



House of Representatives

General Assembly

File No. 722

January Session, 2015

House Bill No. 6849

House of Representatives, April 20, 2015

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT STRENGTHENING PROTECTIONS FOR VICTIMS OF HUMAN TRAFFICKING.

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

1 Section 1. Section 19a-112b of the general statutes is repealed and
2 the following is substituted in lieu thereof (*Effective October 1, 2015*):

3 The Department of Public Health shall provide to victims of a
4 sexual act constituting a violation of section 53-21, 53a-70, 53a-70a, 53a-
5 70b, 53a-71, 53a-72a, 53a-72b, [or] 53a-73a or 53a-192a, as amended by
6 this act, regardless of whether any person is convicted or adjudicated
7 delinquent for such violation, the following services: (1) Counseling
8 regarding human immunodeficiency virus and acquired immune
9 deficiency syndrome; (2) HIV-related testing; and (3) referral service
10 for appropriate health care and support services. Such services shall be
11 provided through counseling and testing sites funded by the
12 Department of Public Health.

13 Sec. 2. Subsection (b) of section 46a-170 of the general statutes is

14 repealed and the following is substituted in lieu thereof (*Effective*
15 *October 1, 2015*):

16 [(b) (1) Prior to June 24, 2013, the council shall consist of the
17 following members: The Attorney General, the Chief State's Attorney,
18 the Chief Public Defender, the Commissioner of Emergency Services
19 and Public Protection, the Labor Commissioner, the Commissioner of
20 Social Services, the Commissioner of Public Health, the Commissioner
21 of Mental Health and Addiction Services, the Commissioner of
22 Children and Families, the Child Advocate, the Victim Advocate, the
23 chairperson of the Commission on Children, the chairperson of the
24 Permanent Commission on the Status of Women, the chairperson of
25 the Latino and Puerto Rican Affairs Commission, the chairperson of
26 the African-American Affairs Commission, three representatives of the
27 Judicial Branch appointed by the Chief Court Administrator, one of
28 whom shall represent the Office of Victim Services and one of whom
29 shall represent the Court Support Services Division, and a municipal
30 police chief appointed by the Connecticut Police Chiefs Association, or
31 a representative of any such member who has been designated in
32 writing by such member to serve as such member's representative, and
33 seven public members appointed as follows: The Governor shall
34 appoint one member who shall represent Connecticut Sexual Assault
35 Crisis Services, Inc., the president pro tempore of the Senate shall
36 appoint one member who shall represent an organization that
37 provides civil legal services to low-income individuals, the speaker of
38 the House of Representatives shall appoint one member who shall
39 represent the Connecticut Coalition Against Domestic Violence, the
40 majority leader of the Senate shall appoint one member who shall
41 represent an organization that deals with behavioral health needs of
42 women and children, the majority leader of the House of
43 Representatives shall appoint one member who shall represent an
44 organization that advocates on social justice and human rights issues,
45 the minority leader of the Senate shall appoint one member who shall
46 represent the Connecticut Immigrant and Refugee Coalition, and the
47 minority leader of the House of Representatives shall appoint one
48 member who shall represent the Asian-American community.]

49 [(2) On and after June 24, 2013, the] (b) The council shall consist of
50 the following members: [(A)] (1) The Chief State's Attorney, or a
51 designee; [(B)] (2) the Chief Public Defender, or a designee; [(C)] (3) the
52 Commissioner of Emergency Services and Public Protection, or the
53 commissioner's designee; [(D)] (4) the Labor Commissioner, or the
54 commissioner's designee; [(E)] (5) the Commissioner of Social Services,
55 or the commissioner's designee; [(F)] (6) the Commissioner of Public
56 Health, or the commissioner's designee; [(G)] (7) the Commissioner of
57 Mental Health and Addiction Services, or the commissioner's designee;
58 [(H)] (8) the Commissioner of Children and Families, or the
59 commissioner's designee; [(I)] (9) the Child Advocate, or the Child
60 Advocate's designee; [(J)] (10) the Victim Advocate, or the Victim
61 Advocate's designee; [(K)] (11) the chairperson of the Permanent
62 Commission on the Status of Women, or the chairperson's designee;
63 [(L)] (12) one representative of the Office of Victim Services of the
64 Judicial Branch appointed by the Chief Court Administrator; [(M)] (13)
65 a municipal police chief appointed by the Connecticut Police Chiefs
66 Association, or a designee; and [(N) seven] (14) nine public members
67 appointed as follows: The Governor shall appoint [one member who]
68 three members, one of whom shall represent Connecticut Sexual
69 Assault Crisis Services, Inc., one of whom shall represent victims of
70 commercial exploitation of children, and one of whom shall represent
71 sex trafficking victims who are children, the president pro tempore of
72 the Senate shall appoint one member who shall represent an
73 organization that provides civil legal services to low-income
74 individuals, the speaker of the House of Representatives shall appoint
75 one member who shall represent the Connecticut Coalition Against
76 Domestic Violence, the majority leader of the Senate shall appoint one
77 member who shall represent an organization that deals with
78 behavioral health needs of women and children, the majority leader of
79 the House of Representatives shall appoint one member who shall
80 represent an organization that advocates on social justice and human
81 rights issues, the minority leader of the Senate shall appoint one
82 member who shall represent the Connecticut Immigrant and Refugee
83 Coalition, and the minority leader of the House of Representatives

84 shall appoint one member who shall represent the Motor Transport
85 Association of Connecticut, Inc.

86 Sec. 3. Section 46b-146 of the general statutes is repealed and the
87 following is substituted in lieu thereof (*Effective October 1, 2015*):

88 Whenever any child has been convicted as delinquent, has been
89 adjudicated a member of a family with service needs or has signed a
90 statement of responsibility admitting to having committed a
91 delinquent act, and has subsequently been discharged from the
92 supervision of the Superior Court or from the custody of the
93 Department of Children and Families or from the care of any other
94 institution or agency to whom the child has been committed by the
95 court, such child, or the child's parent or guardian, may file a petition
96 with the Superior Court. If such court finds (1) (A) that at least two
97 years or, in the case of a child convicted as delinquent for the
98 commission of a serious juvenile offense, four years have elapsed from
99 the date of such discharge, [(2)] (B) that no subsequent juvenile
100 proceeding or adult criminal proceeding is pending against such child,
101 [(3)] (C) that such child has not been convicted of a delinquent act that
102 would constitute a felony or misdemeanor if committed by an adult
103 during such two-year or four-year period, [(4)] (D) that such child has
104 not been convicted as an adult of a felony or misdemeanor during such
105 two-year or four-year period, and [(5)] (E) that such child has reached
106 eighteen years of age, or (2) that such child has a criminal record as a
107 result of being a victim of conduct by another person that constitutes a
108 violation of section 53a-192a, as amended by this act, or a criminal
109 violation of 18 USC Chapter 77, the court shall order all police and
110 court records pertaining to such child to be erased. Upon the entry of
111 such an erasure order, all references including arrest, complaint,
112 referrals, petitions, reports and orders, shall be removed from all
113 agency, official and institutional files, and a finding of delinquency or
114 that the child was a member of a family with service needs shall be
115 deemed never to have occurred. The persons in charge of such records
116 shall not disclose to any person information pertaining to the record so
117 erased, except that the fact of such erasure may be substantiated

118 where, in the opinion of the court, it is in the best interests of such
119 child to do so. No child who has been the subject of such an erasure
120 order shall be deemed to have been arrested ab initio, within the
121 meaning of the general statutes, with respect to proceedings so erased.
122 Copies of the erasure order shall be sent to all persons, agencies,
123 officials or institutions known to have information pertaining to the
124 delinquency or family with service needs proceedings affecting such
125 child. Whenever a child is dismissed as not delinquent or as not being
126 a member of a family with service needs, all police and court records
127 pertaining to such charge shall be ordered erased immediately,
128 without the filing of a petition. Nothing in this section shall prohibit
129 the court from granting a petition to erase a child's records on a
130 showing of good cause, after a hearing, before the time when such
131 records could be erased.

132 Sec. 4. Section 53a-192a of the general statutes is repealed and the
133 following is substituted in lieu thereof (*Effective October 1, 2015*):

134 (a) A person is guilty of trafficking in persons when such person (1)
135 compels or induces another person who is eighteen years of age or
136 older to engage in conduct involving more than one occurrence of
137 sexual contact with one or more third persons, or provide labor or
138 services that such person has a legal right to refrain from providing, by
139 means of [(1)] (A) the use of force against such other person or a third
140 person, or by the threat of use of force against such other person or a
141 third person, [(2)] (B) fraud, or [(3)] (C) coercion, as provided in section
142 53a-192, or (2) compels or induces another person who is under
143 eighteen years of age to engage in conduct involving more than one
144 occurrence of sexual contact with one or more third persons, or
145 provide labor or services that such person has a legal right to refrain
146 from providing. For the purposes of this subsection, "sexual contact"
147 means any contact with the intimate parts of another person.

148 (b) Trafficking in persons is a class B felony.

149 Sec. 5. Section 54-41b of the general statutes is repealed and the
150 following is substituted in lieu thereof (*Effective October 1, 2015*):

151 The Chief State's Attorney or the state's attorney for the judicial
152 district in which the interception is to be conducted may make
153 application to a panel of judges for an order authorizing the
154 interception of any wire communication by investigative officers
155 having responsibility for the investigation of offenses as to which the
156 application is made when such interception may provide evidence of
157 the commission of offenses involving gambling, bribery, violations of
158 section 53-395, violations of section 53a-70c, violations of subsection (a)
159 of section 53a-90a, violations of section 53a-192a, as amended by this
160 act, violations of section 53a-196, violations of section 21a-277,
161 felonious crimes of violence or felonies involving the unlawful use or
162 threatened use of physical force or violence committed with the intent
163 to intimidate or coerce the civilian population or a unit of government.

164 Sec. 6. Subsection (a) of section 54-211 of the general statutes is
165 repealed and the following is substituted in lieu thereof (*Effective*
166 *October 1, 2015*):

167 (a) (1) No order for the payment of compensation shall be made
168 under section 54-210 unless (A) the application has been made within
169 two years after the date of the personal injury or death, (B) the
170 personal injury or death was the result of an incident or offense listed
171 in section 54-209, and (C) such incident or offense has been reported to
172 the police within five days of its occurrence or, if the incident or
173 offense could not reasonably have been reported within such period,
174 within five days of the time when a report could reasonably have been
175 made, except that a victim of a sexual assault shall not be ineligible for
176 the payment of compensation by reason of failing to make a report
177 pursuant to this subparagraph if such victim presented himself or
178 herself to a health care facility within seventy-two hours of such sexual
179 assault for examination and collection of evidence of such sexual
180 assault in accordance with the provisions of section 19a-112a. (2)
181 Notwithstanding the provisions of subdivision (1) of this subsection,
182 any person who, before, on or after October 1, 2005, fails to make
183 application for compensation within two years after the date of the
184 personal injury or death as a result of physical, emotional or

185 psychological injuries caused by such personal injury or death may
186 apply for a waiver of such time limitation. The Office of Victim
187 Services, upon a finding of such physical, emotional or psychological
188 injury, may grant such waiver. (3) Notwithstanding the provisions of
189 subdivision (1) of this subsection, any minor, including, but not limited
190 to, a minor who is a victim of conduct by another person that
191 constitutes a violation of section 53a-192a, as amended by this act, or a
192 criminal violation of 18 USC Chapter 77, who, before, on or after
193 October 1, 2005, fails to make application for compensation within two
194 years after the date of the personal injury or death through no fault of
195 the minor, may apply for a waiver of such time limitation. The Office
196 of Victim Services, upon a finding that such minor is not at fault, may
197 grant such waiver. (4) Notwithstanding the provisions of subdivision
198 (1) of this subsection, a person who is a dependent of a victim may
199 make application for payment of compensation not later than two
200 years from the date that such person discovers or in the exercise of
201 reasonable care should have discovered that the person upon whom
202 the applicant was dependent was a victim or ninety days after May 26,
203 2000, whichever is later. Such person shall file with such application a
204 statement signed under penalty of false statement setting forth the date
205 when such person discovered that the person upon whom the
206 applicant was dependent was a victim and the circumstances that
207 prevented such person discovering that the person upon whom the
208 applicant was dependent was a victim until more than two years after
209 the date of the incident or offense. There shall be a rebuttable
210 presumption that a person who files such a statement and is otherwise
211 eligible for compensation pursuant to sections 54-201 to 54-233,
212 inclusive, is entitled to compensation. (5) Any waiver denied by the
213 Office of Victim Services under this subsection may be reviewed by a
214 victim compensation commissioner, provided such request for review
215 is made by the applicant within thirty days from the mailing of the
216 notice of denial by the Office of Victim Services. If a victim
217 compensation commissioner grants such waiver, the commissioner
218 shall refer the application for compensation to the Office of Victim
219 Services for a determination pursuant to section 54-205. (6)

220 Notwithstanding the provisions of subdivision (1), (2) or (3) of this
221 subsection, the Office of Victim Services may, for good cause shown
222 and upon a finding of compelling equitable circumstances, waive the
223 time limitations of subdivision (1) of this subsection.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	19a-112b
Sec. 2	<i>October 1, 2015</i>	46a-170(b)
Sec. 3	<i>October 1, 2015</i>	46b-146
Sec. 4	<i>October 1, 2015</i>	53a-192a
Sec. 5	<i>October 1, 2015</i>	54-41b
Sec. 6	<i>October 1, 2015</i>	54-211(a)

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:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Correction, Dept.; Judicial Dept. (Probation)	GF - Potential Cost	See Below	See Below
Judicial Dept.	GF/CICF - Potential Cost	See Below	See Below

Note: GF=General Fund; CICF=Criminal Injuries Compensation Fund

Municipal Impact: None

Explanation

The bill expands the crime of human trafficking, a class B felony. This may result in a cost to the Department of Correction for incarceration and the Judicial Department for probation. To the extent that offenders are prosecuted for new or expanded offenses under this bill, potential costs for probation and supervision in the community or incarceration would result. On average, it costs the agency \$6,050 (including benefits) to supervise an inmate in the community as opposed to \$50,690 (including benefits) to incarcerate an offender. However there have been no charges for the past five years.

The bill also waives the statute of limitations for applying for victim compensation from the Judicial Department Office of Victim Services when the victim is a minor who is a victim of human trafficking. To the extent that such victims were previously not receiving the award due to the lapse of the statute of limitations, the bill may result in a cost to the Judicial Department. The maximum award is \$15,000 for personal injury and \$25,000 for death.

The bill requires the Department of Public Health (DPH) to provide

victims of human trafficking the same services the agency currently provides to other victims of sexual assault. DPH serves over 20,000 victims of sexual assault annually. The anticipated increase of less than 100 individuals who would be eligible for DPH services minimally increases the agency's workload and therefore results in no fiscal impact.

The Out Years

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

Sources: Judicial Department Offenses and Revenue Database

OLR Bill Analysis**HB 6849*****AN ACT STRENGTHENING PROTECTIONS FOR VICTIMS OF HUMAN TRAFFICKING.*****SUMMARY:**

This bill makes numerous changes to the statutes related to human trafficking. It:

1. expands the crime of human trafficking by broadening the conditions under which the crime is committed when the victim is a minor (under age 18);
2. requires the Department of Public Health (DPH) to provide victims of human trafficking the same services it must provide certain sexual assault victims under existing law;
3. allows the Office of Victims Services (OVS), under certain circumstances, to waive the time limitation on crime victim compensation applications for a minor who is a victim of human trafficking;
4. expands the conditions under which a court may erase a juvenile's record;
5. expands the list of crimes, including human trafficking, for which wiretapping is authorized; and
6. increases, from 21 to 23, the membership of the Trafficking in Persons Council (see BACKGROUND).

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2015

HUMAN TRAFFICKING**§ 4 — Elements of the Crime of Human Trafficking**

The bill expands the crime of human trafficking by broadening the conditions under which the crime is committed when the victim is a minor.

Under current law, a person commits human trafficking when he or she:

1. compels or induces a person, regardless of age, to (a) engage in conduct involving more than one occurrence of sexual contact with one or more third persons or (b) provide labor or services that he or she 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.

Under the bill, the crime of human trafficking is committed against a minor regardless of whether the offender uses coercion, fraud, or use or threatened use of force against the person or a third person.

By law, human trafficking is a class B felony, punishable by imprisonment up to 20 years with a one year minimum, fines up to \$15,000, or both. Human trafficking of a minor is also a class B felony under the bill.

§ 1 — DPH Services to Trafficking Victims

The bill requires DPH to provide victims of human trafficking the same services it must provide under existing law to certain sexual assault victims and victims of injury, risk of injury, or impairing morals of children. The services DPH must provide to such victims are:

1. counseling regarding human immunodeficiency virus (HIV) and acquired immune deficiency syndrome;
2. HIV-related testing; and
3. referral service for appropriate health care and support services.

The law requires DPH to provide such services (1) whether or not anyone is convicted or adjudicated delinquent for the violation and (2) through counseling and testing sites the Department funds.

§ 6 — Crime Victim Compensation

By law, crime victims (including those who suffer pecuniary loss as a result of the victim's injury) may generally be considered for crime victim compensation if they apply within two years after the date of personal injury or death from a qualifying incident or crime and report the crime to the police either within five days after it occurs or within five days after a report reasonably could have been made. The maximum awards are \$15,000 for personal injuries and \$25,000 for death.

The bill allows OVS to waive the time limitation on crime victim compensation applications for a minor who is a victim of human trafficking, if OVS finds that the minor is not at fault for not applying on time.

§ 3 — Erasure of Police and Court Records

The bill expands the conditions under which a court may erase a juvenile's record.

By law, a child or his or her parent may petition the Superior Court to have the child's record erased for (1) a delinquency conviction, (2) an adjudication as a member of a family with service needs (FWSN) (see BACKGROUND), or (3) admitting to committing a delinquent act. Under current law, for the court to erase a juvenile's record, the following conditions must exist:

1. at least two years (four years for a serious juvenile offense) must have elapsed since the child was discharged from the supervision of the Superior Court or from the custody of DCF or any other agency or institution,
2. no subsequent juvenile proceeding or adult criminal proceeding is pending against the child,

3. the child has not been convicted of a delinquent act that would constitute a felony or misdemeanor if committed by an adult during the two- or four-year period,
4. the child has not been convicted as an adult of a felony or misdemeanor during this period, and
5. the child has reached adulthood.

Under the bill, the court may also erase the record if it finds that the child has a criminal record as a result of being a victim of human trafficking.

§ 5 — Wiretapping

The bill adds aggravated sexual assault of a minor, enticing a minor, human trafficking, and obscenity concerning minors to the list of crimes for which wiretapping is authorized.

Under current law, wiretaps are authorized for the crimes of gambling, bribery, racketeering, manufacturing and selling narcotics or hallucinogens, felonies involving violence, unlawful or threatened use of physical force, or violence committed with intent to intimidate or coerce the civilian population or a government unit.

§ 2 — Trafficking in Persons Council

The bill increases, from 21 to 23, the membership of the Trafficking in Persons Council by increasing, from one to three, the public members appointed by the Governor (see BACKGROUND). Under current law, he appoints a representative of Connecticut Sexual Assault Crisis Services, Inc. The bill requires the Governor to appoint two additional public members, one each representing (1) victims of commercial exploitation of children and (2) child sex trafficking victims.

BACKGROUND

Family with Service Needs (FWSN)

A family with service needs is a family that includes a child who is

at least age seven and under age 18 and who (1) has, without just cause, run away from home; (2) is beyond the control of his or her parent or other guardian; (3) has engaged in indecent or immoral conduct; (4) is truant or habitually truant or who, while in school, continuously and overtly defies school rules and regulations; or (5) is age 13 or older and is sexually active with someone who is at least age 13 but under age 16.

Trafficking in Person Council

By law, the council must (1) identify criteria for providing services to trafficking victims and (2) consult with governmental and nongovernmental organizations to develop recommendations to strengthen state and local efforts to prevent trafficking, protect and assist victims of trafficking, and prosecute traffickers. The council must meet three times per year (CGS § 46b-146).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 43 Nay 0 (04/06/2015)