

COMMITTEE BILL ANALYSIS

Bill: Senate Bill 75

Printer's No.: 41

Sponsor: Senator Greenleaf

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Synopsis: This bill amends the Crimes Code, Title 18, and the Judicial Code, Title 42, of the Pennsylvania Consolidated Statutes, to address the issue of human trafficking by more clearly defining sex and labor trafficking; increasing the fines and penalties for trafficking and involuntary servitude; adding penalties for business entities, including license revocation and forfeiture of contracts; creating the Pennsylvania Council for the Prevention of Human Trafficking; increasing training for first responders; and expanding resources available to victim service providers.

Summary:

Definitions

A number of new definitions are added including “involuntary servitude” which can be “labor servitude” and “sexual servitude.” Labor servitude is labor which is performed or provided by another individual and is induced or obtained by any of the means set forth in this chapter. Sexual servitude is any sexual conduct or performance involving sexual conduct for which anything of value is directly or indirectly given, promised to or received by any individual and is induced or obtained from a minor or any other person by any of the means set forth in this chapter.

Involuntary servitude

A person commits a felony of the first degree if the person subjects an individual to involuntary servitude. The bill lists the means by which a person may be made subject to involuntary servitude including as examples causing or threatening to cause serious harm to any individual; physically restraining or threatening to physically restrain another individual; kidnapping or attempting to kidnap any individual; taking or retaining the individual’s personal property or real property as a means of coercion; extortion or blackmail; and deception or fraud.

Patronizing a victim of sexual servitude

A person commits a felony of the second degree if the person engages in any sexual conduct or performance with another individual knowing or in reckless disregard of the fact that the person is a human trafficking victim.

Unlawful conduct regarding documents

A person commits a felony of the third degree if the person knowingly destroys, conceals, removes, confiscates or possesses an actual or purported passport or other immigration document or government identification document in order to maintain the involuntary servitude of that individual.

Other criminal offenses

There are also criminal penalties for the nonpayment of wages for labor services rendered; obstructing justice to prevent enforcement of this chapter; and violations by business entities that aid or participate in any violation of this chapter.

Victim protection

The bill provides for victim protection during a prosecution under this chapter including nondisclosure of the victim's name. A person who is a defendant in a criminal trial may offer a defense that the individual was a human trafficking victim including the vacation of prior prostitution convictions. The bill provides for restitution to a human trafficking victim.

Asset and licensure forfeiture

The legislation authorizes the forfeiture of all assets of an individual or organization used in violation of this chapter. The bill includes due process provisions to protect the property owner. However, if the property is forfeited and seized, proceeds may be used to reimburse law enforcement agencies which investigated and prosecuted the violation of this chapter

Any remaining amounts shall be distributed as follows: 30% to the office of the district attorney to be used to investigate and prosecute human trafficking cases; 35% to the Pennsylvania Council for the Prevention of Human Trafficking; and 35% to the Office of Victims' Services in the Pennsylvania Commission on Crime and Delinquency to provide services to human trafficking victims.

The bill also authorizes the revocation of a professional license of a licensee who knowingly employs a human trafficking victim. There are also provisions relating to the loss of public works contracts for a contractor or subcontractor who knowingly employs a human trafficking victim.

Council

The bill establishes the Pennsylvania Council for the Prevention of Human Trafficking in the Pennsylvania Commission on Crime and Delinquency to develop and assist the commission in implementing the State plan. The legislation lists the commission's responsibilities including as examples assisting local and regional efforts to combat human trafficking; coordinating the implementation of the State plan; coordinating the sharing of information between agencies for the purposes of detecting persons engaged in human trafficking; establishing policies to work with nongovernmental organizations to prevent human trafficking; and reviewing existing services and facilities to meet the needs of human trafficking victims.

The commission shall develop a course of training on human trafficking for law enforcement. In addition, the commission shall establish training materials for use by staff working in domestic violence, sexual violence and human trafficking shelters. The commission shall also prepare public awareness programs.

State Plan

The council shall assist the commission in the development of the plan for a coordinated response system to provide services to human trafficking victims and their dependent children.

Civil causes of action

An individual who is a human trafficking victim may bring a civil action against any person that participated in the human trafficking of the individual. Treble damages shall be awarded to a human trafficking victim on proof of actual damages where the defendant's acts were willful and malicious.

Minor victims

Services to a minor human trafficking victim shall be carried out in a manner that is in the best interest of the minor and appropriate to the particular situation. Special procedures shall be developed to accommodate minor witnesses during investigation and prosecution of human trafficking.

Repeal of current provisions

The bill repeals current sections of Chapter 30 of the Crimes Code relating to "Trafficking of Persons." The repeal of these sections does not affect the validity of a prosecution initiated under one of the repealed sections.

Applicability

The addition of the new provisions of Chapter 30 of the Crimes Code shall apply to offenses committed on or after the effective date.

Effective date

This act takes effect in 60 days.

Background: Last session this legislation was introduced as Senate Bill 1587. The national human trafficking hotline provisions are not included in the reintroduction of this legislation because House Bill 235, the National Human Trafficking Resource Center Hotline Notification Act, was enacted into law as 2012 Act 197.

Advisory committee

In 2010 the Senate adopted Senate Resolution 253 directing the Joint State Government Commission to establish an advisory committee to study the problem of human trafficking. The advisory committee was established and was comprised of "29 individuals from across Pennsylvania, representing federal, state and local government agencies, victim service providers, law enforcement, prosecutors, academics and advocates." In June 2012 the Advisory Committee issued its report entitled "Human Trafficking in Pennsylvania: Policy Recommendations and Proposed Legislation."

Current law and situation

While Pennsylvania currently has a criminal statute on "trafficking of persons" (18 Pa.C.S. Ch. 30) there has only been one conviction under the statute. According to the report, "The Advisory Committee believed that current state law should be improved as it contains vague definitions and lacks the teeth necessary for the law enforcement community to more effectively arrest and prosecute criminals (who are usually charged with other crimes or allowed to plea bargain to lesser charges). The law should be strengthened to provide the tools necessary to make convictions possible and penalties more stringent to give prosecutors more leverage in handling cases."

While human trafficking is a global issue, Pennsylvania is a part of the human trafficking network. "Pennsylvania has primarily been described as a 'pass-through state,' with its interstate highway system, truck stops and transient truckers. However, evidence suggests that it is also a 'source' (victims originate in the Commonwealth) and a 'destination' (victims are brought to the Commonwealth to be exploited)."