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

3955

2015-2016 Regular Sessions

I N A S S E M B L Y

January 28, 2015

Introduced by M. of A. KATZ -- Multi-Sponsored by -- M. of A. CROUCH, FINCH, GRAF, HAWLEY, LUPINACCI, TENNEY -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to creating an affirmative defense to the charge of prostitution, being the victim of human trafficking, and increasing the minimum sentence of imprisonment for those convicted of sex trafficking

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 230.41 to read as follows:

S 230.41 AFFIRMATIVE DEFENSE VICTIM OF HUMAN TRAFFICKING.

ANY INDIVIDUAL CHARGED WITH THE CRIME OF PROSTITUTION PURSUANT TO THIS ARTICLE MAY ASSERT THE AFFIRMATIVE DEFENSE THAT THEIR PARTICIPATION WAS INVOLUNTARY AND SOLELY THE RESULT OF BEING THE VICTIM OF SEX TRAFFICKING. PROVIDED, HOWEVER THAT THIS DEFENSE SHALL NOT BE AVAILABLE TO ANY INDIVIDUAL CHARGED WITH PATRONIZING A PROSTITUTE.

S 2. The closing paragraph of section 230.34 of the penal law, as added by chapter 74 of the laws of 2007, is amended to read as follows:

Sex trafficking is a class B felony PUNISHABLE BY A MINIMUM SENTENCE OF TWENTY-FIVE YEARS IMPRISONMENT.

S 3. Subdivision 2 of section 70.00 of the penal law, as amended by chapter 738 of the laws of 2004, is amended to read as follows:

2. Maximum term of sentence. The maximum term of an indeterminate sentence shall be at least three years and the term shall be fixed as follows:

(a) For a class A felony, the term shall be life imprisonment;

(b) For a class B felony, the term shall be fixed by the court, and shall not exceed twenty-five years;

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

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(B-1) FOR THE CLASS B FELONY OF SEX TRAFFICKING OR HUMAN TRAFFICKING, THE TERM SHALL BE FIXED BY THE COURT AND SHALL NOT BE LESS THAN TWENTY-FIVE YEARS;

(c) For a class C felony, the term shall be fixed by the court, and shall not exceed fifteen years;

(d) For a class D felony, the term shall be fixed by the court, and shall not exceed seven years; and

(e) For a class E felony, the term shall be fixed by the court, and shall not exceed four years.

S 4. The penal law is amended by adding a new section 135.37 to read as follows:

S 135.37 HUMAN TRAFFICKING.

A PERSON IS GUILTY OF HUMAN TRAFFICKING IF HE OR SHE KNOWINGLY AND WILLFULLY HOLDS TO INVOLUNTARY SERVITUDE OR SELLS INTO ANY CONDITION OF INVOLUNTARY SERVITUDE, ANY OTHER PERSON FOR ANY TERM, OR BRINGS WITHIN THE STATE OF NEW YORK ANY PERSON SO HELD.

HUMAN TRAFFICKING IS A CLASS B FELONY.

S 5. This act shall take effect on the ninetieth day after it shall have become a law.