

STATE OF NEW YORK

672

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

AN ACT to amend the social services law and the civil practice law and rules, in relation to a civil cause of action for human trafficking

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

1 Section 1. Subdivision (c) of section 483-bb of the social services
2 law, as amended by chapter 189 of the laws of 2018, is amended to read
3 as follows:

4 (c) (i) An individual who is a victim of the conduct prohibited by
5 section 230.33, 230.34, 230.34-a, 135.35 or 135.37 of the penal law may
6 bring a civil action against the perpetrator or whoever knowingly
7 advances or profits from, or whoever should have known he or she was
8 advancing or profiting from, an act in violation of section 230.33,
9 230.34, 230.34-a, 135.35 or 135.37 of the penal law to recover actual,
10 compensatory and punitive damages [~~and~~], injunctive relief, any combina-
11 tion of those or any other appropriate relief, as well as reasonable
12 attorney's fees.

13 (ii) An action brought pursuant to this subdivision shall be commenced
14 within fifteen years of the date on which the trafficking victim was
15 freed from the trafficking situation or, if the victim was a minor when
16 the act of human trafficking against the victim occurred, within fifteen
17 years after the date the victim attains the age of majority.

18 (iii) If a person entitled to sue is under a disability at the time
19 the cause of action accrues so that it is impossible or impracticable
20 for him or her to bring an action under this subdivision, the time of
21 the disability is not part of the time limited for the commencement of
22 the action. Disability will toll the running of the statute of limita-
23 tions for this action.

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

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1 (A) Disability includes being a minor, lacking legal capacity to make
2 decisions, imprisonment, or other incapacity or incompetence.

3 (B) The statute of limitations shall not run against a victim who is a
4 minor or who lacks the legal competence to make decisions simply because
5 a guardian ad litem has been appointed. A guardian ad litem's failure to
6 bring a victim's action within the applicable limitation period will not
7 prejudice the victim's right to do so after his or her disability ceas-
8 es.

9 (C) The perpetrator is estopped from asserting a defense of the stat-
10 ute of limitations when the expiration of the statute is due to conduct
11 by such perpetrator inducing the victim to delay the filing of the
12 action, or due to threats made by the perpetrator causing duress upon
13 the victim.

14 (D) The suspension of the statute of limitations due to disability,
15 lack of knowledge, or estoppel applies to all other related claims aris-
16 ing out of the trafficking situation.

17 (E) The running of the statute of limitations is postponed during the
18 pendency of criminal proceedings against the victim.

19 (iv) The running of the statute of limitations may be suspended if a
20 person entitled to sue could not have reasonably discovered the cause of
21 action due to circumstances resulting from the trafficking situation,
22 such as psychological trauma, cultural and linguistic isolation, and the
23 inability to access services.

24 (v) A prevailing victim may also be awarded reasonable attorney's fees
25 and litigation costs including, but not limited to, expert witness fees
26 and expenses as part of the costs.

27 (vi) Restitution paid by the perpetrator to the victim shall be cred-
28 ited against a judgment, award, or settlement obtained pursuant to an
29 action under this subdivision.

30 (vii) A civil action filed under this subdivision shall be stayed
31 during the pendency of any criminal action arising out of the same
32 occurrence in which the claimant is the victim. As used in this subdivi-
33 sion, a "criminal action" includes investigation and prosecution, and is
34 pending until a final adjudication in the trial court or dismissal.

35 § 2. The section heading and subdivision (e) of section 212 of the
36 civil practice law and rules, subdivision (e) as added by chapter 368 of
37 the laws of 2015, are amended to read as follows:

38 Actions to be commenced within ten or fifteen years.

39 (e) By a victim of sex trafficking, compelling prostitution, or labor
40 trafficking. An action by a victim of sex trafficking, compelling pros-
41 titution, labor trafficking or aggravated labor trafficking, brought
42 pursuant to subdivision (c) of section four hundred eighty-three-bb of
43 the social services law, may be commenced within [~~ten~~] fifteen years
44 after such victimization occurs provided, however, that such [~~ten~~]
45 fifteen year period shall not begin to run and shall be tolled during
46 any period in which the victim is or remains subject to such conduct.

47 § 3. This act shall take effect immediately.