
OLR Bill Analysis

HB 5666 (as amended by House "A")*

AN ACT CONCERNING THE FORFEITURE OF MONEYS AND PROPERTY RELATED TO SEXUAL EXPLOITATION AND HUMAN TRAFFICKING.

SUMMARY:

This bill:

1. adds funds and property related to prostitution, 3rd degree promoting prostitution, and commercial sexual exploitation of a minor to the types of property subject to forfeiture as tainted funds and property related to sexual exploitation and human trafficking;
2. requires proceeds from an auction of forfeited property that remain after paying liens and costs to be deposited in the Criminal Injuries Compensation Fund, rather than the General Fund;
3. expands the crime of trafficking in persons;
4. increases the penalty for patronizing a prostitute from a class A misdemeanor (punishable by up to one year in prison, a fine of up to \$2,000, or both) to a class C felony (punishable by up to 10 years in prison, a fine of up to \$10,000, or both) when the actor knew or reasonably should have known at the time of the offense that the prostitute was (a) under age 18 or (b) the victim of conduct amounting to a crime of trafficking in persons under state law or involuntary servitude, slavery, or trafficking under federal law (§ 4);
5. allows anyone convicted of prostitution to apply to Superior Court to vacate the conviction because he or she was a victim of conduct amounting to a crime of trafficking in persons under

state law or involuntary servitude, slavery, or trafficking under federal law;

6. makes changes to defenses to a prostitution charge;
7. requires the Office of the Chief Court Administrator to develop a concise notice about services for human trafficking victims and requires truck stops and certain establishments serving alcohol to post it in a conspicuous location where sales occur;
8. requires the Office of Victim Services (OVS) to (a) analyze the compensation and restitution services (such as medical, psychiatric, psychological, social, and social rehabilitation services) provided to victims of sexual exploitation and human trafficking and recommend legislation to enhance compensation and services and (b) report its findings to the Judiciary Committee by January 15, 2014 (§ 8);
9. alters the Trafficking in Persons Council's membership and requires it to report on deficiencies in the statutes relating to trafficking and propose legislation to address them; and
10. eliminates a requirement that the notice developed by the chief court administrator regarding victims' rights and available services be bilingual.

*House Amendment "A" replaces the original file, adding all of the provisions except those on forfeiture of property related to prostitution and 3rd degree promoting prostitution.

EFFECTIVE DATE: October 1, 2013, except the provisions on the OVS report and Trafficking in Persons Council are effective upon passage.

§ 1 — FORFEITURE OF PROPERTY RELATED TO SEXUAL EXPLOITATION AND HUMAN TRAFFICKING

The bill adds funds and property related to prostitution, 3rd degree promoting prostitution, and commercial sexual exploitation of a minor to the types of property subject to forfeiture as tainted funds and

property related to sexual exploitation and human trafficking. Under existing law, the crimes that trigger these procedures are:

1. the portion of the risk of injury to a minor statute involving sale of a child younger than age 16;
2. 1st or 2nd degree promoting prostitution;
3. enticing a minor using an interactive computer;
4. voyeurism, disseminating voyeuristic material, and employing or promoting a minor in an obscene performance;
5. human trafficking; and
6. importing child pornography.

By law, funds and property related to these crimes are subject to forfeiture if they are:

1. money used or intended for use in one of these crimes;
2. property constituting the proceeds obtained, directly or indirectly, from one of these crimes;
3. property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from these criminal violations; and
4. property used or intended for use to commit or facilitate commission of one of these crimes for pecuniary gain.

Proceeds from Auction

If the court orders forfeiture of property related to sexual exploitation and human trafficking, the law requires the Department of Administrative Services to sell it at a public auction. Sale proceeds pay (1) the balance due on any lien the court determines should be paid; (2) property storage, maintenance, security, and forfeiture costs; and (3) court costs. The bill requires that any remaining proceeds be deposited in the Criminal Injuries Compensation Fund, rather than the

General Fund. By law, this fund provides compensation and restitution to certain crime victims.

§ 2 — TRAFFICKING IN PERSONS

Under current law, a person commits the crime of trafficking in persons when he or she coerces another person to compel or induce that person to engage in prostitution or provide labor or services.

The bill expands this crime in a number of ways. Under the bill, a person commits trafficking in persons when he or she:

1. compels or induces another person to (a) engage in more than one occurrence of sexual contact (contact with another person's intimate parts) with at least one third person or (b) provide labor or services the person has a legal right to refrain from providing and
2. does so through coercion, fraud, or use or threatened use of force against the person or a third person.

By law, trafficking in persons is a class B felony.

§§ 3 & 5 — PROSTITUTION

§ 5 — *Vacating Conviction*

The bill allows anyone convicted of prostitution to apply to Superior Court to vacate the conviction because he or she was a victim of conduct, at the time of the offense, that amounts to a crime of trafficking in persons under state law or involuntary servitude, slavery, or trafficking under federal law. The court must give the prosecutor a reasonable opportunity to investigate the claim and an opportunity to contest the application. If the defendant proves he or she was a victim of the conduct, the court must vacate the judgment and dismiss any charges related to the offense. The bill provides that this cannot provide grounds for a compensation award based on wrongful arrest, prosecution, conviction, or incarceration under the statutes.

§ 3 — *Defenses*

The bill (1) gives a person a defense to a prostitution charge if he or she was a victim of conduct that amounts to a federal crime of involuntary servitude, slavery, or trafficking in persons and (2) presumes that anyone under age 18 is a victim of this conduct. The law already provides a person with a defense if he or she was a victim of conduct that amounts to trafficking in persons under state law and someone under age 18 charged with prostitution is presumed to be a victim of this conduct.

The bill also specifies that someone can assert the defense of duress to a charge of prostitution. By law, duress is a defense if (1) a person engaged in conduct because he or she was coerced by the use, or threatened imminent use, of physical force against that person or another and (2) a person of reasonable firmness in the situation would not be able to resist. The defense of duress is not available to people who intentionally or recklessly place themselves in a situation where it is probable that they will be subjected to duress.

§§ 6-7 — NOTICE OF SERVICES

The bill requires the Office of the Chief Court Administrator to develop a concise notice about services for human trafficking victims. The notice must state the toll-free state and federal anti-trafficking hotline numbers that someone can use if he or she is forced to engage in an activity and cannot leave.

The bill requires the office to make the notice available to truck stops and certain establishments serving alcohol, which must, when the notice is available to them, post it in plain view in a conspicuous location where sales occur. The bill applies to truck stops defined as privately owned and operated facilities offering food, fuel, lawful overnight truck parking, and shower and laundry facilities. It also applies to anyone who holds an on-premises consumption permit for the retail sale of alcohol except someone who only holds one or more of the following permits:

1. caterer, railroad, boat, airline, military, charitable organization, or special club permit;

2. temporary liquor or temporary beer permit;
3. restaurant permit, restaurant permit for beer, restaurant permit for wine and beer, or café permit; or
4. farm winery or beer manufacturer permit, beer and brew pub manufacturer permit, or other manufacturer permit.

§§ 9-10 — TRAFFICKING IN PERSONS COUNCIL

Membership

The bill changes the membership of the Trafficking in Persons Council. As of the bill's passage, it removes as members the (1) attorney general; (2) chairpersons of the commissions on Children, Latino and Puerto Rican Affairs, and African-American Affairs; and (3) two Judicial Branch representatives appointed by the chief court administrator, one of whom represents the Court Support Services Division. The bill also changes the House minority leader's appointment from someone representing the Asian-American community to someone representing the Motor Transport Association of Connecticut, Inc.

As under current law, the other council members are the following people:

1. the chief state's attorney;
2. the chief public defender;
3. the Children and Families, Emergency Services and Public Protection, Labor, Mental Health and Addiction Services, Public Health, Social Services commissioners;
4. the child advocate;
5. the victim advocate;
6. the Permanent Commission on the Status of Women chairperson;

7. a municipal police chief, appointed by the Connecticut Police Chiefs Association;
8. an OVS representative, appointed by the chief court administrator;
9. a representative of Connecticut Sexual Assault Crisis Services, Inc., appointed by the governor;
10. a representative of an organization providing civil legal services to low-income individuals, appointed by the Senate president pro tempore;
11. a representative of the Connecticut Coalition Against Domestic Violence, appointed by the House speaker;
12. a representative of an organization dealing with women's and childrens' behavioral health needs, appointed by the Senate majority leader;
13. a representative of an organization advocating on social justice and human rights issues, appointed by the House majority leader; and
14. a representative of the Connecticut Immigrant and Refugee Coalition, appointed by the Senate minority leader.

The bill eliminates the ability of the OVS representative to designate someone to serve on his or her behalf. As under current law, members other than those appointed by the governor and legislative leaders can designate someone to serve as their representatives. But the bill no longer requires them to make the designation in writing.

Report on Statutory Deficiencies

The bill requires the council to meet by September 1, 2013 to study data relating to trafficking in persons offenses in Connecticut. The council must examine and identify deficiencies in the statutes and propose legislation to address any deficiencies. The bill requires the council to report to the Judiciary Committee by January 1, 2014.

By law, the council must meet to (1) provide updates and progress reports; (2) identify criteria for providing services to adult trafficking victims; and (3) consult with government and non-government organizations to develop recommendations to strengthen state and local efforts to prevent trafficking, protect and assist victims, and prosecute traffickers. It may request data and information from state and local agencies to carry out its duties. It must meet at least three times per year and report annually by January 1 to the legislature.

BACKGROUND

Prostitution

A person age 16 or older commits this crime when he or she engages, or agrees or offers to engage in, sexual conduct with someone for a fee. Prostitution is a class A misdemeanor.

3rd Degree Promoting Prostitution

A person commits this crime when he or she knowingly advances or profits from prostitution. This crime is a class D felony punishable by up to five years in prison, a fine of up to \$5,000, or both.

Related Bills

SB 834 (File 51), reported favorably by the Public Safety and Security Committee, eliminates the mandate for the Trafficking in Persons Council to meet at least three times per year, thereby allowing the council to meet at will, including once or twice per year.

sSB 871 (File 680, as amended by Senate Amendment "A") expands the types of property that can be seized and forfeited related to sexual exploitation and human trafficking crimes by eliminating a requirement that certain conduct be committed for pecuniary gain.

sSB 1158 (File 717), reported favorably by the Judiciary Committee, contains provisions similar to this bill:

1. adding commercial exploitation of a minor as a crime that can be a basis for forfeiting property related to sexual exploitation and human trafficking crimes;

2. requiring that any proceeds left after publicly auctioning forfeited property and paying required costs be deposited in the Criminal Injuries Compensation Fund, rather than the General Fund;
3. requiring (a) the chief court administrator to develop a notice about services for human trafficking victims and (b) truck stops and certain establishments serving alcohol to post it; and
4. requiring OVS to analyze the compensation and services for victims of sexual exploitation and human trafficking and recommend legislation.

sHB 6696 (File 741), reported favorably by the Judiciary Committee, contains provisions similar to this bill (1) expanding the crime of trafficking in persons, (2) increasing the penalty for patronizing a prostitute in certain circumstances, (3) allowing a person convicted of prostitution to apply to vacate the conviction under certain circumstances, and (4) making changes to the defenses to a prostitution charge. It also creates a task force to recommend statutory changes to enhance protections for trafficking victims.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 44 Nay 0 (04/19/2013)