

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, ALLOWAY, BREWSTER, SANTARSIERO, YUDICHAK, COLLETT, HAYWOOD, MUTH AND TARTAGLIONE, JANUARY 23, 2019

SENATOR BAKER, JUDICIARY, AS AMENDED, JUNE 11, 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)~~ 3011 and 3013(a) and (c) of <--
13 Title 18 of the Pennsylvania Consolidated Statutes are amended
14 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) OF THE FIRST DEGREE IF THE PERSON recruits, entices, <--
19 solicits, advertises, harbors, transports, provides,

1 ~~patronizes,~~ obtains or maintains an individual if the person <--
2 knows or recklessly disregards that the individual will be
3 subject to [~~involuntary~~] SEXUAL servitude; [~~or~~] <--

4 (2) OF THE FIRST DEGREE IF THE PERSON knowingly benefits <--
5 financially or receives anything of value from any act that
6 facilitates any activity described in paragraph (1) [~~.~~]; <--

7 * * *

8 (3) OF THE SECOND DEGREE IF THE PERSON: <--

9 (I) RECRUITS, ENTICES, SOLICITS, ADVERTISES,
10 HARBORS, TRANSPORTS, PROVIDES, OBTAINS OR MAINTAINS AN
11 INDIVIDUAL; AND

12 (II) KNOWS THAT, OR IS RECKLESS AS TO WHETHER, THE
13 INDIVIDUAL WILL BE SUBJECT TO LABOR SERVITUDE; AND

14 (4) OF THE SECOND DEGREE IF THE PERSON KNOWINGLY
15 BENEFITS FINANCIALLY OR RECEIVES ANYTHING OF VALUE FROM AN
16 ACT WHICH FACILITATES ACTIVITY UNDER PARAGRAPH (3).

17 (B) TRAFFICKING IN MINORS.--[A PERSON COMMITS A FELONY OF
18 THE FIRST DEGREE IF THE PERSON ENGAGES IN ANY ACTIVITY LISTED IN
19 SUBSECTION (A) THAT RESULTS IN A MINOR'S BEING SUBJECTED TO
20 SEXUAL SERVITUDE.] NOTWITHSTANDING SECTION 1103 (RELATING TO
21 SENTENCE OF IMPRISONMENT FOR FELONY), A PERSON SHALL BE
22 SENTENCED TO A TERM OF IMPRISONMENT FIXED BY THE COURT AT NOT
23 MORE THAN 40 YEARS IF:

24 (1) THE PERSON VIOLATES SUBSECTION (A) (1) OR (2); AND

25 (2) THE VIOLATION:

26 (I) RESULTS IN A MINOR BEING SUBJECTED TO SEXUAL
27 SERVITUDE; OR

28 (II) IS PART OF A COURSE OF CONDUCT SUBJECTING
29 INDIVIDUALS TO SEXUAL SERVITUDE BY THE PERSON.

30 § 3013. Patronizing a victim of sexual servitude.

1 (a) Offense defined.--A person commits a felony of the
2 [~~second~~] first degree if the person engages in any sex act or
3 performance with another individual [~~knowing~~] and knows,
4 ~~reasonably should have known or recklessly disregards the fact,~~ <--
5 that the act or performance is the result of the individual
6 being a victim of human trafficking.

7 * * *

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

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

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

18 Section 2. Section 5902 of Title 18 is amended by adding
19 subsections to read:

20 § 5902. Prostitution and related offenses.

21 * * *

22 (e.3) Additional ~~finer~~ ASSESSMENT for offenses under <--
23 subsection (e).--

24 (1) A person convicted of a second offense under
25 subsection (e) shall pay an additional ~~fine~~ ASSESSMENT of not <--
26 less than \$1,000 nor more than \$20,000.

27 (2) A person convicted of a third offense under
28 subsection (e) shall pay an additional ~~fine~~ ASSESSMENT of not <--
29 less than \$5,000 nor more than \$30,000.

30 (3) A person convicted of a fourth or subsequent offense

1 under subsection (e) shall pay an additional ~~fine~~ ASSESSMENT <--
2 of not less than \$10,000 nor more than \$50,000.

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

8 * * *

9 Section 3. Sections 5982 and 5984.1 of Title 42 are amended
10 to read:

11 § 5982. Definitions.

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

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

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

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

29 "Qualified shorthand reporter." An individual engaged in the
30 active practice of general shorthand reporting who is skilled in

1 the art of verbatim reporting by the use of a written shorthand
2 system, whether manual or machine; or any individual who is an
3 official court or legislative reporter; or any individual who is
4 the holder of a certified shorthand reporter certificate
5 mandated by State or Federal law.

6 § 5984.1. Recorded testimony.

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

1 communicate for the purpose of providing an effective defense.

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

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

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

19 (c) Counsel and confrontation.--

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

26 (2) If the court hears testimony under subsection (b)
27 (2), the defendant, the attorney for the defendant and the
28 attorney for the Commonwealth have the right to be present.

29 Section 4. This act shall take effect in 60 days.