



**PA 21-103—HB 6657**

*Judiciary Committee*

## **AN ACT CONCERNING HUMAN TRAFFICKING**

**SUMMARY:** This act makes various changes to laws affecting human trafficking crime and victims. Principally, it:

1. extends vacatur relief by (a) allowing individuals who committed certain crimes (rather than just prostitution) due to being human trafficking victims to apply to have those convictions vacated, (b) requiring the applicants to notify any victim of the crimes about the application, and (c) giving the court discretion to vacate the convictions (except for prostitution convictions, for which vacatur remains mandatory for applicants who prove that they were trafficking victims) (§ 7);
2. establishes an affirmative defense for a trafficking victim who is a minor charged with trafficking in persons (§ 3);
3. narrows the elements of the trafficking in persons crime by including only actions a person commits knowingly (§ 3);
4. broadens the crimes of “sex trafficking,” “patronizing a prostitute,” and “commercial sexual abuse of a minor” to include taking these actions in exchange for anything of value, instead of only for paying a fee as under prior law (§§ 3-5) (PA 21-102, §§ 2 & 3, changes the term “patronizing a prostitute” to “soliciting sexual acts,” effective October 1, 2021);
5. reduces the required frequency for certain professionals to complete Department of Children and Families (DCF) refresher training in human trafficking awareness from annually to every three years, and extends the training requirement to emergency medical services (EMS) personnel (§ 6);
6. increases the Trafficking in Persons Council’s membership from 27 to 35 and requires it, by January 1, 2022, to (a) examine how traffickers use the internet to groom minors to be trafficked and exploited and (b) report its findings to the Judiciary Committee, including recommendations to combat online grooming (§§ 1 & 8); and
7. allows the court, upon the prosecutor’s request, to compel certain witnesses to testify and produce evidence in delinquency proceedings (§ 2).

The act also makes technical and conforming changes.

**EFFECTIVE DATE:** October 1, 2021, except that the Trafficking in Persons Council’s membership provision is effective July 1, 2021, and the reporting provision is effective upon passage.

### **§ 7 — VACATUR RELIEF FOR TRAFFICKING VICTIMS**

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### *Eligibility*

By law, once a court enters a prostitution conviction (a class A misdemeanor), the defendant can apply to the Superior Court to vacate the conviction if his or her participation in the offense resulted from being a victim of another person's conduct that constituted a human trafficking violation under state or federal law. The act expands eligibility for this vacatur relief to include those convicted of any misdemeanor offense; class C, D, or E felony; or unclassified felony offense carrying up to a 10-year prison term.

### *Victim Notice and Opportunity to be Heard*

Existing law requires the court, before granting or denying the application, to give the prosecutor (1) a reasonable opportunity to investigate the defendant's claim and (2) an opportunity to be heard regarding the defendant's application. The act requires the court to also give the victim of the applicant's crime an opportunity to be heard.

The act requires anyone who applies for vacatur relief to notify the victim by registered or certified mail about the application and the victim's opportunity to be heard. The Office of the Chief Court Administrator must prescribe the notice's form.

### *Vacating Conviction and Dismissal of Charges*

Existing law and the act require the court to vacate a prostitution conviction if the defendant proves that his or her participation in the offense was a result of having been a victim of another person's conduct that constitutes a human trafficking violation under state or federal law.

For other offenses eligible for vacatur as described above, the act gives the court discretion to vacate the conviction if the defendant proves that he or she was such a human trafficking victim (PA 21-104, § 62, makes a technical change by specifying that this discretion applies to misdemeanors other than prostitution). As under existing law, the court must dismiss any charges related to an offense it vacates.

Under existing law, unchanged by the act, vacating a judgment of conviction and dismissal of human trafficking charges does not constitute grounds for awarding compensation for wrongful arrest, prosecution, conviction, or incarceration under any statute.

### § 3 — AFFIRMATIVE DEFENSE FOR TRAFFICKING VICTIM

Under the act, it is an affirmative defense in any human trafficking prosecution or delinquency proceeding that the defendant was a minor (under age 18) and his or her participation in the offense was a result of having been a victim of another person's conduct that constitutes human trafficking.

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### §§ 3-5 — ELEMENTS OF CERTAIN SEX CRIMES

#### *Trafficking in Persons (§ 3)*

Under prior law, a person was guilty of trafficking in persons when he or she:

1. used fraud, coercion, or force (or threat of force) to compel or induce another person to (a) engage in conduct involving sexual contact with one or more third persons or (b) provide labor or services that the other person has a legal right to refrain from providing;
2. compelled or induced a minor (under age 18) to engage in conduct with one or more third persons involving sexual contact for which the third person may be charged with a crime; or
3. otherwise committed a sex trafficking act.

The act narrows this crime to include only cases where the person (1) knowingly compelled or induced the other person to take these actions or (2) otherwise knowingly committed sex trafficking.

#### *Specific Sex Crimes (§§ 3-5)*

The act broadens the definition of the crimes of “sex trafficking,” “patronizing a prostitute,” and “commercial sexual abuse of a minor” by making it a crime to engage in the following conduct in exchange for anything of value, instead of only for a fee as under prior law:

1. for sex trafficking: the recruitment, harboring, transportation, or providing of a person to engage in sexual conduct with another person;
2. for patronizing a prostitute: paying another person based on an understanding that in return, the other person or a third person will engage in sexual conduct with him or her (or soliciting or requesting such an exchange); and
3. for commercial sexual abuse of a minor: (a) paying a minor or third person as compensation for the minor engaging in sexual conduct with the person or based on an understanding that in return for the payment, the minor will engage in sexual conduct or (b) soliciting or requesting to engage in sexual conduct with a minor, or someone the person reasonably believes to be a minor.

### § 6 — HUMAN TRAFFICKING AWARENESS COURSE

Existing law requires the DCF commissioner, in consultation with the commissioner of Emergency Services and Public Protection, to develop an initial and refresher training program to accurately and promptly identify and report suspected human trafficking. The act reduces the frequency with which certain professionals (see below) must complete the refresher training from annually to every three years.

The act also extends the training requirement to EMS personnel who have contact with patients. Existing law already requires the following professionals to

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complete the training: law enforcement personnel; Superior Court judges; prosecutors; public defenders and other criminal defense attorneys; hospital emergency room and urgent care facility staff who have patient contact; and employees of local and regional school boards or public higher education constituent units who have contact with students.

### § 1 — TRAFFICKING IN PERSONS COUNCIL MEMBERSHIP

The act increases the council's membership from 27 to 35 by adding (1) a Superior Court judge, appointed by the chief court administrator; (2) a state's attorney, appointed by the chief state's attorney; (3) a public defender, appointed by the chief public defender; and (4) five additional public members.

For the latter, the act increases (1) from two to three, the public members appointed by the governor and (2) from one to two, the public members appointed by each of the Senate and House majority and minority leaders. Table 1 lists the appointing authority and required qualifications for these additional five public members.

**Table 1: New Public Member Qualifications**

<b><i>Appointing Authority</i></b>	<b><i>Qualifications</i></b>
Governor	Representative of a coalition of children's advocacy centers and multidisciplinary teams dedicated to serving child abuse victims and their families
Senate majority leader	Representative of the Connecticut Coalition to End Homelessness
House majority leader	Representative of the Connecticut Criminal Defense Lawyers Association
Senate minority leader	Representative of massage therapists
House minority leader	Representative of an organization that works with adult trafficking victims

### § 2 — COMPELLING WITNESS TESTIMONY

By law, if the chief state's attorney, state's attorney, or deputy chief state's attorney determines that a witness's testimony or production of evidence is necessary to the public interest, they may apply to the court for an order compelling the witness to testify or produce evidence in certain proceedings. They may do this only if they notify the witness after he or she has claimed privilege against self-incrimination.

Under the act, these officials may take this action in any delinquency proceedings, in addition to grand jury investigations and certain criminal

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proceedings as under existing law (e.g., those involving violent felonies; narcotics; and under certain circumstances, class A, B, and C felonies and certain unclassified felonies).