

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2029 Session of 2018

INTRODUCED BY GROVE, BAKER, BERNSTINE, KAUFFMAN, PICKETT,
 TOPPER, RYAN, HAGGERTY, ORTITAY, FEE, HICKERNELL, BOBACK,
 MILLARD, REESE, DOWLING, HILL-EVANS, WARD, PHILLIPS-HILL,
 HELM, MENTZER, NEILSON, SCHWEYER, A. HARRIS AND DeLUCA,
 JANUARY 24, 2018

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 24, 2018

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and
 2 Judicial Procedure) of the Pennsylvania Consolidated
 3 Statutes, in human trafficking, further providing for 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

1 subject to involuntary servitude; or

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

5 * * *

6 § 3013. Patronizing a victim of sexual servitude.

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

12 * * *

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

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

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

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

24 § 3018.1. Collection of evidence.

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

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

1 § 5902. Prostitution and related offenses.

2 * * *

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

4 (1) A person convicted of a second offense under
5 subsection (e) shall pay an additional fine of not less than
6 \$1,000 nor more than \$20,000.

7 (2) A person convicted of a third offense under
8 subsection (e) shall pay an additional fine of not less than
9 \$5,000 nor more than \$30,000.

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

13 * * *

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

16 § 5982. Definitions.

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

20 "Child" or "children." An individual or individuals under
21 [16] 18 years of age.

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

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

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

11 § 5984.1. Recorded testimony.

12 (a) Recording.--Subject to subsection (b), in any
13 prosecution or adjudication involving a child victim or child
14 material witness, including a child victim of sexual or labor
15 servitude, the court may order that the child victim's or child
16 material witness's testimony be recorded for presentation in
17 court by any method that accurately captures and preserves the
18 visual images, oral communications and other information
19 presented during such testimony. The testimony shall be taken
20 under oath or affirmation before the court in chambers or in a
21 special facility designed for taking the recorded testimony of
22 children. Only the attorneys for the defendant and for the
23 Commonwealth, persons necessary to operate the equipment, a
24 qualified shorthand reporter and any person whose presence would
25 contribute to the welfare and well-being of the child victim or
26 child material witness, including persons designated under
27 section 5983 (relating to rights and services), may be present
28 in the room with the child during testimony. The court shall
29 permit the defendant to observe and hear the testimony of the
30 child victim or child material witness but shall ensure that the

1 child victim or child material witness cannot hear or see the
2 defendant. Examination and cross-examination of the child victim
3 or child material witness shall proceed in the same manner as
4 normally permitted. The court shall make certain that the
5 defendant and defense counsel have adequate opportunity to
6 communicate for the purpose of providing an effective defense.

7 (b) Determination.--Before the court orders the child victim
8 or the child material witness, including a child victim of
9 sexual or labor servitude, to testify by recorded testimony, the
10 court must determine, based on evidence presented to it, that
11 testifying either in an open forum in the presence and full view
12 of the finder of fact or in the defendant's presence will result
13 in the child victim or child material witness suffering serious
14 emotional distress that would substantially impair the child
15 victim's or child material witness's ability to reasonably
16 communicate. In making this determination, the court may do any
17 of the following:

18 (1) Observe and question the child victim or child
19 material witness, either inside or outside the courtroom.

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

24 (c) Counsel and confrontation.--

25 (1) If the court observes or questions the child victim
26 or child material witness, including a child victim of sexual
27 or labor servitude, under subsection (b) (1), the attorney for
28 the defendant and the attorney for the Commonwealth have the
29 right to be present, but the court shall not permit the
30 defendant to be present.

1 (2) If the court hears testimony under subsection (b)
2 (2), the defendant, the attorney for the defendant and the
3 attorney for the Commonwealth have the right to be present.
4 § 9799.14. Sexual offenses and tier system.

5 * * *

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

8 (1) 18 Pa.C.S. § 3011(b) (relating to trafficking in
9 individuals).

10 (1.1) 18 Pa.C.S. § 3122.1(a)(2) (relating to statutory
11 sexual assault).

12 (1.2) 18 Pa.C.S. § 3124.2(a.2) and (a.3).

13 (1.3) 18 Pa.C.S. § 3126(a)(2), (3), (4), (5), (6) or
14 (8).

15 (1.4) 18 Pa.C.S. § 3013 (relating to patronizing a
16 victim of sexual servitude).

17 (2) 18 Pa.C.S. § 5902(b.1) and (e) (relating to
18 prostitution and related offenses).

19 (3) 18 Pa.C.S. § 5903(a)(3)(ii), (4)(ii), (5)(ii) or (6)
20 (relating to obscene and other sexual materials and
21 performances).

22 (4) 18 Pa.C.S. § 6312(b) and (c).

23 (5) 18 Pa.C.S. § 6318 (relating to unlawful contact with
24 minor).

25 (6) 18 Pa.C.S. § 6320 (relating to sexual exploitation
26 of children).

27 (7) 18 U.S.C. § 1591 (relating to sex trafficking of
28 children by force, fraud, or coercion).

29 (8) 18 U.S.C. § 2243 (relating to sexual abuse of a
30 minor or ward).

1 (9) 18 U.S.C. § 2244 (relating to abusive sexual
2 contact) where the victim is 13 years of age or older but
3 under 18 years of age.

4 (10) 18 U.S.C. § 2251 (relating to sexual exploitation
5 of children).

6 (11) 18 U.S.C. § 2251A (relating to selling or buying of
7 children).

8 (12) 18 U.S.C. § 2252(a) (1), (2) or (3).

9 (13) 18 U.S.C. § 2260 (relating to production of
10 sexually explicit depictions of a minor for importation into
11 the United States).

12 (14) 18 U.S.C. § 2421 (relating to transportation
13 generally).

14 (15) 18 U.S.C. § 2422(b).

15 (16) 18 U.S.C. § 2423(a).

16 (17) A comparable military offense or similar offense
17 under the laws of another jurisdiction or foreign country or
18 under a former law of this Commonwealth.

19 (18) An attempt, conspiracy or solicitation to commit an
20 offense listed in paragraph (1), (1.1), (1.2), (1.3), (2),
21 (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13),
22 (14), (15), (16) or (17).

23 * * *

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