurance or health and welfare programs,
9 including those mandated by law;

10 (3) under any contract of insurance wherein the human
11 trafficking victim is the beneficiary;

12 (4) from public funds;

13 (5) under any pension program, including those providing
14 for disability or survivor's benefits; or

15 (6) under a settlement or award made by or on behalf of
16 a party alleged to be responsible in whole or in part for the
17 human trafficking victim's status as a human trafficking
18 victim, without regard to the party's criminal culpability.

19 (e) Nongovernmental organizations.--The court may order
20 payment of restitution to a nongovernmental organization for all
21 out-of-pocket expenses incurred in assisting a human trafficking
22 victim.

23 (f) Definition.--As used in this section, the term
24 "relocation expenses" shall include deposits for utilities and
25 phone services, deposits for rental housing, temporary lodging
26 and food expenses, clothing expenses, expenses for personal
27 items and other moving expenses.

28 § 3021. Asset forfeiture.

29 (a) General rule.--The following shall be subject to
30 forfeiture to this Commonwealth, and no property right shall

1 exist in them:

2 (1) All assets, foreign or domestic:

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

7 (ii) Affording a person a source of influence over
8 such individual, entity or organization under
9 subparagraph (i).

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

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

17 (2) All assets within this Commonwealth:

18 (i) Of an individual, entity or organization engaged
19 in planning or perpetrating an act which violates section
20 3011 or 3012.

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

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

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

1 (c) Custody of property.--

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

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

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

11 or

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

15 (d) Transfer of property.--Whenever property is forfeited
16 under this section, the property shall be transferred to the
17 custody of the district attorney. The district attorney, where
18 appropriate, shall sell the property. The proceeds from the sale
19 shall first be used to pay all proper expenses of the
20 proceedings for forfeiture and sale, including expenses of
21 seizure, maintenance of custody, advertising and court costs.
22 The balance of the proceeds shall be distributed under
23 subsection (m).

24 (e) Proceedings and petition.--

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

28 (2) A petition shall:

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

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

3 (iii) contain the following:

4 (A) A description of the property seized.

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

7 (C) The owner, if known.

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

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

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

16 (f) Service.--

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

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

22 To the claimant of the within described property:
23 You are required to file an answer to this petition,
24 setting forth your title in and right to possession
25 of the property within 30 days from the service of
26 this notice. You are also notified that, if you fail
27 to file the answer, a decree of forfeiture and
28 condemnation will be entered against the property.

29 (3) The notice shall be signed by the district attorney,
30 deputy district attorney or assistant district attorney.

1 (g) Notice.--

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

7 (i) the owner of the property is unknown;

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

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

14 (2) Notwithstanding any other law to the contrary, this
15 section does not require any advertisement.

16 (3) The notice of the petition shall:

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

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

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

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

30 (1) A copy of the petition is mailed to the last known

1 address by certified mail and is returned without delivery.

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

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

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

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

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

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

24 (2) the claimant lawfully acquired the property; and

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

1 circumstances presented.

2 (l) Claims of ownership.--

3 (1) A person may file a petition to the court alleging:

4 (i) Ownership of the property.

5 (ii) A right of possession to the property.

6 (iii) A lien or reservation of title to the property

7 as the holder of:

8 (A) a chattel mortgage upon the property; or

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

11 (2) A public hearing shall be held, with due notice
12 given to the district attorney.

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

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

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

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

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

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

4 (i) Thirty percent to the office of the district
5 attorney to be used to investigate and prosecute human
6 trafficking cases.

7 (ii) Thirty-five percent to the council to fund the
8 grant program established in section 3036 (relating to
9 grants).

10 (iii) Thirty-five percent to the Office of Victims'
11 Services in the Pennsylvania Commission on Crime and
12 Delinquency to provide services to human trafficking
13 victims in the manner set forth in Chapter 9 of the act
14 of November 24, 1998 (P.L.882, No.111), known as the
15 Crime Victims Act.

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

21 § 3022. Forfeiture of professional licenses and governmental
22 contracts.

23 (a) Revocation of professional license.--The professional
24 license of a licensee who knowingly employs or permits the
25 employment of a human trafficking victim shall be revoked for a
26 period of one year.

27 (b) Administrative procedure.--Revocations under subsections
28 (a) and (c) (2) (i) shall be subject to 2 Pa.C.S. Ch. 5 Subch. A
29 (relating to practice and procedure of Commonwealth agencies)
30 and Ch. 7 Subch. A (relating to judicial review of Commonwealth

1 agency action).

2 (c) Loss of public works contract.--A public works
3 contractor or subcontractor who knowingly employs or permits the
4 employment of a human trafficking victim is subject to the
5 following:

6 (1) For a first offense relating to the public contract,
7 the Secretary of Labor and Industry shall issue a warning
8 letter detailing the violation. The letter shall be posted on
9 the Department of Labor and Industry's Internet website.

10 (2) For a second offense relating to the public
11 contract:

12 (i) At the discretion of the Commonwealth agency
13 public body with which the public works contractor has
14 contracted, the contractor may be subject to termination
15 of the contract by the Commonwealth agency public body
16 and a fine of up to \$2,000. The right of the Commonwealth
17 agency public body to terminate the contract under this
18 subparagraph may not be waived.

19 (ii) At the discretion of the public works
20 contractor with whom the subcontractor has contracted,
21 the subcontractor may be subject to termination of the
22 subcontract by the public works contractor without
23 recourse against or penalty to the public works
24 contractor. The right of the public works contractor to
25 terminate the subcontract under this subparagraph may not
26 be waived.

27 (3) For a third or subsequent offense relating to the
28 public contract, at the discretion of the Secretary of Labor
29 and Industry, in addition to the sanctions in paragraph (2),
30 the contractor or subcontractor shall be subject to debarment

1 under 62 Pa.C.S. § 531 (relating to debarment or suspension)
2 for one year.

3 (d) Affirmative defense.--It shall be an affirmative defense
4 to any proceeding for a violation of this chapter that a
5 licensee or public works contractor or subcontractor:

6 (1) complied with section 274A of the Immigration and
7 Nationality Act (66 Stat. 163, 8 U.S.C. § 1324a) with respect
8 to hiring, recruiting or referring an individual for
9 employment in the United States; or

10 (2) required a contractor or subcontractor to certify
11 compliance with section 274A of the Immigration and
12 Nationality Act with respect to hiring, recruiting or
13 referring an individual for employment in the United States.

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

17 "Licensee." An individual, corporation, partnership, limited
18 liability company or other legal entity that holds a license
19 issued by a departmental or administrative board or commission
20 under the Bureau of Professional and Occupational Affairs in the
21 Department of State.

22 "Public body." The Commonwealth of Pennsylvania, any of its
23 political subdivisions, any authority created by the General
24 Assembly of the Commonwealth and any instrumentality or agency
25 of the Commonwealth.

26 "Public work." Construction, reconstruction, demolition,
27 alteration and repair work other than maintenance work, done
28 under contract and paid for in whole or in part out of the funds
29 of a public body where the estimated cost of the total project
30 is in excess of \$25,000. The term shall not include work

1 performed under a rehabilitation or manpower training program.

2 "Public works contractor." A contractor that provides goods
3 or services under a contract involving a public works project.

4 "Public works project." A project involving a public work.

5 "Subcontractor." A person, other than a natural person and
6 including, but not limited to, a staffing agency, temporary
7 employment agency or placement agency that performs work for a
8 public works contractor under a contract for a public work.

9 § 3023. Cumulative remedies.

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

13 § 3024. Sentencing.

14 (a) Sentencing enhancements.--In determining a sentence of
15 imprisonment for any violation of this chapter, the court shall
16 consider the following aggravating factors as justification for
17 imposing the maximum sentence allowed under law:

18 (1) If a human trafficking victim suffered bodily
19 injury, with increased penalties for:

20 (i) Serious bodily injury, as defined in section
21 2301 (relating to definitions).

22 (ii) Permanent or life-threatening bodily injury.

23 (iii) Death.

24 (2) The time the individual was held in involuntary
25 servitude, with increased penalties for holding a human
26 trafficking victim:

27 (i) For at least 180 days and less than one year.

28 (ii) For one year or more.

29 (3) The number of human trafficking victims, with
30 increased penalties if violations involved more than one

1 human trafficking victim.

2 (4) If the human trafficking victim was a minor at the
3 time of the initial offense under this chapter.

4 (b) Victim impact statement.--Human trafficking victims
5 under this chapter shall have the opportunity to offer prior
6 comment on the sentencing of a defendant under the following
7 circumstances:

8 (1) The office of the district attorney shall provide
9 notice of the opportunity to the human trafficking victim.

10 (2) The prior comment may include the submission of a
11 written and oral victim impact statement detailing the
12 physical, psychological and economic effects of the crime on
13 the human trafficking victim and the human trafficking
14 victim's family.

15 (3) The written statement or oral transcript shall be
16 included in any predisposition or presentence report
17 submitted to the court.

18 (4) Victim impact statements shall be considered by a
19 court when determining a sentence.

20 (5) An interpreter who speaks a language that the human
21 trafficking victim understands shall be made available to the
22 human trafficking victim during the course of legal
23 proceedings.

24 § 3025. Data collection.

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

29 SUBCHAPTER C

30 PREVENTION OF HUMAN TRAFFICKING

1 Sec.

2 3031. Pennsylvania Council for the Prevention of Human
3 Trafficking.

4 3032. Commission responsibilities.

5 3033. Training.

6 3034. Public awareness.

7 3035. National Human Trafficking Resource Center Hotline.

8 3036. Grants.

9 3037. Role of nongovernmental organizations.

10 § 3031. Pennsylvania Council for the Prevention of Human
11 Trafficking.

12 (a) Establishment.--The Pennsylvania Council for the
13 Prevention of Human Trafficking is established in the
14 commission.

15 (b) Membership.--The council shall include the following:

16 (1) A representative of the Office of the Governor.

17 (2) A representative of the Office of Attorney General.

18 (3) A representative of the Department of Labor and
19 Industry.

20 (4) A representative of the Department of Health.

21 (5) A representative of the Department of Public
22 Welfare.

23 (6) A representative of the Department of State.

24 (7) A representative of the Pennsylvania State Police.

25 (8) A representative of the Pennsylvania District
26 Attorneys Association.

27 (9) A representative of the Pennsylvania Chiefs of
28 Police Association.

29 (10) A representative of the Pennsylvania Sheriffs'
30 Association.

1 (11) A representative of the Pennsylvania Coalition
2 Against Domestic Violence.

3 (12) A representative of the Pennsylvania Coalition
4 Against Rape.

5 (13) Three representatives of local law enforcement
6 agencies appointed by the Governor.

7 (14) Ten representatives from nongovernmental
8 organizations appointed by the Governor to include:

9 (i) organizations with substantial experience
10 serving human trafficking victims;

11 (ii) regional organizations, including task forces
12 and coalitions devoted to human trafficking;

13 (iii) agencies devoted to runaway services; and

14 (iv) academic researchers dedicated to the subject
15 of human trafficking.

16 (c) Federal government representation on council.--The
17 Governor shall invite a representative from each of the
18 following organizations operating within the Commonwealth to be
19 members of the council:

20 (1) The United States Attorneys' offices.

21 (2) The Federal Bureau of Investigation.

22 (3) The United States Immigration and Customs
23 Enforcement.

24 (4) The United States Department of Labor.

25 (d) Procedural matters.--

26 (1) The council shall meet at least four times annually.

27 (2) The commission shall call and organize the first
28 meeting of the council, at which time the council shall elect
29 from among the membership a chair, who shall serve for two
30 years, or until a successor is elected.

1 (3) A simple majority of the council members shall
2 constitute a quorum.

3 (4) Members of the council shall serve without
4 compensation, but each member shall be reimbursed for any
5 actual and necessary expenses incurred in the performance of
6 council-related duties. Expenses may include reimbursement of
7 travel and living expenses while engaged in council business.

8 (5) The council shall establish rules for the conduct of
9 its meetings.

10 (e) Responsibilities.--The council shall:

11 (1) Develop and assist the commission in implementing
12 the State plan developed in section 3051 (relating to State
13 Plan for the Prevention of Human Trafficking).

14 (2) Administer the grant program established in section
15 3036 (relating to grants).

16 (3) Advise the commission in carrying out its duties
17 under this chapter.

18 (f) Annual report.--The council shall submit an annual
19 report of its findings and recommendations to the Governor, the
20 President pro tempore of the Senate and the Speaker of the House
21 of Representatives on or before December 31 of each calendar
22 year.

23 § 3032. Commission responsibilities.

24 (a) Responsibilities.--The commission shall:

25 (1) Enhance and support local and regional efforts to
26 combat human trafficking.

27 (2) Coordinate the implementation of the State plan.

28 (3) Coordinate the sharing of information between
29 agencies for the purposes of detecting persons engaged in
30 human trafficking.

1 (4) Explore the establishment of State policies for time
2 limits for the issuance of law enforcement agency
3 endorsements as described in Federal regulations found at 8
4 CFR § 214.11(f)(1) (relating to alien victims of severe forms
5 of trafficking in persons).

6 (5) Establish policies to work with nongovernmental
7 organizations to prevent human trafficking and provide
8 assistance to human trafficking victims.

9 (6) Review existing services and facilities to meet the
10 needs of human trafficking victims and recommend improved
11 coordination efforts involving:

12 (i) Health services, including mental health
13 services.

14 (ii) Housing.

15 (iii) Education and job training.

16 (iv) English as a Second Language classes.

17 (v) Interpreting services.

18 (vi) Legal and immigration services.

19 (vii) Victim compensation.

20 (viii) Processes and procedures to protect human
21 trafficking victims after identification as a human
22 trafficking victim.

23 (7) Evaluate various approaches used by State and local
24 governments to increase public awareness of human
25 trafficking.

26 (8) Develop screening protocols for use by emergency
27 medical services providers as defined in 35 Pa.C.S. § 8103
28 (relating to definitions).

29 (9) Compile and publish a Statewide directory of
30 agencies that provide services to human trafficking victims.

1 (10) Develop guidelines for size and display of public
2 information materials developed under section 3034 (relating
3 to public awareness).

4 (11) Provide administrative support or other assistance
5 to the council.

6 (b) Delegation of responsibilities.--The commission may
7 delegate any or all of its duties to nongovernmental
8 organizations.

9 § 3033. Training.

10 (a) Law enforcement personnel.--The commission shall develop
11 a course of training in all aspects of human trafficking to be
12 included as a component of in-service training for the
13 following:

14 (1) Members of the Pennsylvania State Police.

15 (2) Municipal police officers, as defined in 53 Pa.C.S.
16 Ch. 21 (relating to employees).

17 (3) County sheriffs and deputy sheriffs.

18 (4) Adult and juvenile parole and probation officers.

19 (b) Juvenile detention center staff.--The commission shall
20 develop a course of training in all aspects of human trafficking
21 to be presented as an annual workshop for all juvenile detention
22 center staff.

23 (c) Other agencies.--The following shall add a training
24 component to identify human trafficking victims for use by their
25 personnel:

26 (1) The Department of Corrections.

27 (2) The Department of Health.

28 (3) The Department of Public Welfare.

29 (4) The Department of Education.

30 (5) The Department of Labor and Industry.

1 (6) The Office of Victim Advocate.

2 (7) The commission.

3 (d) Victims in shelters.--The commission shall develop
4 training materials for use by staff working in domestic
5 violence, sexual violence and human trafficking shelters to
6 ensure the safety of human trafficking victims residing in
7 shelters.

8 § 3034. Public awareness.

9 (a) Potential victims and content.--In cooperation with
10 appropriate nongovernmental organizations, the commission shall
11 prepare public awareness programs designed to educate potential
12 victims and their families on the risks of human trafficking,
13 including information regarding:

14 (1) Common recruitment techniques.

15 (2) The use of debt bondage.

16 (3) Common coercive tactics.

17 (4) The health risks of maltreatment, rape, exposure to
18 HIV/AIDS and sexually transmitted diseases.

19 (5) The potential psychological harm.

20 (6) The risks of engaging in commercial sex acts and
21 possible punishment.

22 (7) Human trafficking victims' rights under Federal and
23 State law.

24 (8) Methods for reporting suspected recruitment
25 activities.

26 (9) Types of services available to victims and how to
27 access such services.

28 (10) Relevant hotlines, including the National Human
29 Trafficking Resource Center Hotline under section 3035
30 (relating to National Human Trafficking Resource Center

1 Hotline).

2 (b) General public awareness programs.--In cooperation with
3 other appropriate governmental agencies and nongovernmental
4 organizations, the commission shall prepare and disseminate
5 general public awareness programs and materials to educate the
6 public on the extent of human trafficking of both United States
7 citizens and foreign nationals and to discourage the demand that
8 fosters the exploitation of persons that leads to human
9 trafficking.

10 (c) Content.--General public awareness programs and
11 materials under this section shall recognize and be sensitive to
12 ethnic and cultural differences among human trafficking victims
13 and may include:

14 (1) The impact of human trafficking on individual
15 victims.

16 (2) Aggregate information on human trafficking worldwide
17 and domestically.

18 (3) Warnings of the criminal consequences of engaging in
19 human trafficking.

20 (4) Information described in paragraphs (a) (4), (5),
21 (6), (7), (8), (9) and (10).

22 (d) Types of materials.--Materials described in subsections
23 (b) and (c) may include pamphlets, brochures, posters,
24 advertisements in mass media, public service announcements and
25 any other appropriate media.

26 (e) Privacy protected.--All programs and materials developed
27 under this section shall preserve the privacy of human
28 trafficking victims and their families.

29 (f) Periodic evaluation.--All public awareness programs
30 prepared under this section shall be evaluated periodically to

1 ensure their effectiveness.

2 § 3035. National Human Trafficking Resource Center Hotline.

3 Information regarding the National Human Trafficking Resource
4 Center Hotline shall be disseminated pursuant to the act of
5 October 24, 2012 (P.L. , No.197), known as the National Human
6 Trafficking Resource Center Hotline Notification Act.

7 § 3036. Grants.

8 (a) General rule.--Subject to the availability of funds, the
9 council shall make grants to units of local government and
10 nongovernmental organizations to:

11 (1) Develop, expand or strengthen programs for victims.

12 (2) Ensure prevention of human trafficking.

13 (3) Ensure protection of victims.

14 (b) Conflict of interest.--Whenever a member of the council
15 is a representative of an applicant for a grant under this
16 section, the member shall fully disclose the nature of the
17 interest and withdraw from discussion, lobbying and voting on
18 the matter. Any transaction or vote involving a potential
19 conflict of interest shall be approved only when a majority of
20 disinterested council members determines that it is in the best
21 interests of the grant program to do so.

22 § 3037. Role of nongovernmental organizations.

23 In implementing the responsibilities assigned under sections
24 3031 (relating to Pennsylvania Council for the Prevention of
25 Human Trafficking), 3033 (relating to training) and 3034
26 (relating to public awareness), the commission shall enlist the
27 cooperation of nongovernmental organizations, including the
28 following:

29 (1) Organizations with substantial experience serving
30 victims of human trafficking, sexual violence or domestic

1 violence.

2 (2) Regional organizations, including task forces and
3 coalitions devoted to human trafficking.

4 (3) Agencies devoted to runaway services.

5 (4) Agencies providing shelter and secure housing for
6 victims.

7 (5) Academic researchers dedicated to the subject of
8 human trafficking.

9 SUBCHAPTER D

10 PROTECTION OF HUMAN TRAFFICKING VICTIMS

11 Sec.

12 3051. State Plan for the Prevention of Human Trafficking.

13 3052. Civil causes of action.

14 3053. Protection of victims.

15 3054. Appropriate implementation for minor human trafficking
16 victims.

17 3055. Services.

18 3056. Victims in shelters.

19 § 3051. State Plan for the Prevention of Human Trafficking.

20 (a) Development of plan.--The council shall assist the
21 commission in the development of the plan for a coordinated
22 response system to provide services to human trafficking victims
23 as provided in section 9 of the act of October 24, 2012 (P.L. ,
24 No.197), known as the National Human Trafficking Resource Center
25 Hotline Notification Act.

26 (b) Personal characteristics to be considered.--In the
27 development of the State plan under this section, the council
28 shall consider the following factors relevant to the human
29 trafficking victim and the victim's dependent children:

30 (1) Age.

- 1 (2) Gender.
- 2 (3) Special needs.
- 3 (4) Sexual orientation.
- 4 (5) Gender identity.
- 5 (6) Racial and ethnic background.

6 (c) Implementation.--The State plan shall be submitted to
7 the commission, which shall implement the plan in compliance
8 with the requirements of this section and ensure that all human
9 trafficking victims are treated with respect for their human
10 rights and dignity. The council shall review the State plan
11 annually to ensure that it continues to meet the needs of
12 victims of human trafficking.

13 § 3052. Civil causes of action.

14 (a) General rule.--

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

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

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

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

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

30 (b) Exception.--This section shall not be construed to

1 create liability for any person who provides goods or services
2 to the general public and to a person who would be liable under
3 paragraph (a)(2), absent a showing that the person:

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

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

8 (3) supervises or exercises control over a person liable
9 under paragraph (a)(2).

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

12 (1) Actual damages.

13 (2) Compensatory damages.

14 (3) Punitive damages.

15 (4) Injunctive relief.

16 (5) Any other appropriate relief.

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

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

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

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

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

30 (g) Attempts at avoidance of liability.--No person may avoid

1 liability under this section by:

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

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

7 (h) Statute of limitations.--The statute of limitations for
8 an action under this section may be tolled under any of the
9 following circumstances:

10 (1) Until the plaintiff discovers that the human
11 trafficking incident occurred and that the defendant caused,
12 was responsible for or profited from the incident.

13 (2) Until a minor victim has attained the age of
14 majority.

15 (3) If a plaintiff is under a disability that makes it
16 impossible or impracticable for the plaintiff to bring an
17 action at the time the cause of action accrues, until the
18 disability has been removed.

19 (4) If the plaintiff's injury is caused by two or more
20 incidents that are part of a human trafficking situation
21 created by the same defendant, until the last human
22 trafficking incident in the continuing series occurs.

23 (5) If the plaintiff is subject to threats,
24 intimidation, manipulation or fraud perpetrated by the
25 defendant or any person acting on the defendant's behalf,
26 until such actions have ceased.

27 (i) Estoppel.--A defendant is estopped from asserting a
28 defense of the statute of limitations when the expiration of the
29 statute is due to conduct by the defendant inducing the
30 plaintiff to delay the filing of the action or placing the

1 plaintiff under duress.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 activities.

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

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

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

10 "Disability." Includes insanity, imprisonment or other
11 incapacity or intellectual disability.

12 "Sex trade." An act, which if proven beyond a reasonable
13 doubt, could support a conviction for violation or attempted
14 violation of Ch. 59 (relating to public indecency) or section
15 6312 (relating to sexual abuse of children).

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

17 (1) The object of a solicitation for prostitution.

18 (2) The object of a transaction in a commercial sex act.

19 (3) Intended or compelled to engage in an act of
20 prostitution.

21 (4) Intended or compelled to engage in a commercial sex
22 act.

23 (5) Described or depicted in material that advertises an
24 intent or compulsion to engage in commercial sex acts.

25 (6) In the case of obscenity or child pornography, has
26 appeared in or been described or depicted in the offending
27 conduct or material.

28 § 3053. Protection of victims.

29 Law enforcement agencies shall take all steps necessary to
30 identify and protect human trafficking victims, including:

1 (1) Interviewing all individuals arrested on charges of
2 prostitution to identify if they are victims.

3 (2) Upon identification as a human trafficking victim
4 and subject to the consent of the victim and the victim's
5 family, where family consent is appropriate, by:

6 (i) providing reasonable protection to prevent
7 recapture by human traffickers and their associates;

8 (ii) securing the victim and the victim's family
9 known to be living in this Commonwealth from threats,
10 reprisals or intimidation by the human traffickers and
11 their associates; and

12 (iii) ensuring that the victim has an opportunity to
13 consult with a victim advocate or other appropriate
14 person to develop a safety plan and for advocacy
15 purposes.

16 § 3054. Appropriate implementation for minor human trafficking
17 victims.

18 (a) Best interest standard.--The provision of services to a
19 minor human trafficking victim by the Commonwealth or by any
20 institution or person established or licensed by the
21 Commonwealth shall be carried out in a manner that is in the
22 best interest of the minor and appropriate to the particular
23 situation.

24 (b) Special procedures.--Special procedures shall be
25 developed to accommodate minor witnesses during the
26 investigation and prosecution of violations of this chapter,
27 including:

28 (1) The presence of the parent, legal guardian, foster
29 parent or attorney during all testimony and court
30 proceedings, if it is in the best interest of the minor.

1 (2) Reuniting the minor with family members, whether
2 within or without the United States, whenever safe, possible
3 and in the best interest of the minor.

4 (3) Formally investigate the home situation of a minor
5 who became a human trafficking victim after running away or
6 being cast out of the minor's home or foster care.

7 § 3055. Services.

8 (a) Effect of guilty plea.--Any plea of guilty entered under
9 section 3011 (relating to trafficking in individuals) or 3012
10 (relating to involuntary servitude) by a defendant shall
11 automatically entitle the human trafficking victim to all
12 benefits, rights and compensation granted under this chapter.

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

17 (1) Progress in the prosecution of the defendants.

18 (2) Information on prison release dates of persons
19 convicted of offenses under this chapter.

20 (3) Their right to provide a victim impact statement.

21 (4) Their right to a victim advocate.

22 (5) The procedure for repatriation to the human
23 trafficking victim's country of citizenship or lawful
24 residence.

25 (6) A directory of local human trafficking victim
26 service organizations.

27 (7) A directory of legal services organizations that can
28 assist human trafficking victims in obtaining or maintaining
29 legal immigration status.

30 (c) Access to crime victims' services.--

1 (1) Human trafficking victims shall be eligible for
2 benefits and compensation under the act of November 24, 1998
3 (P.L.882, No.111), known as the Crime Victims Act.

4 (2) Law enforcement agencies shall inform human
5 trafficking victims of benefits they may receive under
6 Federal and State laws, and may assist those human
7 trafficking victims in obtaining such benefits where law
8 enforcement assistance is required in order to obtain those
9 benefits.

10 (3) A human trafficking victim who is charged with a
11 violation under Ch. 59 (relating to public indecency) shall
12 not be precluded from receiving benefits under the Crime
13 Victims Act on the basis of those charges only.

14 (d) Refugee benefits.--Foreign national human trafficking
15 victims and their accompanying dependent children shall be
16 eligible to receive benefits in the same manner and to the same
17 extent as refugees.

18 (e) Labor standards and working conditions.--The Department
19 of Labor and Industry shall:

20 (1) Administer labor standards regarding wages, hours of
21 work and working conditions under its jurisdiction without
22 regard to the legal status of the individual's right to work
23 in the United States.

24 (2) Investigate complaints of unlawful working
25 conditions without regard to the immigration status of the
26 complainants and without regard to the nature of the work or
27 services involved.

28 (f) Immigration certification.--

29 (1) The Attorney General, a district attorney or any
30 representative of a law enforcement agency may certify in

1 writing to the United States Department of Justice or other
2 Federal agency, including the United States Department of
3 Homeland Security, that:

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

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

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

13 (3) Certification under this subsection may be made
14 available to the human trafficking victim and the human
15 trafficking victim's designated legal representative.

16 § 3056. Victims in shelters.

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

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

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

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

29 SUBCHAPTER E

30 MISCELLANEOUS PROVISIONS

1 Sec.

2 3071. Appropriations.

3 3072. Other funding.

4 3073. Nonexclusivity.

5 § 3071. Appropriations.

6 The General Assembly shall appropriate funds as necessary to
7 support the activities of the council.

8 § 3072. Other funding.

9 (a) Grant applications.--In addition to the money
10 appropriated in section 3071 (relating to appropriations) and
11 any other money that may be appropriated from time to time by
12 the General Assembly for its work, the council, in conjunction
13 with the commission, is authorized to apply for and expend
14 Federal grants and grants and contributions from other public,
15 quasi-public or private sources to assist in implementing this
16 chapter.

17 (b) Commission support.--The commission shall provide
18 adequate resources to the council to implement this chapter.

19 § 3073. Nonexclusivity.

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

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

24 § 5708. Order authorizing interception of wire, electronic or
25 oral communications.

26 The Attorney General, or, during the absence or incapacity of
27 the Attorney General, a deputy attorney general designated in
28 writing by the Attorney General, or the district attorney or,
29 during the absence or incapacity of the district attorney, an
30 assistant district attorney designated in writing by the

1 district attorney of the county wherein the suspected criminal
2 activity has been, is or is about to occur, may make written
3 application to any Superior Court judge for an order authorizing
4 the interception of a wire, electronic or oral communication by
5 the investigative or law enforcement officers or agency having
6 responsibility for an investigation involving suspected criminal
7 activities when such interception may provide evidence of the
8 commission of any of the following offenses, or may provide
9 evidence aiding in the apprehension of the perpetrator or
10 perpetrators of any of the following offenses:

11 (1) Under this title:

12 Section 911 (relating to corrupt organizations)

13 Section 2501 (relating to criminal homicide)

14 Section 2502 (relating to murder)

15 Section 2503 (relating to voluntary manslaughter)

16 Section 2702 (relating to aggravated assault)

17 Section 2706 (relating to terroristic threats)

18 Section 2709.1 (relating to stalking)

19 Section 2716 (relating to weapons of mass
20 destruction)

21 Section 2901 (relating to kidnapping)

22 Section [3002] 3011 (relating to trafficking [of
23 persons] in individuals)

24 Section 3121 (relating to rape)

25 Section 3123 (relating to involuntary deviate sexual
26 intercourse)

27 Section 3124.1 (relating to sexual assault)

28 Section 3125 (relating to aggravated indecent
29 assault)

30 Section 3301 (relating to arson and related offenses)

1 Section 3302 (relating to causing or risking
2 catastrophe)
3 Section 3502 (relating to burglary)
4 Section 3701 (relating to robbery)
5 Section 3921 (relating to theft by unlawful taking or
6 disposition)
7 Section 3922 (relating to theft by deception)
8 Section 3923 (relating to theft by extortion)
9 Section 4701 (relating to bribery in official and
10 political matters)
11 Section 4702 (relating to threats and other improper
12 influence in official and political matters)
13 Section 5512 (relating to lotteries, etc.)
14 Section 5513 (relating to gambling devices, gambling,
15 etc.)
16 Section 5514 (relating to pool selling and
17 bookmaking)
18 Section 5516 (relating to facsimile weapons of mass
19 destruction)
20 Section 6318 (relating to unlawful contact with
21 minor)

22 * * *

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

25 § 4415. Confidential communications in presence of interpreter.

26 An interpreter appointed under this subchapter shall not be
27 compelled to testify in any judicial proceeding or
28 administrative proceeding to any statements made by the person
29 with limited English proficiency and interpreted by the
30 interpreter when the person with limited English proficiency is

1 engaged in a confidential communication as provided by any
2 statute or general rule, including, but not limited to:

3 * * *

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

6 § 4436. Confidential communications in presence of interpreter.

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

14 * * *

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

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

19 § 5552. Other offenses.

20 * * *

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

24 * * *

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

1 Title 18 (relating to crimes and offenses):

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

4 Section 3012 (relating to involuntary servitude).

5 Section 3121 (relating to rape).

6 Section 3122.1 (relating to statutory sexual
7 assault).

8 Section 3123 (relating to involuntary deviate sexual
9 intercourse).

10 Section 3124.1 (relating to sexual assault).

11 Section 3125 (relating to aggravated indecent
12 assault).

13 Section 3126 (relating to indecent assault).

14 Section 3127 (relating to indecent exposure).

15 Section 4302 (relating to incest).

16 Section 4304 (relating to endangering welfare of
17 children).

18 Section 6301 (relating to corruption of minors).

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

21 Section 6320 (relating to sexual exploitation of
22 children).

23 * * *

24 (5) An offense under 18 Pa.C.S. § 3011 or 3012 in which
25 the human trafficking victim was not a minor any time up to
26 five years from the date the human trafficking victim escaped
27 from the human trafficking situation.

28 * * *

29 Section 7. Section 5554(2) and (3) of Title 42 are amended
30 and the section is amended by adding a paragraph to read:

1 § 5554. Tolling of statute.

2 Except as provided by section 5553(e) (relating to
3 disposition of proceedings within two years), the period of
4 limitation does not run during any time when:

5 * * *

6 (2) a prosecution against the accused for the same
7 conduct is pending in this Commonwealth; [or]

8 (3) a child is under 18 years of age, where the crime
9 involves injuries to the person of the child caused by the
10 wrongful act, or neglect, or unlawful violence, or negligence
11 of the child's parents or by a person responsible for the
12 child's welfare, or any individual residing in the same home
13 as the child, or a paramour of the child's parent[.]; or

14 (4) a person entitled to prosecute an offense under 18
15 Pa.C.S. Ch. 30 (relating to human trafficking) could not have
16 reasonably discovered the offense due to circumstances
17 resulting from the human trafficking situation, such as
18 psychological trauma, social, cultural and linguistic
19 isolation and the inability to access services.

20 Section 8. Title 42 is amended by adding a section to read:
21 § 5945.3. Confidential communications with human trafficking
22 caseworkers.

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

27 (b) Privilege.--

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

29 (i) A human trafficking caseworker.

30 (ii) An interpreter.

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

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

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

16 "Human trafficking caseworker." An individual:

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

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

22 (3) who:

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

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

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

30 (A) the history of human trafficking;

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

3 (C) societal attitudes toward human trafficking;

4 (D) peer counseling techniques;

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

8 (F) referral services available to human
9 trafficking victims;

10 (G) privileged communications; or

11 (H) human trauma therapy counseling.

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

16 Section 9. Sections 9720.2 and 9738(b) of Title 42 are
17 amended to read:

18 § 9720.2. Sentencing for trafficking of persons.

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

22 (1) 18 Pa.C.S. § 2901 (relating to kidnapping);

23 (2) 18 Pa.C.S. § 3121 (relating to rape); or

24 (3) 18 Pa.C.S. § 3123 (relating to involuntary deviate
25 sexual intercourse);

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

27 § 9738. Victim impact statements.

28 * * *

29 (b) Definition.--As used in this section, the term "victim"
30 shall [have the same meaning as in section 479.1 of the act of

1 April 9, 1929 (P.L.177, No.175), known as The Administrative
2 Code of 1929.] mean a "victim" as defined in:

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

5 (2) 18 Pa.C.S. § 3001 (relating to definitions).

6 Section 10. Applicability is as follows:

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

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

13 Section 11. This act shall take effect in 60 days.