

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 885 Session of 2011

INTRODUCED BY LEACH, WOZNIAK, FONTANA AND FOLMER, MARCH 23, 2011

REFERRED TO JUDICIARY, MARCH 23, 2011

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, providing for the definition of "commercial sex";
4 further providing for trafficking of persons and for
5 prostitution and related offenses; and providing for motion
6 to vacate conviction for prostitution.

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

9 Section 1. Section 3001 of Title 18 of the Pennsylvania
10 Consolidated Statutes is amended by adding a definition to read:
11 § 3001. Definitions.

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

15 "Commercial sex." Commercial sex acts, including conduct
16 that constitutes an offense under section 5902 (relating to
17 prostitution and related offenses), that are performed or
18 provided:

19 (1) by a person under 18 years of age; or

20 (2) by a person 18 years of age or over who performs the

1 acts because another person:

2 (i) attempts to cause, causes or by threat of
3 physical menace puts the person performing the acts in
4 fear of bodily injury;

5 (ii) physically restrains or threatens to physically
6 restrain the person performing the acts unlawfully;

7 (iii) abuses or threatens to abuse the law or legal
8 process;

9 (iv) possesses except as required under Federal
10 immigration law or regulation, destroys, conceals,
11 removes or confiscates any actual or purported passport
12 or other immigration document of the person performing
13 the acts, or any other actual or purported government
14 identification document of the person performing the
15 acts; or

16 (v) engages in criminal coercion of the person
17 performing the acts.

18 * * *

19 Section 2. Section 3002(a) of Title 18 is amended to read:

20 § 3002. Trafficking of persons.

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

25 * * *

26 Section 3. Section 5902 of Title 18 is amended by adding a
27 subsection to read:

28 § 5902. Prostitution and related offenses.

29 * * *

30 (a.2) Victim of sex trafficking.--A person shall not be

guilty of prostitution under subsection (a) if the person's participation in the offense was a result of having been a victim of trafficking for commercial sex under section 3002(a) (relating to trafficking of persons) or trafficking in persons under the Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7101 et seq.). Official documentation of the person's status as a victim of sex trafficking or trafficking in persons at the time of the offense from a Federal, State or local government agency or a victim services agency or organization shall create a presumption that the person's participation in the offense was a result of having been a victim of sex trafficking or trafficking in persons.

* * *

Section 4. Title 42 is amended by adding a section to read:
§ 9502. Motion to vacate conviction for prostitution.

(a) Procedure.--At any time after the entry of a judgment, the court in which it was entered may, upon motion of the defendant, vacate the judgment upon the ground that the defendant's conviction was under 18 Pa.C.S. § 5902 (relating to prostitution and related offenses) and participation in the offense was a result of having been a victim of trafficking for commercial sex under 18 Pa.C.S. § 3002(a) (relating to trafficking of persons) or trafficking in persons under the Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7101 et seq.).

(b) Requirements.--A motion under this section shall be made with due diligence, after the defendant has ceased to be a victim of the trafficking or has sought services for victims of the trafficking, subject to reasonable concerns for the safety of the defendant, family members of the defendant or other

1 victims of the trafficking that may be jeopardized by the
2 bringing of the motion, or for other reasons consistent with the
3 purpose of this section. Official documentation of the
4 defendant's status as a victim of sex trafficking or trafficking
5 in persons at the time of the offense from a Federal, State or
6 local government agency or a victim services agency or
7 organization shall create a presumption that the defendant's
8 participation in the offense was a result of having been a
9 victim of sex trafficking or trafficking in persons, but shall
10 not be required for granting a motion under this section.

11 Section 5. This act shall take effect in 60 days.