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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2170 Session of  
2020

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INTRODUCED BY McCLINTON, TOOIL, RABB, FRANKEL, HILL-EVANS,  
FIEDLER, KINSEY, HARRIS, CALTAGIRONE, NEILSON, HOWARD,  
SCHLOSSBERG, KEEFER, DAWKINS, SCHWEYER, LEE, ULLMAN,  
DONATUCCI, WARREN, HARKINS, HANBIDGE, SANCHEZ, BULLOCK,  
GROVE, WILLIAMS, KRUEGER, SAPPEY, WEBSTER, SIMS, JONES,  
BURGOS, YOUNGBLOOD, MERSKI, READSHAW AND MIHALEK,  
JANUARY 10, 2020

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REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 10, 2020

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in human trafficking, further  
3 providing for definitions and for trafficking in individuals;  
4 repealing provisions relating to patronizing a victim of  
5 sexual servitude, providing for the offenses of promoting  
6 prostitution, of living off sexually exploited persons and of  
7 commercial sexual exploitation and further providing for Safe  
8 Harbor for Sexually Exploited Children Fund; in public  
9 indecency, further providing for prostitution and related  
10 offenses; and, in dissemination of criminal history record  
11 information, further providing for expungement.

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

14 Section 1. Section 3001 of Title 18 of the Pennsylvania  
15 Consolidated Statutes is amended by adding definitions to read:  
16 § 3001. Definitions.

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

20 \* \* \*

1 "House of prostitution." Any place where prostitution or  
2 promotion of prostitution is regularly carried on by one person  
3 under the control, management or supervision of another.

4 \* \* \*

5 "Inmate." A person who engages in prostitution in or through  
6 the agency of a house of prostitution.

7 \* \* \*

8 "Public place." Any place to which the public or any  
9 substantial group thereof has access.

10 \* \* \*

11 Section 2. Section 3011(a) of Title 18 is amended to read:

12 § 3011. Trafficking in individuals.

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

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

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

22 \* \* \*

23 Section 3. Section 3013 of Title 18 is repealed:

24 [§ 3013. Patronizing a victim of sexual servitude.

25 (a) Offense defined.--A person commits a felony of the  
26 second degree if the person engages in any sex act or  
27 performance with another individual knowing that the act or  
28 performance is the result of the individual being a victim of  
29 human trafficking.

30 (b) Investigation.--An individual arrested for a violation

1 of section 5902(e) (relating to prostitution and related  
2 offenses) may be formally detained and questioned by law  
3 enforcement personnel to determine if the individual engaged in  
4 any sex act or performance with the alleged prostitute knowing  
5 that the individual is a victim of human trafficking.

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

11 Section 4. Title 18 is amended by adding sections to read:  
12 § 3027. Promoting prostitution.

13 (a) Offense defined.--Except as provided under subsection  
14 (b), a person who knowingly promotes prostitution of another  
15 commits a felony of the third degree.

16 (b) Prohibited acts.--The following acts shall, without  
17 limitation of the foregoing, constitute promoting prostitution:

18 (1) owning, controlling, managing, supervising or  
19 otherwise keeping, alone or in association with others, a  
20 house of prostitution or a prostitution business;

21 (2) procuring an inmate for a house of prostitution or a  
22 place in a house of prostitution for one who would be an  
23 inmate;

24 (3) encouraging, inducing or otherwise intentionally  
25 causing another to become or remain a prostitute;

26 (4) soliciting a person to patronize a prostitute;

27 (5) procuring an individual to another for the purpose  
28 of a commercial sex act;

29 (6) transporting a person into or within this  
30 Commonwealth with intent to promote the engaging in

1 prostitution by that person, or procuring or paying for  
2 transportation with that intent;

3 (7) leasing or otherwise permitting a place controlled  
4 by the actor, alone or in association with others, to be  
5 regularly used for prostitution or the promotion of  
6 prostitution, or failure to make reasonable effort to abate  
7 such use by ejecting the tenant, notifying law enforcement  
8 authorities or other legally available means; or

9 (8) soliciting, receiving or agreeing to receive any  
10 benefit for doing or agreeing to do anything forbidden by  
11 this section.

12 § 3028. Living off sexually exploited persons.

13 A person, other than the sexually exploited person or the  
14 sexually exploited person's minor child or other legal dependent  
15 incapable of self-support, who is knowingly supported in whole  
16 or substantial part by the proceeds of prostitution is promoting  
17 prostitution in violation of section 3027 (relating to promoting  
18 prostitution).

19 § 3029. Commercial sexual exploitation.

20 (a) Offense defined.--A person commits the offense of  
21 commercial sexual exploitation if that person provides anything  
22 of value to a person to engage in a sex act with him or her or  
23 if the person enters or remains in a house of prostitution for  
24 the purpose of engaging in a sex act.

25 (b) Grading.--An offense under subsection (a) constitutes  
26 the following:

27 (1) A misdemeanor of the third degree when the offense  
28 is a first or second offense.

29 (2) A misdemeanor of the second degree when the offense  
30 is a third offense.

1           (3) A misdemeanor of the first degree when the offense  
2           is a fourth or subsequent offense.

3           (4) A felony of the third degree if the person who  
4           committed the offense knew that he or she was human  
5           immunodeficiency virus (HIV) positive or manifesting acquired  
6           immune deficiency syndrome (AIDS).

7           (c) Publication of sentencing order.--A court imposing a  
8           sentence for a second or subsequent offense committed under  
9           subsection (a) shall publish the sentencing order in a newspaper  
10           of general circulation in the judicial district in which the  
11           court sits, and the court costs imposed on the person sentenced  
12           shall include the cost of publishing the sentencing order.

13           Section 5. Section 3064(b) of Title 18, added October 24,  
14           2018 (P.L.797, No.130), is amended to read:

15           § 3064. Safe Harbor for Sexually Exploited Children Fund.

16           \* \* \*

17           (b) Fines.--Notwithstanding any law to the contrary, the  
18           fines provided by this subsection shall be in addition to any  
19           fine authorized or required by law:

20           (1) An individual who is convicted of an offense under  
21           section 3011 (relating to trafficking in individuals), 3012  
22           (relating to involuntary servitude) [, 3013 (relating to  
23           patronizing a victim of sexual servitude) or 5902(b) or (b.1)  
24           (relating to prostitution and related offenses)] , 3027  
25           (relating to promoting prostitution) or 3029 (relating to  
26           commercial sexual exploitation) shall be ordered to pay a  
27           fine of \$5,000 for each offense.

28           [(2) An individual who is convicted of an offense under  
29           section 5902(e) shall be ordered to pay a fine of \$2,500 for  
30           each offense.]

1 (3) An individual who is convicted of an offense under  
2 section 5902(e), when the individual knew or should have  
3 known the victim was under 18 years of age, shall be ordered  
4 to pay a fine of \$5,000 for each offense.]

5 Section 6. Sections 5902 and 9122(b.1) of Title 18 are  
6 amended to read:

7 § 5902. Prostitution and related offenses.

8 (a) Prostitution.--A person is guilty of prostitution if he  
9 or she:

10 (1) is an inmate of a house of prostitution or otherwise  
11 engages in [sexual activity] a sex act as a business; or

12 (2) loiters in or within view of any public place for  
13 the purpose of being hired to engage in [sexual activity] a  
14 sex act.

15 (a.1) Grading of offenses under subsection (a).--An offense  
16 under subsection (a) constitutes a:

17 (1) Misdemeanor of the third degree. [when the offense  
18 is a first or second offense.]

19 (2) Misdemeanor of the second degree when the offense is  
20 a third offense.

21 (3) Misdemeanor of the first degree when the offense is  
22 a fourth or subsequent offense.]

23 (4) Felony of the third degree if the person who  
24 committed the offense knew that he or she was human  
25 immunodeficiency virus (HIV) positive or manifesting acquired  
26 immune deficiency syndrome (AIDS).

27 [(b) Promoting prostitution.--A person who knowingly  
28 promotes prostitution of another commits a misdemeanor or felony  
29 as provided in subsection (c) of this section. The following  
30 acts shall, without limitation of the foregoing, constitute

1 promoting prostitution:

2 (1) owning, controlling, managing, supervising or  
3 otherwise keeping, alone or in association with others, a  
4 house of prostitution or a prostitution business;

5 (2) procuring an inmate for a house of prostitution or a  
6 place in a house of prostitution for one who would be an  
7 inmate;

8 (3) encouraging, inducing, or otherwise intentionally  
9 causing another to become or remain a prostitute;

10 (4) soliciting a person to patronize a prostitute;

11 (5) procuring a prostitute for a patron;

12 (6) transporting a person into or within this  
13 Commonwealth with intent to promote the engaging in  
14 prostitution by that person, or procuring or paying for  
15 transportation with that intent;

16 (7) leasing or otherwise permitting a place controlled  
17 by the actor, alone or in association with others, to be  
18 regularly used for prostitution or the promotion of  
19 prostitution, or failure to make reasonable effort to abate  
20 such use by ejecting the tenant, notifying law enforcement  
21 authorities, or other legally available means; or

22 (8) soliciting, receiving, or agreeing to receive any  
23 benefit for doing or agreeing to do anything forbidden by  
24 this subsection.

25 (b.1) Promoting prostitution of minor.--A person who  
26 knowingly promotes prostitution of a minor commits a felony of  
27 the third degree. The following acts shall, without limitation  
28 of the foregoing, constitute promoting prostitution of a minor:

29 (1) owning, controlling, managing, supervising or  
30 otherwise keeping, alone or in association with others, a

1 house of prostitution or a prostitution business in which a  
2 victim is a minor;

3 (2) procuring an inmate who is a minor for a house of  
4 prostitution or a place in a house of prostitution where a  
5 minor would be an inmate;

6 (3) encouraging, inducing or otherwise intentionally  
7 causing a minor to become or remain a prostitute;

8 (4) soliciting a minor to patronize a prostitute;

9 (5) procuring a prostitute who is a minor for a patron;

10 (6) transporting a minor into or within this  
11 Commonwealth with intent to promote the engaging in  
12 prostitution by that minor, or procuring or paying for  
13 transportation with that intent;

14 (7) leasing or otherwise permitting a place controlled  
15 by the actor, alone or in association with others, to be  
16 regularly used for prostitution of a minor or the promotion  
17 of prostitution of a minor, or failure to make reasonable  
18 effort to abate such use by ejecting the tenant, notifying  
19 law enforcement authorities or other legally available means;  
20 or

21 (8) soliciting, receiving or agreeing to receive any  
22 benefit for doing or agreeing to do anything forbidden by  
23 this subsection.

24 (c) Grading of offenses under subsection (b).--

25 (1) An offense under subsection (b) constitutes a felony  
26 of the third degree if:

27 (i) the offense falls within paragraphs (b) (1), (b)

28 (2) or (b) (3);

29 (ii) the actor compels another to engage in or  
30 promote prostitution;

1 (iii) (Deleted by amendment);

2 (iv) the actor promotes prostitution of his spouse,  
3 child, ward or any person for whose care, protection or  
4 support he is responsible; or

5 (v) the person knowingly promoted prostitution of  
6 another who was HIV positive or infected with the AIDS  
7 virus.

8 (2) Otherwise the offense is a misdemeanor of the second  
9 degree.

10 (d) Living off prostitutes.--A person, other than the  
11 prostitute or the prostitute's minor child or other legal  
12 dependent incapable of self-support, who is knowingly supported  
13 in whole or substantial part by the proceeds of prostitution is  
14 promoting prostitution in violation of subsection (b) of this  
15 section.

16 (e) Patronizing prostitutes.--A person commits the offense  
17 of patronizing prostitutes if that person hires a prostitute or  
18 any other person to engage in sexual activity with him or her or  
19 if that person enters or remains in a house of prostitution for  
20 the purpose of engaging in sexual activity.

21 (e.1) Grading of offenses under subsection (e).--An offense  
22 under subsection (e) constitutes a:

23 (1) Misdemeanor of the third degree when the offense is  
24 a first or second offense.

25 (2) Misdemeanor of the second degree when the offense is  
26 a third offense.

27 (3) Misdemeanor of the first degree when the offense is  
28 a fourth or subsequent offense.

29 (4) Felony of the third degree if the person who  
30 committed the offense knew that he or she was human

1 immunodeficiency virus (HIV) positive or manifesting acquired  
2 immune deficiency syndrome (AIDS).

3 (e.2) Publication of sentencing order.--A court imposing a  
4 sentence for a second or subsequent offense committed under  
5 subsection (e) shall publish the sentencing order in a newspaper  
6 of general circulation in the judicial district in which the  
7 court sits, and the court costs imposed on the person sentenced  
8 shall include the cost of publishing the sentencing order.]

9 (f) Definitions.--As used in this section the following  
10 words and phrases shall have the meanings given to them in this  
11 subsection:

12 "House of prostitution." Any place where prostitution or  
13 promotion of prostitution is regularly carried on by one person  
14 under the control, management or supervision of another.

15 "Inmate." A person who engages in prostitution in or through  
16 the agency of a house of prostitution.

17 "Minor." An individual under 18 years of age.

18 "Public place." Any place to which the public or any  
19 substantial group thereof has access.

20 ["Sexual activity." Includes homosexual and other deviate  
21 sexual relations.]

22 "Sex act." Any touching or exposure of the sexual or other  
23 intimate parts of any individual for the purpose of gratifying  
24 sexual desire of any individual.

25 § 9122. Expungement.

26 \* \* \*

27 (b.1) Prohibition.--A court shall not have the authority to  
28 order expungement of the defendant's arrest record where the  
29 defendant was placed on Accelerated Rehabilitative Disposition  
30 for a violation of any offense set forth in any of the following

1 where the victim is under 18 years of age:

2 Section 3027 (relating to promoting prostitution).

3 Section 3029 (relating to commercial sexual  
4 exploitation).

5 Section 3121 (relating to rape).

6 Section 3122.1 (relating to statutory sexual assault).

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

9 Section 3124.1 (relating to sexual assault).

10 Section 3125 (relating to aggravated indecent assault).

11 Section 3126 (relating to indecent assault).

12 Section 3127 (relating to indecent exposure).

13 [Section 5902(b) (relating to prostitution and related  
14 offenses).]

15 Section 5903 (relating to obscene and other sexual  
16 materials and performances).

17 \* \* \*

18 Section 7. This act shall take effect in 60 days.