STATE OF NEW YORK

392

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to defining the crime of sex trafficking of a child, person who is mentally disabled, or person who is mentally incapacitated

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

Section 1. Section 230.34-a of the penal law, as added by chapter 189 of the laws of 2018, is amended to read as follows:

§ 230.34-a Sex trafficking of a child**, person who is mentally disabled, or person who is mentally incapacitated**.

1. A person is guilty of sex trafficking of a child**, person who is mentally disabled, or person who is mentally incapacitated** when**:**

(a) he or she, being twenty-one years old or more, intentionally advances or profits from prostitution of another person and such person is a child less than eighteen years old. Knowledge by the defendant of the age of such child is not an element of this offense and it is not a defense to a prosecution therefor that the defendant did not know the age of the child or believed such age to be eighteen or over**; or**

(b) he or she intentionally advances or profits from prostitution of another person and such person is mentally disabled or mentally incapacitated.

2. For purposes of this section:

(a) A person "advances prostitution" when, acting other than as a person in prostitution or as a patron thereof, and with intent to cause prostitution, he or she directly engages in conduct that facilitates an act or enterprise of prostitution.

(b) A person "profits from prostitution" when, acting other than as a person in prostitution receiving compensation for personally rendered prostitution services, and with intent to facilitate prostitution, he or

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

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she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates in the proceeds of prostitution activity.

(c) The terms "mentally disabled" and "mentally incapacitated" shall have the same meanings set forth in section 130.00 of this chapter.

Sex trafficking of a child**, person who is mentally disabled, or person who is mentally incapacitated** is a class B felony.

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