

STATE OF NEW YORK

937

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

Introduced by M. of A. GOTTFRIED, PAULIN, D'URSO -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to confidentiality of records in proceedings to vacate convictions for offenses resulting from sex trafficking, labor trafficking and compelling prostitution

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (i) of subdivision 1 of section 440.10 of the
2 criminal procedure law, as amended by chapter 368 of the laws of 2015,
3 the opening paragraph as amended by chapter 189 of the laws of 2018, is
4 amended to read as follows:

5 (i) The judgment is a conviction where the arresting charge was under
6 section 240.37 (loitering for the purpose of engaging in a prostitution
7 offense, provided that the defendant was not alleged to be loitering for
8 the purpose of patronizing a person for prostitution or promoting pros-
9 titution) or 230.00 (prostitution) or 230.03 (prostitution in a school
10 zone) of the penal law, and the defendant's participation in the offense
11 was a result of having been a victim of sex trafficking under section
12 230.34 of the penal law, sex trafficking of a child under section
13 230.34-a of the penal law, labor trafficking under section 135.35 of the
14 penal law, aggravated labor trafficking under section 135.37 of the
15 penal law, compelling prostitution under section 230.33 of the penal
16 law, or trafficking in persons under the Trafficking Victims Protection
17 Act (United States Code, title 22, chapter 78); provided that

18 (i) a motion under this paragraph shall be made with due diligence,
19 after the defendant has ceased to be a victim of such trafficking or
20 compelling prostitution crime or has sought services for victims of such
21 trafficking or compelling prostitution crime, subject to reasonable
22 concerns for the safety of the defendant, family members of the defend-
23 ant, or other victims of such trafficking or compelling prostitution

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

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1 crime that may be jeopardized by the bringing of such motion, or for
2 other reasons consistent with the purpose of this paragraph; [~~and~~]

3 (ii) official documentation of the defendant's status as a victim of
4 trafficking, labor trafficking, aggravated labor trafficking, compelling
5 prostitution, or trafficking in persons at the time of the offense from
6 a federal, state or local government agency shall create a presumption
7 that the defendant's participation in the offense was a result of having
8 been a victim of sex trafficking, labor trafficking, aggravated labor
9 trafficking, compelling prostitution or trafficking in persons, but
10 shall not be required for granting a motion under this paragraph; and

11 (iii) a motion under this paragraph, and all pertinent papers and
12 documents, shall be confidential and may not be made available to any
13 person or public or private agency except where specifically authorized
14 by court order; provided, however, that availability of copies of a
15 motion under this paragraph and all pertinent papers and documents shall
16 be made available to the defendant or their authorized representative
17 upon request.

18 § 2. This act shall take effect on the sixtieth day after it shall
19 have become a law.