S T A T E O F N E W Y O R K

7474--A

2013-2014 Regular Sessions

I N A S S E M B L Y

May 21, 2013

Introduced by M. of A. LENTOL, HEVESI, O'DONNELL, BENEDETTO -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law and the social services law, in relation to prostitution offenses and services to human trafficking victims

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The penal law is amended by adding a new section 230.01 to read as follows:

S 230.01 PROSTITUTION RELATED OFFENSES; AFFIRMATIVE DEFENSE.

IN ANY PROSECUTION FOR PROMOTING PROSTITUTION UNDER SECTION 230.19, 230.20 OR SUBDIVISION TWO OF SECTION 230.25 OF THIS ARTICLE, IT IS AN AFFIRMATIVE DEFENSE THAT THE DEFENDANT'S PARTICIPATION IN THE OFFENSE WAS AS A RESULT OF BEING A VICTIM OF SEX TRAFFICKING UNDER SECTION 230.34 OF THIS ARTICLE, COMPELLING PROSTITUTION UNDER SECTION 230.33 OF THIS ARTICLE, OR A VICTIM OF TRAFFICKING IN PERSONS UNDER THE TRAFFICKING VICTIMS PROTECTION ACT (UNITED STATES CODE, TITLE 22, CHAPTER 78).

S 2. Subdivision (a) of section 483-aa of the social services law, as added by chapter 74 of the laws of 2007, is amended and two new subdivisions (c) and (d) are added to read as follows:

(a) "Human trafficking victim" means a person who is a victim of sex trafficking as defined in section 230.34 of the penal law, A VICTIM OF COMPELLING PROSTITUTION AS DEFINED IN SECTION 230.33 OF THE PENAL LAW, or a victim of labor trafficking as defined in section 135.35 of the penal law.

(C) "SHORT-TERM SAFE HOUSE" MEANS A RESIDENTIAL FACILITY OPERATED BY A NOT-FOR-PROFIT AGENCY WITH EXPERIENCE IN PROVIDING SERVICES TO HUMAN TRAFFICKING VICTIMS, THAT PROVIDES EMERGENCY SHELTER, SERVICES AND CARE TO HUMAN TRAFFICKING VICTIMS INCLUDING FOOD, SHELTER, CLOTHING, MEDICAL

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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CARE, COUNSELING AND APPROPRIATE CRISIS INTERVENTION SERVICES AND PROMOTES A SAFE LIVING ENVIRONMENT.

(D) "LONG-TERM SAFE HOUSE" MEANS A RESIDENTIAL FACILITY OPERATED BY A NOT-FOR-PROFIT AGENCY WITH EXPERIENCE IN PROVIDING SERVICES TO HUMAN TRAFFICKING VICTIMS, THAT PROVIDES SHELTER FOR HUMAN TRAFFICKING VICTIMS AND PROMOTES A SAFE LIVING ENVIRONMENT. IN ADDITION, A LONG-TERM SAFE HOUSE SHALL PROVIDE OR ASSIST WITH SECURING NECESSARY SERVICES FOR SUCH HUMAN TRAFFICKING VICTIM EITHER THROUGH DIRECT PROVISION OF SERVICES, OR THROUGH WRITTEN AGREEMENTS WITH OTHER COMMUNITY AND PUBLIC AGENCIES FOR THE PROVISION OF SERVICES INCLUDING BUT NOT LIMITED TO HOUSING, ASSESSMENT, CASE MANAGEMENT, MEDICAL CARE, LEGAL, MENTAL HEALTH AND SUBSTANCE AND ALCOHOL ABUSE SERVICES. SUCH SAFE HOUSE, IN ACCORDANCE WITH A SERVICE PLAN FOR SUCH HUMAN TRAFFICKING VICTIM, SHALL ALSO PROVIDE COUNSELING AND THERAPEUTIC SERVICES, EDUCATIONAL SERVICES INCLUDING LIFE SKILLS SERVICES, JOB TRAINING AND PLACEMENT AND PLANNING SERVICES TO SUCCESSFULLY TRANSITION SUCH PERSON BACK INTO THE COMMUNITY.

S 3. Section 483-bb of the social services law, as added by chapter 74 of the laws of 2007, is amended to read as follows:

S 483-bb. Services for victims of human trafficking. (a) The office of temporary and disability assistance [may] SHALL coordinate with and assist law enforcement agencies and district attorney's offices to access appropriate services for human trafficking victims.

(b) [In providing such assistance, the] THE office of temporary and disability assistance may enter into contracts with non-government organizations for providing services to [pre-certified] victims of human trafficking as defined in subdivision [(b)] (A) of section four hundred eighty-three-aa of this article, [insofar as funds are available for that purpose] SUBJECT TO AVAILABLE FUNDS. Such services [may] SHALL include, but are not limited to, case management, emergency temporary housing, health care, mental health counseling, drug addiction screening and treatment, language interpretation and translation services, English language instruction, job training and placement assistance, post-employment services for job retention, and services to assist the individual and any of his or her family members to establish a permanent residence in New York state or the United States. SUCH SERVICES SHALL ALSO INCLUDE APPROPRIATE VOLUNTARY PLACEMENT IN A SHORT-TERM AND/OR LONG-TERM SAFE HOUSE, AS SUCH TERMS ARE DEFINED UNDER SUBDIVISION (C) OR (D) OF SECTION FOUR HUNDRED EIGHTY-THREE-AA OF THIS ARTICLE. PLACEMENT IN A SAFE HOUSE SHALL BE AVAILABLE FROM THE INITIAL POINT OF CONTACT BETWEEN THE HUMAN TRAFFICKING VICTIM AND ANY OF THE FOLLOWING: LAW ENFORCEMENT; A LOCAL SOCIAL SERVICES DISTRICT; OR A SOCIAL OR LEGAL SERVICES PROVIDER. NOTHING IN THIS ARTICLE SHALL PREVENT PLACEMENT IN A SAFE HOUSE OF A HUMAN TRAFFICKING VICTIM WHO IS: (1) INVOLVED IN A PROCEEDING WHICH HAS NOT REACHED FINAL DISPOSITION, FOR THE DURATION OF SUCH PROCEEDING; (2) NOT INVOLVED IN A PENDING PROCEEDING; OR (3) PARTICIPATING IN A PROGRAM FOR VICTIMS OF DOMESTIC VIOLENCE AND HAS BEEN IDENTIFIED AS A VICTIM OF HUMAN TRAFFICKING. Nothing in this [section] ARTICLE shall preclude the office of temporary and disability assistance, or any local social services district, from providing human trafficking victims who are United States citizens or human trafficking victims who meet the criteria pursuant to section one hundred twenty-two of this chapter with any benefits or services for which they otherwise may be eligible.

S 4. Section 483-cc of the social services law is amended by adding a new subdivision (c) to read as follows:

(C) PROMPTLY UPON AN ENCOUNTER WITH A PERSON WHO REASONABLY APPEARS TO A LAW ENFORCEMENT AGENCY OR DISTRICT ATTORNEY'S OFFICE TO BE A HUMAN

TRAFFICKING VICTIM, OR A PERSON WHO IDENTIFIES HIMSELF OR HERSELF AS A HUMAN TRAFFICKING VICTIM, SUCH LAW ENFORCEMENT AGENCY OR DISTRICT ATTORNEY'S OFFICE SHALL ADVISE SUCH PERSON OF THE AVAILABILITY OF THE SERVICES OF SPECIFIC, ESTABLISHED PROVIDERS OF SOCIAL AND LEGAL SERVICES TO HUMAN TRAFFICKING VICTIMS. UNLESS, AFTER RECEIVING SUCH ADVICE, THE APPARENT VICTIM EXPRESSES THAT HE OR SHE DOES NOT WISH THE PRESENCE OF A REPRESENTATIVE OF SUCH AN ESTABLISHED PROVIDER OF SOCIAL OR LEGAL SERVICES, THE LAW ENFORCEMENT AGENCY OR DISTRICT ATTORNEY'S OFFICE SHALL CONTACT THE APPROPRIATE PROVIDER AND REQUEST THAT A REPRESENTATIVE BE PROVIDED. IF THE APPARENT VICTIM DOES NOT WISH THE PRESENCE OF SUCH A REPRESENTATIVE, THAT EXPRESSION BY THE APPARENT VICTIM SHALL BE DOCUMENTED BY THE AGENCY OR OFFICE OFFICIAL IN WRITING OR OTHER RECORDED FORM. NOTHING IN THIS SUBDIVISION SHALL AFFECT ANY OBLIGATION SUCH LAW ENFORCEMENT AGENCY OR DISTRICT ATTORNEY'S OFFICE MAY HAVE TO PROVIDE ANY INFORMATION OR ASSISTANCE TO SUCH PERSON.

S 5. This act shall take effect immediately; provided, that section one of this act shall apply to all cases pending on such effective date; provided, that sections two and three of this act shall take effect April 1, 2015; and provided, further, that section four of this act shall take effect on the ninetieth day after it shall have become a law.