

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 12 Session of 2019

INTRODUCED BY GROVE, THOMAS, McCLINTON, KAUFFMAN, RYAN, SIMMONS, SAYLOR, OTTEN, PICKETT, EVERETT, DAY, FRITZ, READSHAW, NESBIT, NELSON, MILLARD, B. MILLER, FITZGERALD, HARKINS, HICKERNELL, JONES, TOPPER, TOOIL, DELOZIER, MALONEY, SCHEMEL, LEWIS, COX, OWLETT, KLUNK, RAPP, METCALFE, HERSHEY, GLEIM, GABLER, BOROWICZ, O'NEAL, JAMES, DIAMOND, PASHINSKI, BERNSTINE, GREINER, COOK, KORTZ, ORTITAY, ROTHMAN, BROWN, STRUZZI, GILLEN, YOUNGBLOOD, DeLUCA, T. DAVIS, GILLESPIE, McNEILL, HEFFLEY, BENNINGHOFF, KEEFER, BRIGGS, DUSH, MEHAFFIE, QUINN AND MENTZER, JANUARY 28, 2019

REFERRED TO COMMITTEE ON JUDICIARY, JANUARY 28, 2019

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
 2 Judicial Procedure) of the Pennsylvania Consolidated  
 3 Statutes, in human trafficking, further providing for the  
 4 offense of trafficking in individuals and for the offense of  
 5 patronizing a victim of sexual servitude; in public  
 6 indecency, further providing for the offense of prostitution  
 7 and related offenses; and, in depositions and witnesses,  
 8 further providing for definitions and for recorded testimony.

9 This act may be cited as the Buyer Beware Act.

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

12 Section 1. Sections 3011(a) and 3013(a) and (c) of Title 18  
 13 of the Pennsylvania Consolidated Statutes are amended to read:

14 § 3011. Trafficking in individuals.

15 (a) Offense defined.--A person commits a felony of the

16 [second] first degree if the person:

17 (1) recruits, entices, solicits, advertises, harbors,

1 transports, provides, patronizes, obtains or maintains an  
2 individual if the person knows or recklessly disregards that  
3 the individual will be subject to involuntary servitude; or

4 (2) knowingly benefits financially or receives anything  
5 of value from any act that facilitates any activity described  
6 in paragraph (1).

7 \* \* \*

8 § 3013. Patronizing a victim of sexual servitude.

9 (a) Offense defined.--A person commits a felony of the  
10 [second] first degree if the person engages in any sex act or  
11 performance with another individual [knowing] and knows,  
12 reasonably should have known or recklessly disregards the fact  
13 that the act or performance is the result of the individual  
14 being a victim of human trafficking.

15 \* \* \*

16 (c) Fine.--A person whose violation of this section results  
17 in a judicial disposition other than acquittal or dismissal  
18 shall also pay a fine [of \$500] in one of the following amounts  
19 to the court, to be distributed to the commission to fund the  
20 grant program established under section 3031 (relating to  
21 grants) [·]:

22 (1) Not less than \$1,000 and not more than \$30,000.

23 (2) Not less than \$5,000 and not more than \$100,000 if  
24 the victim of sexual servitude was a minor at the time of the  
25 offense.

26 Section 2. Section 5902 of Title 18 is amended by adding  
27 subsections to read:

28 § 5902. Prostitution and related offenses.

29 \* \* \*

30 (e.3) Additional fines for offenses under subsection (e).--

1           (1) A person convicted of a second offense under  
2 subsection (e) shall pay an additional fine of not less than  
3 \$1,000 nor more than \$20,000.

4           (2) A person convicted of a third offense under  
5 subsection (e) shall pay an additional fine of not less than  
6 \$5,000 nor more than \$30,000.

7           (3) A person convicted of a fourth or subsequent offense  
8 under subsection (e) shall pay an additional fine of not less  
9 than \$10,000 nor more than \$50,000.

10          (e.4) Distribution of fines.--Fines collected under this  
11 section shall be distributed equally to the Safe Harbor for  
12 Sexually Exploited Children Fund established under section 3064  
13 (relating to Safe Harbor for Sexually Exploited Children Fund)  
14 and grants under section 3031 (relating to grants).

15          \* \* \*

16          Section 3. Sections 5982 and 5984.1 of Title 42 are amended  
17 to read:

18 § 5982. Definitions.

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

22          "Child" or "children." An individual or individuals under  
23 [16] 18 years of age.

24          "Contemporaneous alternative method." Any method of  
25 capturing the visual images, oral communications and other  
26 information presented during a prosecution or adjudication  
27 involving a child victim or a child material witness and  
28 transmitting and receiving such images, communications and other  
29 information at or about the time of their creation, including,  
30 but not limited to, closed-circuit television, streaming image

1 sent via the Internet or an intranet and any other devices or  
2 systems used to accomplish such ends.

3 "Minor." An individual who, at the time of the commission of  
4 the offense involving sexual or physical abuse, is under 18  
5 years of age.

6 "Qualified shorthand reporter." An individual engaged in the  
7 active practice of general shorthand reporting who is skilled in  
8 the art of verbatim reporting by the use of a written shorthand  
9 system, whether manual or machine; or any individual who is an  
10 official court or legislative reporter; or any individual who is  
11 the holder of a certified shorthand reporter certificate  
12 mandated by State or Federal law.

13 § 5984.1. Recorded testimony.

14 (a) Recording.--Subject to subsection (b), in any  
15 prosecution or adjudication involving a child victim or child  
16 material witness, including a child victim of sexual or labor  
17 servitude, the court may order that the child victim's or child  
18 material witness's testimony be recorded for presentation in  
19 court by any method that accurately captures and preserves the  
20 visual images, oral communications and other information  
21 presented during such testimony. The testimony shall be taken  
22 under oath or affirmation before the court in chambers or in a  
23 special facility designed for taking the recorded testimony of  
24 children. Only the attorneys for the defendant and for the  
25 Commonwealth, persons necessary to operate the equipment, a  
26 qualified shorthand reporter and any person whose presence would  
27 contribute to the welfare and well-being of the child victim or  
28 child material witness, including persons designated under  
29 section 5983 (relating to rights and services), may be present  
30 in the room with the child during testimony. The court shall

1 permit the defendant to observe and hear the testimony of the  
2 child victim or child material witness but shall ensure that the  
3 child victim or child material witness cannot hear or see the  
4 defendant. Examination and cross-examination of the child victim  
5 or child material witness shall proceed in the same manner as  
6 normally permitted. The court shall make certain that the  
7 defendant and defense counsel have adequate opportunity to  
8 communicate for the purpose of providing an effective defense.

9 (b) Determination.--Before the court orders the child victim  
10 or the child material witness, including a child victim of  
11 sexual or labor servitude, to testify by recorded testimony, the  
12 court must determine, based on evidence presented to it, that  
13 testifying either in an open forum in the presence and full view  
14 of the finder of fact or in the defendant's presence will result  
15 in the child victim or child material witness suffering serious  
16 emotional distress that would substantially impair the child  
17 victim's or child material witness's ability to reasonably  
18 communicate. In making this determination, the court may do any  
19 of the following:

20 (1) Observe and question the child victim or child  
21 material witness, either inside or outside the courtroom.

22 (2) Hear testimony of a parent or custodian or any other  
23 person, such as a person who has dealt with the child victim  
24 or child material witness in a medical or therapeutic  
25 setting.

26 (c) Counsel and confrontation.--

27 (1) If the court observes or questions the child victim  
28 or child material witness, including a child victim of sexual  
29 or labor servitude, under subsection (b) (1), the attorney for  
30 the defendant and the attorney for the Commonwealth have the

1 right to be present, but the court shall not permit the  
2 defendant to be present.

3 (2) If the court hears testimony under subsection (b)  
4 (2), the defendant, the attorney for the defendant and the  
5 attorney for the Commonwealth have the right to be present.

6 Section 4. This act shall take effect in 60 days.