

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 60 Session of 2019

INTRODUCED BY PHILLIPS-HILL, MARTIN, YAW, FOLMER, K. WARD, REGAN, MENSCH, AUMENT, SCARNATI, DINNIMAN, BLAKE, DiSANTO, HUTCHINSON, BROWNE, KILLION, BROOKS, J. WARD, SCHWANK AND ALLOWAY, JANUARY 23, 2019

REFERRED TO JUDICIARY, JANUARY 23, 2019

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; in public  
 6 indecency, further providing for the offense of prostitution  
 7 and related offenses; and, in depositions and witnesses,  
 8 further providing for definitions and for recorded testimony.

9 This act may be cited as the Buyer Beware Act.

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

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

14 § 3011. Trafficking in individuals.

15 (a) Offense defined.--A person commits a felony of the

16 [second] first degree if the person:

17 (1) recruits, entices, solicits, advertises, harbors,  
 18 transports, provides, patronizes, obtains or maintains an  
 19 individual if the person knows or recklessly disregards that  
 20 the individual will be 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] and knows,  
9 reasonably should have known or recklessly disregards the fact  
10 that the act or performance is the result of the individual  
11 being a victim of 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. Section 5902 of Title 18 is amended by adding  
24 subsections to read:

25 § 5902. Prostitution and related offenses.

26           \* \* \*

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

28           (1) A person convicted of a second offense under  
29 subsection (e) shall pay an additional fine of not less than  
30 \$1,000 nor more than \$20,000.

1           (2) A person convicted of a third offense under  
2           subsection (e) shall pay an additional fine of not less than  
3           \$5,000 nor more than \$30,000.

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

7           (e.4) Distribution of fines.--Fines collected under this  
8           section shall be distributed equally to the Safe Harbor for  
9           Sexually Exploited Children Fund established under section 3064  
10           (relating to Safe Harbor for Sexually Exploited Children Fund)  
11           and grants under section 3031 (relating to grants).

12           \* \* \*

13           Section 3. Sections 5982 and 5984.1 of Title 42 are amended  
14 to read:

15 § 5982. Definitions.

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

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

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

30           "Minor." An individual who, at the time of the commission of

1 the offense involving sexual or physical abuse, is under 18  
2 years of age.

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

10 § 5984.1. Recorded testimony.

11 (a) Recording.--Subject to subsection (b), in any  
12 prosecution or adjudication involving a child victim or child  
13 material witness, including a child victim of sexual or labor  
14 servitude, the court may order that the child victim's or child  
15 material witness's testimony be recorded for presentation in  
16 court by any method that accurately captures and preserves the  
17 visual images, oral communications and other information  
18 presented during such testimony. The testimony shall be taken  
19 under oath or affirmation before the court in chambers or in a  
20 special facility designed for taking the recorded testimony of  
21 children. Only the attorneys for the defendant and for the  
22 Commonwealth, persons necessary to operate the equipment, a  
23 qualified shorthand reporter and any person whose presence would  
24 contribute to the welfare and well-being of the child victim or  
25 child material witness, including persons designated under  
26 section 5983 (relating to rights and services), may be present  
27 in the room with the child during testimony. The court shall  
28 permit the defendant to observe and hear the testimony of the  
29 child victim or child material witness but shall ensure that the  
30 child victim or child material witness cannot hear or see the

1 defendant. Examination and cross-examination of the child victim  
2 or child material witness shall proceed in the same manner as  
3 normally permitted. The court shall make certain that the  
4 defendant and defense counsel have adequate opportunity to  
5 communicate for the purpose of providing an effective defense.

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

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

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

23 (c) Counsel and confrontation.--

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

30 (2) If the court hears testimony under subsection (b)

1 (2), the defendant, the attorney for the defendant and the  
2 attorney for the Commonwealth have the right to be present.  
3 Section 4. This act shall take effect in 60 days.