

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
2 Judicial Procedure) of the Pennsylvania Consolidated
3 Statutes, in human trafficking, further providing for the
4 offense of trafficking in individuals and for the offense of
5 patronizing a victim of sexual servitude and providing for
6 collection of evidence; in public indecency, further
7 providing for the offense of prostitution and related
8 offenses; in depositions and witnesses, further providing for
9 definitions and for recorded testimony; and, in sentencing,
10 further providing for sexual offenses and tier system.

11 The General Assembly of the Commonwealth of Pennsylvania

12 hereby enacts as follows:

13 Section 1. Sections 3011(a) and 3013(a) and (c) of Title 18
14 of the Pennsylvania Consolidated Statutes are amended to read:

15 § 3011. Trafficking in individuals.

16 (a) Offense defined.--A person commits a felony of the
17 [second] first degree if the person:

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

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

4 * * *

5 § 3013. Patronizing a victim of sexual servitude.

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

11 * * *

12 (c) Fine.--A person whose violation of this section results
13 in a judicial disposition other than acquittal or dismissal
14 shall also pay a fine [of \$500] in one of the following amounts
15 to the court, to be distributed to the commission to fund the
16 grant program established under section 3031 (relating to
17 grants)[.]:

18 (1) Not less than \$1,000 and not more than \$30,000.

19 (2) Not less than \$5,000 and not more than \$100,000 if
20 the victim of sexual servitude was a minor at the time of the
21 offense.

22 Section 2. Title 18 is amended by adding a section to read:

23 § 3018.1. Collection of evidence.

24 Law enforcement may request the interception of communication
25 under section 5708 (relating to order authorizing interception
26 of wire, electronic or oral communications) in the investigation
27 of an offense under this chapter.

28 Section 3. Section 5902 of Title 18 is amended by adding
29 subsections to read:

1 § 5902. Prostitution and related offenses.

2 * * *

3 (b.2) Forfeiture of assets.--

4 (1) The assets used by a person to promote and the
5 assets gained by a person through promoting a criminal act
6 under subsection (b) or (b.1) shall be seized and sold upon
7 the person's conviction of an offense under this section.

8 (2) Money realized from the sale of assets under
9 paragraph (1) shall be used to make grants under section 3031
10 (relating to grants).

11 * * *

12 (e.3) Additional fines for offenses under subsection (e).--

13 (1) A person convicted of a second offense under
14 subsection (e) shall pay an additional fine of not less than
15 \$1,000 nor more than \$20,000.

16 (2) A person convicted of a third offense under
17 subsection (e) shall pay an additional fine of not less than
18 \$5,000 nor more than \$30,000.

19 (3) A person convicted of a fourth or subsequent offense
20 under subsection (e) shall pay an additional fine of not less
21 than \$10,000 nor more than \$50,000.

22 * * *

23 Section 4. Sections 5982, 5984.1 and 9799.14(c) of Title 42
24 are amended to read:

25 § 5982. Definitions.

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

29 "Child" or "children." An individual or individuals under

1 [16] 18 years of age.

2 "Contemporaneous alternative method." Any method of
3 capturing the visual images, oral communications and other
4 information presented during a prosecution or adjudication
5 involving a child victim or a child material witness and
6 transmitting and receiving such images, communications and other
7 information at or about the time of their creation, including,
8 but not limited to, closed-circuit television, streaming image
9 sent via the Internet or an intranet and any other devices or
10 systems used to accomplish such ends.

11 "Minor." An individual who, at the time of the commission of
12 the offense involving sexual or physical abuse, is under 18
13 years of age.

14 "Qualified shorthand reporter." An individual engaged in the
15 active practice of general shorthand reporting who is skilled in
16 the art of verbatim reporting by the use of a written shorthand
17 system, whether manual or machine; or any individual who is an
18 official court or legislative reporter; or any individual who is
19 the holder of a certified shorthand reporter certificate
20 mandated by State or Federal law.

21 § 5984.1. Recorded testimony.

22 (a) Recording.--Subject to subsection (b), in any
23 prosecution or adjudication involving a child victim or child
24 material witness, including a child victim of sexual or labor
25 servitude, the court may order that the child victim's or child
26 material witness's testimony be recorded for presentation in
27 court by any method that accurately captures and preserves the
28 visual images, oral communications and other information
29 presented during such testimony. The testimony shall be taken

1 under oath or affirmation before the court in chambers or in a
2 special facility designed for taking the recorded testimony of
3 children. Only the attorneys for the defendant and for the
4 Commonwealth, persons necessary to operate the equipment, a
5 qualified shorthand reporter and any person whose presence would
6 contribute to the welfare and well-being of the child victim or
7 child material witness, including persons designated under
8 section 5983 (relating to rights and services), may be present
9 in the room with the child during testimony. The court shall
10 permit the defendant to observe and hear the testimony of the
11 child victim or child material witness but shall ensure that the
12 child victim or child material witness cannot hear or see the
13 defendant. Examination and cross-examination of the child victim
14 or child material witness shall proceed in the same manner as
15 normally permitted. The court shall make certain that the
16 defendant and defense counsel have adequate opportunity to
17 communicate for the purpose of providing an effective defense.

18 (b) Determination.--Before the court orders the child victim
19 or the child material witness, including a child victim of
20 sexual or labor servitude, to testify by recorded testimony, the
21 court must determine, based on evidence presented to it, that
22 testifying either in an open forum in the presence and full view
23 of the finder of fact or in the defendant's presence will result
24 in the child victim or child material witness suffering serious
25 emotional distress that would substantially impair the child
26 victim's or child material witness's ability to reasonably
27 communicate. In making this determination, the court may do any
28 of the following:

29 (1) Observe and question the child victim or child

1 material witness, either inside or outside the courtroom.

2 (2) Hear testimony of a parent or custodian or any other
3 person, such as a person who has dealt with the child victim
4 or child material witness in a medical or therapeutic
5 setting.

6 (c) Counsel and confrontation.--

7 (1) If the court observes or questions the child victim
8 or child material witness, including a child victim of sexual
9 or labor servitude, under subsection (b) (1), the attorney for
10 the defendant and the attorney for the Commonwealth have the
11 right to be present, but the court shall not permit the
12 defendant to be present.

13 (2) If the court hears testimony under subsection
14 (b) (2), the defendant, the attorney for the defendant and the
15 attorney for the Commonwealth have the right to be present.

16 § 9799.14. Sexual offenses and tier system.

17 * * *

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

20 (1) 18 Pa.C.S. § 3011(b) (relating to trafficking in
21 individuals).

22 (1.1) 18 Pa.C.S. § 3122.1(a)(2) (relating to statutory
23 sexual assault).

24 (1.2) 18 Pa.C.S. § 3124.2(a.2) and (a.3).

25 (1.3) 18 Pa.C.S. § 3126(a)(2), (3), (4), (5), (6) or
26 (8).

27 (1.4) 18 Pa.C.S. § 3013 (relating to patronizing a
28 victim of sexual servitude).

29 (2) 18 Pa.C.S. § 5902(b.1) and (e) (relating to

1 prostitution and related offenses).

2 (3) 18 Pa.C.S. § 5903(a)(3)(ii), (4)(ii), (5)(ii) or (6)
3 (relating to obscene and other sexual materials and
4 performances).

5 (4) 18 Pa.C.S. § 6312(b) and (c).

6 (5) 18 Pa.C.S. § 6318 (relating to unlawful contact with
7 minor).

8 (6) 18 Pa.C.S. § 6320 (relating to sexual exploitation
9 of children).

10 (7) 18 U.S.C. § 1591 (relating to sex trafficking of
11 children by force, fraud, or coercion).

12 (8) 18 U.S.C. § 2243 (relating to sexual abuse of a
13 minor or ward).

14 (9) 18 U.S.C. § 2244 (relating to abusive sexual
15 contact) where the victim is 13 years of age or older but
16 under 18 years of age.

17 (10) 18 U.S.C. § 2251 (relating to sexual exploitation
18 of children).

19 (11) 18 U.S.C. § 2251A (relating to selling or buying of
20 children).

21 (12) 18 U.S.C. § 2252(a)(1), (2) or (3).

22 (13) 18 U.S.C. § 2260 (relating to production of
23 sexually explicit depictions of a minor for importation into
24 the United States).

25 (14) 18 U.S.C. § 2421 (relating to transportation
26 generally).

27 (15) 18 U.S.C. § 2422(b).

28 (16) 18 U.S.C. § 2423(a).

29 (17) A comparable military offense or similar offense

1 under the laws of another jurisdiction or foreign country or
2 under a former law of this Commonwealth.

3 (18) An attempt, conspiracy or solicitation to commit an
4 offense listed in paragraph (1), (1.1), (1.2), (1.3), (2),
5 (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13),
6 (14), (15), (16) or (17).

7 * * *

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