



# Senate

General Assembly

**File No. 469**

February Session, 2010

Substitute Senate Bill No. 153

*Senate, April 12, 2010*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT PROVIDING A SAFE HARBOR FOR EXPLOITED CHILDREN.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 53a-82 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) A person sixteen years of age and older is guilty of prostitution  
4 when such person engages or agrees or offers to engage in sexual  
5 conduct with another person in return for a fee.

6 (b) In any prosecution for an offense under this section, it shall be an  
7 affirmative defense that the actor was coerced into committing such  
8 offense by another person in violation of section 53a-192a.

9 (c) In any prosecution of a person sixteen or seventeen years of age  
10 for an offense under this section, there shall be a presumption that the  
11 actor was coerced into committing such offense by another person in  
12 violation of section 53a-192a.

13 [(c)] (d) Prostitution is a class A misdemeanor.

14 Sec. 2. Section 53a-86 of the general statutes is repealed and the  
15 following is substituted in lieu thereof (Effective October 1, 2010):

16 (a) A person is guilty of promoting prostitution in the first degree  
17 when he knowingly: (1) Advances prostitution by compelling a person  
18 by force or intimidation to engage in prostitution, or profits from  
19 coercive conduct by another; or (2) advances or profits from  
20 prostitution of a person less than [sixteen] eighteen years old.

21 (b) Promoting prostitution in the first degree is a class B felony. Any  
22 person found guilty under subdivision (2) of subsection (a) of this  
23 section shall be sentenced to a term of imprisonment of which nine  
24 months of the sentence imposed may not be suspended or reduced by  
25 the court.

26 Sec. 3. Section 53a-87 of the general statutes is repealed and the  
27 following is substituted in lieu thereof (Effective October 1, 2010):

28 (a) A person is guilty of promoting prostitution in the second degree  
29 when he knowingly [: (1) Advances] advances or profits from  
30 prostitution by managing, supervising, controlling or owning, either  
31 alone or in association with others, a house of prostitution or a  
32 prostitution business or enterprise involving prostitution activity by  
33 two or more prostitutes. [; or (2) advances or profits from prostitution  
34 of a person less than eighteen years old.]

35 (b) Promoting prostitution in the second degree is a class C felony.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2010	53a-82
Sec. 2	October 1, 2010	53a-86
Sec. 3	October 1, 2010	53a-87

KID

Joint Favorable Subst. C/R

JUD

**JUD**      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 11 \$</b>	<b>FY 12 \$</b>
Judicial Dpt (Probation); Correction, Dept.	GF - Net Savings	Potential	Potential

Note: GF=General Fund

**Municipal Impact:** None

### **Explanation**

By creating a presumption that any 16 or 17 year old charged with prostitution is coerced into committing the offense by another person in violation of the law against trafficking in persons, the bill could generate savings by reducing by up to 4 the number of individuals convicted of prostitution and subsequently incarcerated or placed on probation.<sup>1</sup> These savings would be partially offset by the bill's increased penalty (9-month mandatory minimum) for promoting prostitution using a person who is less than 18 years old. There have been 3 convictions over the last seven years of promoting prostitution in the first degree (CGS 53a-86). It is uncertain how many of these involved using any person who is less than 18 years old.

Given that there are significantly more offenses involving prostitution than the promotion of it, it is anticipated that the bill would generate more savings by diverting 16 and 17 year old offenders from incarceration and/or probation than costs by extending the term of incarceration for any person convicted of promoting prostitution of any person this age. Note that pursuant to PA 09-7 of

<sup>1</sup> Each year there are approximately 500 prostitution cases in this state with a conviction rate of roughly 60%. It is estimated that 1.4% of these offenders are less than 18 years old.  $(500 \cdot .6 \cdot .014 = 4)$

the September Special Session, 16 year olds are considered to be juveniles effective January 1, 2010, and 17 year olds are considered to be juveniles effective July 1, 2012.

On average, it costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

*Sources: Quarterly Reports of the Judicial Department; U.S. DOJ Office of Juvenile Justice and Delinquency Prevention. Juvenile Justice Bulletin, June 2004 issue.*

**OLR Bill Analysis****sSB 153*****AN ACT PROVIDING A SAFE HARBOR FOR EXPLOITED CHILDREN.*****SUMMARY:**

This bill makes prostitution a crime only for people age 16 and older. Under current law, prostitution is a crime regardless of the offender's age.

The bill creates a presumption (i.e., one that must be rebutted by the prosecution) that a 16- or 17-year-old charged with prostitution was coerced into committing the offense by another person in violation of the law against trafficking in persons (CGS § 53a-192a). Current law allows anyone accused of prostitution to assert that he or she was coerced by the use or threat of force as an affirmative defense.

The bill increases the penalty for promoting prostitution using a person who is less than 18 years old. It does so by making it a class B, rather than a class C, felony. The penalty for a class B felony is a prison sentence of one to 20 years, a fine of up to \$15,000, or both. The penalty for a class C felony is a prison sentence of one to 10 years, a fine of up to \$10,000, or both. The bill imposes a nine-month mandatory minimum prison sentence for promoting prostitution of someone under age 18.

Under current law, advancing or profiting from the prostitution of a person under 16 years old is promoting prostitution in the first degree. It is not clear what effect the bill would have on prosecuting people for this crime.

EFFECTIVE DATE: October 1, 2010

**COMMITTEE ACTION**

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Select Committee on Children

Joint Favorable Substitute Change of Reference

Yea 11 Nay 1 (03/09/2010)

Judiciary Committee

Joint Favorable

Yea 39 Nay 1 (03/26/2010)