
OLR Bill Analysis

sHB 6696

AN ACT CONCERNING THE PROSECUTION AND PREVENTION OF TRAFFICKING IN PERSONS.

SUMMARY:

This bill:

1. expands the crime of trafficking in persons;
2. 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 B felony (punishable by up to 20 years in prison, a fine of up to \$15,000, or both) when the actor knew or should reasonably have known at the time of the offense that the prostitute was (a) under age 18 or (b) the victim of trafficking in persons;
3. allows anyone convicted of prostitution to apply to Superior Court to vacate the conviction because he or she was a victim of conduct that amounts to a trafficking in persons crime under state or federal law at the time of the offense;
4. makes changes to defenses to a prostitution charge; and
5. creates an 11-member task force to study trafficking in persons data in Connecticut and recommend statutory changes to enhance protections for victims.

EFFECTIVE DATE: October 1, 2013, except the task force provisions are effective upon passage.

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 conduct involving more than one occurrence of sexual contact 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 a person or a third person.

The law defines sexual contact as contact with the intimate parts of the actor or someone not married to the actor, for the actor's sexual gratification or for degrading or humiliating the victim. (It is unclear in some circumstances who the "actor" refers to in a trafficking in persons crime).

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

PROSTITUTION

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 trafficking in persons crime under state or federal law. The court must give the prosecutor a reasonable opportunity to investigate the claim and an opportunity to contest the application. If the court finds the defendant was a victim of the conduct, it must vacate the judgment and dismiss any charges related to the offense.

Defenses

By law, a person has a defense to a prostitution charge if he or she was a victim of conduct that amounts to trafficking in persons. Anyone under age 18 is presumed to be a victim of this conduct. The bill's expansion of the trafficking in persons crime expands this defense.

The bill also specifies that someone can assert the defense of duress

to a charge of prostitution. By law, duress is a defense if 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 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.

TASK FORCE

The bill creates an 11-member task force to study data relating to trafficking in persons in Connecticut. It must examine and identify deficiencies in the statutes and make recommendations to enhance protections for victims. The following officials or their designees serve as members:

1. House speaker and minority leader,
2. Senate president pro tempore and minority leader,
3. Emergency Services and Public Protection and Children and Families commissioners,
4. chief state's attorney, and
5. victim advocate.

In addition, the (1) House speaker appoints a municipal police officer as a member and (2) governor appoints two people with expertise in issues relating to trafficking in persons in Connecticut.

The bill requires the appointments to be made within 30 days after the bill's passage and appointing authorities fill any vacancies. The task force selects a chairperson from among its members and the chairperson must schedule and hold the first meeting within 60 days after the bill's passage. The bill requires the Judiciary Committee's administrative staff to serve as the task force's administrative staff.

The bill requires the task force to report to the Judiciary Committee by January 1, 2014. The task force terminates the later of January 1,

2014 or when it submits the report.

BACKGROUND

Federal Trafficking Crime

Under federal law, it is a crime to (1) take certain actions related to transporting a person or (2) benefit from participating in a trafficking venture, knowing that force, fraud, or coercion will be used to cause the person to engage in a commercial sex act or that the person is under age 18 and will be required to engage in such an act.

Penalties vary depending on the conduct and victim's age, but could result in life imprisonment (18 USC § 1591).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 44 Nay 0 (04/19/2013)