

2953--A

Cal. No. 134

2015-2016 Regular Sessions

I N A S S E M B L Y

January 20, 2015

Introduced by M. of A. LENTOL, HEASTIE, HEVESI, O'DONNELL, BENEDETTO, JAFFEE, OTIS, PEOPLES-STOKES, LINARES, STECK, BICHOTTE, MILLER -- read once and referred to the Committee on Codes -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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:

1 Section 1. Section 230.01 of the penal law, as added by chapter 368 of
2 the laws of 2015, is amended to read as follows:
3 S 230.01 Prostitution; affirmative defense.
4 In any prosecution under section 230.00, section 230.03, SECTION
5 230.19, SECTION 230.20 OR SUBDIVISION TWO OF SECTION 230.25 OF THIS
6 ARTICLE or subdivision two of section 240.37 of this part, it is an
7 affirmative defense that the defendant's participation in the offense
8 was a result of having been a victim of compelling prostitution under
9 section 230.33, a victim of sex trafficking under section 230.34 of this
10 article or a victim of trafficking in persons under the trafficking
11 victims protection act (United States Code, Title 22, Chapter 78).
12 S 2. Subdivision (a) of section 483-aa of the social services law, as
13 added by chapter 74 of the laws of 2007, is amended and two new subdivi-
14 sions (c) and (d) are added to read as follows:
15 (a) "Human trafficking victim" means a person who is a victim of sex
16 trafficking as defined in section 230.34 of the penal law, A VICTIM OF
17 COMPELLING PROSTITUTION AS DEFINED IN SECTION 230.33 OF THE PENAL LAW,
18 or a victim of labor trafficking as defined in section 135.35 of the
19 penal law.
20 (C) "SHORT-TERM SAFE HOUSE" MEANS A RESIDENTIAL FACILITY OPERATED BY A
21 NOT-FOR-PROFIT AGENCY WITH EXPERIENCE IN PROVIDING SERVICES TO HUMAN
22 TRAFFICKING VICTIMS, THAT PROVIDES EMERGENCY SHELTER, SERVICES AND CARE

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

LBD02074-03-6

1 TO HUMAN TRAFFICKING VICTIMS INCLUDING FOOD, SHELTER, CLOTHING, MEDICAL
2 CARE, COUNSELING AND APPROPRIATE CRISIS INTERVENTION SERVICES AND
3 PROMOTES A SAFE LIVING ENVIRONMENT.

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

18 S 3. Subdivisions (a) and (b) of section 483-bb of the social services
19 law, as added by chapter 74 of the laws of 2007, is amended to read as
20 follows:

21 (a) The office of temporary and disability assistance [may] SHALL
22 coordinate with and assist law enforcement agencies and district attor-
23 ney's offices to access appropriate services for human trafficking
24 victims.

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

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

1 (C) PROMPTLY UPON AN ENCOUNTER WITH A PERSON WHO REASONABLY APPEARS TO
2 A LAW ENFORCEMENT AGENCY OR DISTRICT ATTORNEY'S OFFICE TO BE A HUMAN
3 TRAFFICKING VICTIM, OR A PERSON WHO IDENTIFIES HIMSELF OR HERSELF AS A
4 HUMAN TRAFFICKING VICTIM, SUCH LAW ENFORCEMENT AGENCY OR DISTRICT ATTOR-
5 NEY'S OFFICE SHALL ADVISE SUCH PERSON OF THE AVAILABILITY OF THE
6 SERVICES OF SPECIFIC, ESTABLISHED PROVIDERS OF SOCIAL AND LEGAL SERVICES
7 TO HUMAN TRAFFICKING VICTIMS. UNLESS, AFTER RECEIVING SUCH ADVICE, THE
8 APPARENT VICTIM EXPRESSES THAT HE OR SHE DOES NOT WISH THE PRESENCE OF A
9 REPRESENTATIVE OF SUCH AN ESTABLISHED PROVIDER OF SOCIAL OR LEGAL
10 SERVICES, THE LAW ENFORCEMENT AGENCY OR DISTRICT ATTORNEY'S OFFICE SHALL
11 CONTACT THE APPROPRIATE PROVIDER AND REQUEST THAT A REPRESENTATIVE BE
12 PROVIDED. IF THE APPARENT VICTIM DOES NOT WISH THE PRESENCE OF SUCH A
13 REPRESENTATIVE, THAT EXPRESSION BY THE APPARENT VICTIM SHALL BE DOCU-
14 MENTED BY THE AGENCY OR OFFICE OFFICIAL IN WRITING OR OTHER RECORDED
15 FORM. NOTHING IN THIS SUBDIVISION SHALL AFFECT ANY OBLIGATION SUCH LAW
16 ENFORCEMENT AGENCY OR DISTRICT ATTORNEY'S OFFICE MAY HAVE TO PROVIDE ANY
17 INFORMATION OR ASSISTANCE TO SUCH PERSON.

18 S 5. This act shall take effect immediately; provided that section one
19 of this act shall apply to all cases pending on such effective date;
20 provided, further, that sections two and three of this act shall take
21 effect April 1, 2017; and provided, further, that section four of this
22 act shall take effect on the ninetieth day after it shall have become a
23 law.