

CRIMES CODE (18 PA.C.S.) AND JUDICIAL CODE (42 PA.C.S.) -
OFFENSE OF TRAFFICKING IN INDIVIDUALS, OFFENSE OF PATRONIZING
A VICTIM OF SEXUAL SERVITUDE AND ASSET FORFEITURE
Act of Feb. 5, 2020, P.L. 1, No. 1 Cl. 18
Session of 2020
No. 2020-1

SB 60

AN ACT

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in human trafficking, further providing for the offense of trafficking in individuals, for the offense of patronizing a victim of sexual servitude and for asset forfeiture; and, in depositions and witnesses, further providing for definitions.
This act may be cited as the Buyer Beware Act.

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

Section 1. Section 3011 of Title 18 of the Pennsylvania Consolidated Statutes is amended to read:
§ 3011. Trafficking in individuals.

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

(1) **of the first degree if the person** recruits, entices, solicits, **advertises**, harbors, transports, provides, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to [involuntary] **sexual** servitude; [or]

(2) **of the first degree if the person** knowingly benefits financially or receives anything of value from any act that facilitates any activity described in paragraph (1)[.];

(3) **of the second degree if the person recruits, entices, solicits, advertises, harbors, transports, provides, obtains or maintains an individual if the person knows or recklessly disregards that the individual will be subject to labor servitude; or**

(4) **of the second degree if the person knowingly benefits financially or receives anything of value from an act which facilitates any activity under paragraph (3).**

(b) Trafficking in minors.--[A person commits a felony of the first degree if the person engages in any activity listed in subsection (a) that results in a minor's being subjected to sexual servitude.] **Notwithstanding section 1103 (relating to sentence of imprisonment for felony), a person shall be sentenced to a term of imprisonment fixed by the court at not more than 40 years if:**

(1) **the person violates subsection (a) (1) or (2); and**

(2) **the violation:**

(i) **results in a minor being subjected to sexual servitude; and**

(ii) **is part of a course of conduct subjecting minors to sexual servitude.**

Section 2. Section 3013(a) and (c) of Title 18 are amended and the section is amended by adding a subsection to read:

§ 3013. Patronizing a victim of sexual servitude.

(a) Offense defined.--

(1) A person commits a felony of the [second] **first** degree if the person engages in any sex act or performance with another individual knowing that the act or performance is the result of the individual being a victim of human trafficking.

(2) A person commits an offense if the person engages in any sex act or performance with another individual with reckless disregard for whether the act or performance is the result of the individual being a victim of human trafficking. An offense under this paragraph constitutes:

(i) A felony of the third degree when the offense is a first offense.

(ii) A felony of the first degree when the offense is a second or subsequent offense.

* * *

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

(1) **Except as otherwise provided in paragraph (2):**

(i) Not less than \$1,000 and not more than the maximum amount applicable under section 1101 (relating to fines).

(ii) A person convicted of a second offense shall pay a fine of not less than \$5,000 nor more than \$25,000.

(iii) A person convicted of a third or subsequent offense shall pay a fine of not less than \$10,000 nor more than \$50,000.

(2) Not less than \$10,000 nor more than \$50,000, if the victim of sexual servitude was a minor at the time of the offense.

(d) Distribution of fines.--

(1) From all fines collected under this section, 50% shall be deposited in the Safe Harbor for Sexually Exploited Children Fund established under section 3064 (relating to Safe Harbor for Sexually Exploited Children Fund) and 50% shall be deposited in the restricted account established in paragraph (2).

(2) The Prevention of Human Trafficking Restricted Account is established in the General Fund. The money in the restricted account is appropriated on a continuing basis to the commission for the purpose of funding the grant programs under section 3031.

Section 3. Section 3021(m) of Title 18 is amended to read:
§ 3021. Asset forfeiture.

* * *

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

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

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

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

(ii) Seventy percent to the commission, one-half of which shall be [used] **deposited in the restricted account established in section 3013(d)(2) (relating to patronizing a victim of sexual servitude)** to fund the grant programs established under section 3031 (relating to grants) and one-half to be used by the Office of Victims' Services within the commission to provide services to victims of human trafficking in the manner set forth in Chapter 9 of the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act.

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Section 4. Section 5982 of Title 42 is amended to read:
§ 5982. Definitions.

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

"Child" or "children." An individual or individuals under [16] **18** years of age.

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

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

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

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

APPROVED--The 5th day of February, A.D. 2020.

TOM WOLF