

CRIMES CODE (18 PA.C.S.) AND JUDICIAL CODE (42 PA.C.S.) -
OMNIBUS AMENDMENTS

Act of Oct. 24, 2018, P.L. 797, No. 130

Cl. 18

Session of 2018

No. 2018-130

SB 554

AN ACT

Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, in human trafficking, further providing for definitions, providing for concurrent jurisdiction, repealing provisions relating to appropriate implementation for minor victims of human trafficking, providing for special relief to restore victim's dignity and autonomy and for safe harbor for sexually exploited children, establishing the Safe Harbor for Sexually Exploited Children Fund and imposing penalties; and, in juvenile matters, providing for dependency in lieu of delinquency.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 3001 of Title 18 of the Pennsylvania Consolidated Statutes is amended by adding definitions to read: § 3001. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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"County agency." A county children and youth social service agency established under section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, and supervised by the department under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

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"Department." The Department of Human Services of the Commonwealth.

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"Fund." The Safe Harbor for Sexually Exploited Children Fund.

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"Sexually exploited child." An individual under 18 years of age who:

- (1) is a victim of sexual servitude; or
- (2) is a victim of an offense under 18 U.S.C. § 1591 (relating to sex trafficking of children or by force, fraud, or coercion).

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Section 2. Title 18 is amended by adding a section to read:
§ 3026. Concurrent jurisdiction.

The Attorney General and the district attorneys of the several counties shall have concurrent authority to investigate and institute criminal proceedings under the provisions of this chapter.

Section 3. Section 3053 of Title 18 is repealed:
[§ 3053. Appropriate implementation for minor victims of human trafficking.]

The provision of services to a minor victim of human trafficking by the Commonwealth or by any institution or person established or licensed by the Commonwealth shall be carried out in a manner that is in the best interest of the minor and appropriate to the particular situation.]

Section 4. Title 18 is amended by adding a section to read:
§ 3056. Special relief to restore victim's dignity and autonomy.

(a) General rule.--An individual who is a victim of human trafficking and has been tattooed with an identifying mark of human trafficking as a direct result of being trafficked may be eligible for special relief.

(b) Form of special relief.--

(1) An individual who is a victim of human trafficking may be reimbursed from the fund for the costs of removing or covering up a tattoo with an identifying mark.

(2) No reimbursement may be paid if the individual has incurred reimbursable expenses of less than \$100, and no reimbursement may exceed \$10,000 per individual.

(3) If a reimbursement paid from the fund to an individual is later recovered by an insurance settlement, civil suit settlement or restitution, the individual shall pay to the fund an amount equal to the reimbursement.

Section 5. Chapter 30 of Title 18 is amended by adding a subchapter to read:

SUBCHAPTER D.1

SAFE HARBOR FOR SEXUALLY EXPLOITED CHILDREN

Sec.

- 3061. Statewide protocol.
- 3062. Specialized services for sexually exploited children.
- 3063. Law enforcement training.
- 3064. Safe Harbor for Sexually Exploited Children Fund.
- 3065. Safe harbor for sexually exploited children.

§ 3061. Statewide protocol.

The department shall develop a Statewide protocol to efficiently and effectively coordinate the provision of specialized services to sexually exploited children.

§ 3062. Specialized services for sexually exploited children.

The department shall, in conjunction with county agencies:

(1) Develop and provide specialized programs and services for sexually exploited children that address a victim's needs, including the following:

(i) Safe and stable housing.

(ii) Access to education.

(iii) Employment and life-skills training.

(iv) Comprehensive case management.

(v) Physical and behavioral health care, including trauma therapy.

(vi) Treatment for drug or alcohol dependency.

(vii) Medical and dental care.

(viii) Access to personal care items and adequate clothing.

(ix) Other needs that sexually exploited children may have as determined by the department or the county agencies.

(2) Ensure that providers of the specialized programs and services provided under paragraph (1) receive sufficient training and understand the unique circumstances surrounding the victimization of sexually exploited children.

§ 3063. Law enforcement training.

The Municipal Police Officers' Education and Training Commission and the Pennsylvania State Police shall provide training to appropriate law enforcement officers. The training shall include:

(1) Methods used to identify a sexually exploited child.

(2) Methods used to interview and engage with a sexually exploited child.

(3) Methods to assist victims to access specialized programs and services for a sexually exploited child.

(4) Methods to minimize trauma in the detention of a sexually exploited child.

§ 3064. Safe Harbor for Sexually Exploited Children Fund.

(a) Establishment.--

(1) The Safe Harbor for Sexually Exploited Children Fund is established in the State Treasury and shall be administered by the department.

(2) Appropriations for transfers to the fund and fines paid and interest accrued on money collected under subsection

(b) shall be deposited into the fund.

(3) In addition to money that may be appropriated by the General Assembly, the department may apply for and expend Federal grants and contributions from other public, quasi-public or private sources to assist in implementing this subchapter.

(4) Money in the fund shall be used as follows:

(i) At least 50% of the fund may be expended by the department to provide victim services either directly by the department or through grants.

(ii) At least 40% of the fund may be expended to increase public awareness through an anti-demand campaign.

(iii) Not more than 10% of the fund may be expended by the department for the costs of operating and maintaining the fund.

(b) Fines.--Notwithstanding any law to the contrary, the fines provided by this subsection shall be in addition to any fine authorized or required by law:

(1) An individual who is convicted of an offense under section 3011 (relating to trafficking in individuals), 3012 (relating to involuntary servitude), 3013 (relating to patronizing a victim of sexual servitude) or 5902(b) or (b.1) (relating to prostitution and related offenses) shall be ordered to pay a fine of \$5,000 for each offense.

(2) An individual who is convicted of an offense under section 5902(e) shall be ordered to pay a fine of \$2,500 for each offense.

(3) An individual who is convicted of an offense under section 5902(e), when the individual knew or should have known the victim was under 18 years of age, shall be ordered to pay a fine of \$5,000 for each offense.

§ 3065. Safe harbor for sexually exploited children.

(a) Safe harbor.--If it is determined by a law enforcement officer, after reasonable detention for investigative purposes, that an individual is under 18 years of age and is determined to be a sexually exploited child as defined in section 3001

(relating to definitions), the individual shall be immune from:

(1) Prosecution or adjudication as a delinquent child for a violation of sections 5507 (relating to obstructing highways and other public passages) and 5902(a) (relating to prostitution and related offenses).

(2) Revocation of an existing term of probation or parole arising from a conviction or adjudication for another offense if the revocation is based on conduct under paragraph (1).

(b) Exceptions to safe harbor.--The safe harbor under subsection (a) shall not:

(1) Interfere with or prevent an investigation, arrest, charge, prosecution, delinquency adjudication or revocation for violations other than a violation under subsection (a).

(2) Bar the admission of evidence in connection with the investigation and prosecution for a violation other than a violation under subsection (a).

(3) Bar the admission of evidence in connection with an investigation and prosecution of an individual who does not qualify for safe harbor as provided under this section.

(c) Detainment.--An individual determined to be a sexually exploited child as defined in section 3001 (relating to definitions) shall be detained no longer than necessary and only to assist the child in securing specialized services available under section 3062 (relating to specialized services for sexually exploited children) or to refer the child to a county agency if required under 42 Pa.C.S. § 6328 (relating to dependency in lieu of delinquency).

(d) Immunity.--In addition to any other immunity or limitation on civil liability, a law enforcement officer or prosecuting attorney who, acting in good faith, investigates, detains, charges or institutes delinquency proceedings against an individual who is thereafter determined to be entitled to immunity under this section shall not be subject to civil liability for the actions.

Section 6. Title 42 is amended by adding a section to read: § 6328. Dependency in lieu of delinquency.

(a) Referral to county agency.--The offenses provided under subsection (b) shall be referred to a county agency under 23 Pa.C.S. §§ 6362 (relating to responsibilities of county agency for child protective services) and 6375 (relating to county agency requirements for general protective services) if the offense:

(1) Is committed by a child as a direct result of being a sexually exploited child as defined in 18 Pa.C.S. § 3001 (relating to definitions).

(2) Is directly related to having been subject to human trafficking as defined in 18 Pa.C.S. § 3001.

(b) Eligible offenses.--Eligible offenses for referral to a county agency include the following:

(1) 18 Pa.C.S. § 3503 (relating to criminal trespass).

(2) 18 Pa.C.S. § 4914 (relating to false identification to law enforcement authorities).

(3) 18 Pa.C.S. § 5503 (relating to disorderly conduct).

(4) 18 Pa.C.S. § 5506 (relating to loitering and prowling at night time).

(5) An offense for simple possession of a controlled substance under section 13(a)(16) and (31) of the act of

April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

(c) Delinquency proceedings.--

(1) If an offense listed in subsection (b) is referred to a county agency, delinquency proceedings under this chapter may not be commenced immediately.

(2) If treatment and social services are unsuccessful while the dependency petition is pending, as evidenced by the child's behavior, and the county agency believes that juvenile justice services are necessary and warranted, the county agency shall refer the child's case to the juvenile probation department or district attorney's office for the commencement of delinquency proceedings.

(d) Record expungement.--Upon the final discharge of supervision, juvenile court records relating to an offense listed in subsection (b) shall be expunged by the court under 18 Pa.C.S. § 9123 (relating to juvenile records).

Section 7. This act shall take effect in 60 days.

APPROVED--The 24th day of October, A.D. 2018.

TOM WOLF