

STATE OF NEW YORK

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Cal. No. 884

IN SENATE

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Introduced by Sens. MYRIE, ADDABBO, CLEARE, GALLIVAN, GOUNARDES, HARCKHAM, PERSAUD, RHOADS, SCARCELLA-SPANTON, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the penal law, in relation to establishing the crimes of benefiting from a labor trafficking venture, benefiting from a sex trafficking venture and aggravated benefiting from a sex trafficking venture; to amend the social services law, in relation to establishing a right of action for victims of benefiting from a trafficking venture; and to amend the civil practice law and rules and the judiciary law, in relation to reviving such actions otherwise barred by the existing statute of limitations, granting trial preference to such actions, and directing the chief administrator of the courts to promulgate rules for the timely adjudication of certain revived actions

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "trafficking survivor recovery and accountability act".
3 § 2. Legislative intent. The legislature finds that survivors of sexual
4 exploitation and trafficking, as well as labor trafficking, including
5 those induced through fraud, material misrepresentation, or knowing
6 concealment, and where the exploitation or trafficking was sustained by
7 third parties who derived financial, professional, or reputational benefit
8 from its continuation, have been systematically denied meaningful
9 civil redress under existing law, not because the underlying conduct was
10 lawful, but because the redress available to such survivors was fragmented
11 across overlapping common-law theories of fraud, intentional
12 infliction of emotional distress, civil conspiracy, and aiding and abetting
13 tortious conduct, each subject to limitations periods that ran

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

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1 before survivors were positioned, psychologically or practically, to
2 identify the conduct as actionable or to overcome the financial,
3 social, and evidentiary obstacles and age and power disparities to seek-
4 ing redress against the perpetrators and the networks that enabled or
5 benefitted from their exploitation. Delayed disclosure in cases involv-
6 ing fraudulent inducement and third-party enabler networks often follow
7 dependency relationships engineered through misrepresentation, financial
8 and reputational coercion that persists long after the conduct itself,
9 and the systematic insulation of beneficiary parties through corporate,
10 fiduciary, and trust structures designed to defeat accountability. This
11 act consolidates and clarifies remedies that existed at best only in
12 principle by providing a defined statutory framework, a uniform burden
13 of proof, and a bounded revival or retroactivity period in which survi-
14 vors may seek redress against perpetrators, their enablers, and the
15 estates and successor entities through which the proceeds of such
16 conduct have been preserved. Civil provisions of this act are retroac-
17 tive not only to recognize the harm done, and to deter future such harm
18 to, sex trafficking victims, labor trafficking victims, and victims of
19 sexual exploitation, but also to make possible the redress for injus-
20 tices inflicted upon victims of sex trafficking, labor trafficking, and
21 sexual exploitation who have suffered physical, psychological and other
22 injuries and conditions, and who have for far too long been denied the
23 compensation to which they were entitled because of prejudicial atti-
24 tudes toward victims of sex trafficking, labor trafficking, and sexual
25 exploitation. Criminal provisions of this act recognize that our current
26 laws do not account for the networks and systems that allow for, benefit
27 from, and perpetrate harm to victims of sex trafficking, labor traffick-
28 ing, and sexual exploitation, and it is the legislature's intent that
29 this act help deter and remediate the extreme harm done by sex traffick-
30 ing, labor trafficking, and sexual exploitation.

31 § 3. The penal law is amended by adding three new sections 135.35-a,
32 230.34-b, and 230.34-c to read as follows:

33 § 135.35-a Benefiting from a labor trafficking venture.

34 1. A person is guilty of benefiting from a labor trafficking venture
35 by obtaining anything of value due to such person participating in what
36 such person knew or reasonably should have known was a labor trafficking
37 venture.

38 2. For the purposes of this section:

39 (a) "labor trafficking venture" means any one person, individually, or
40 two or more persons associated in fact, whether or not a legal entity,
41 engaged in conduct which is a violation of paragraph (a) or (c) of
42 subdivision three of section 135.35 of this article.

43 (b) "participating in" means to knowingly assist, support or facili-
44 tate a labor trafficking venture.

45 Benefiting from a labor trafficking venture is a class D felony.

46 § 230.34-b Benefiting from a sex trafficking venture.

47 1. A person is guilty of benefiting from a sex trafficking venture by
48 obtaining anything of value due to such person participating in what
49 such person knew or reasonably should have known was a sex trafficking
50 venture.

51 2. For the purposes of this section:

52 (a) "sex trafficking venture" means any one person, individually, or
53 two or more persons associated in fact, whether or not a legal entity,
54 engaged in conduct which is a violation of section 230.34 of this arti-
55 cle other than paragraphs (a) and (c) of subdivision five of such
56 section.

1 (b) "participating in" means to knowingly assist, support or facili-
2 tate a sex trafficking venture.

3 Benefiting from a sex trafficking venture is a class C felony.

4 § 230.34-c Aggravated benefiting from a sex trafficking venture.

5 1. A person is guilty of aggravated benefiting from a sex trafficking
6 venture by obtaining anything of value due to such person participating
7 in what such person knew or reasonably should have known was a sex traf-
8 ficking venture.

9 2. For the purposes of this section:

10 (a) "sex trafficking venture" means any one person, individually, or
11 two or more persons associated in fact, whether or not a legal entity,
12 engaged in conduct which is a violation of paragraph (a) or (c) of
13 subdivision five of section 230.34 or 230.34-a of this article.

14 (b) "participating in" means to knowingly assist, support or facili-
15 tate a sex trafficking venture.

16 Aggravated benefiting from a sex trafficking venture is a class B
17 felony.

18 § 4. Subdivision (a) of section 483-aa of the social services law, as
19 added by chapter 74 of the laws of 2007, is amended to read as follows:

20 (a) "Human trafficking victim" means a person who is a victim of sex
21 trafficking as defined in section 230.34 of the penal law ~~[or]~~, a victim
22 of benefiting from a sex trafficking venture as defined in section
23 230.34-b of the penal law, a victim of aggravated benefiting from a sex
24 trafficking venture as defined in section 230.34-c of the penal law, a
25 victim of labor trafficking as defined in section 135.35 of the penal
26 law, or a victim of benefiting from a labor trafficking venture as
27 defined in section 135.35-a of the penal law.

28 § 5. Paragraph (i) of subdivision (c) of section 483-bb of the social
29 services law, as amended by chapter 311 of the laws of 2021, is amended
30 and two new paragraphs (viii) and (ix) are added to read as follows:

31 (i) (A) An individual who is a victim of the conduct prohibited by
32 section 230.33, 230.34, 230.34-a, 230.34-b, 230.34-c, 135.35, 135.35-a
33 or 135.37 of the penal law or a victim of conduct constituting sexual
34 exploitation by fraud may bring a civil action against the perpetrator
35 of such conduct or ~~[whoever knowingly advances or profits from, or~~
36 ~~whoever should have known he or she was advancing or profiting from, an~~
37 ~~act in violation of section 230.33, 230.34, 230.34-a, 135.35 or 135.37~~
38 ~~of the penal law to]~~ any person or entity, including but not limited to
39 an individual, corporation, partnership, trust, or estate, who or that
40 acts together or in concert with the perpetrator, finances or enables
41 the conduct, or who obtains anything of value from the conduct, whether
42 knowingly or negligently. The civil action may recover actual, compensa-
43 tory and punitive damages, injunctive relief, any combination of those
44 or any other appropriate relief, as well as reasonable attorney's fees.
45 Such damages shall not be subject to discharge in bankruptcy
46 proceedings. Such civil action may proceed regardless of whether the
47 defendant was charged or convicted of a criminal offense and shall be
48 determined under a preponderance of the evidence standard based on
49 conduct prohibited by the enumerated sections or described in this
50 subdivision.

51 (B) For purposes of this paragraph, the term "sexual exploitation by
52 fraud" shall mean inducing an individual through material false state-
53 ments, misstatements or omissions to engage in or continue to engage in
54 sexual acts by a person or entity that receives anything of value from,
55 in connection with, or arising out of those acts.

1 (C) For purposes of this paragraph, the term "anything of value"
2 includes but is not limited to money, financial benefit, property,
3 services, debt forgiveness, promises of compensation, business opportu-
4 nities, business or social networking opportunities, or any other tangi-
5 ble or intangible benefit.

6 (viii) In any action brought pursuant to this subdivision, the trier
7 of fact may award additional punitive damages upon a showing that the
8 defendant's conduct was willful, wanton, reckless, malicious, or in
9 conscious disregard of the rights and safety of the plaintiff.

10 (ix) Notwithstanding any other provision of law to the contrary:

11 (A) in no action brought pursuant to this subdivision shall the death
12 of the human trafficking victim or the sexual exploitation by fraud
13 victim bringing the action or the death of a person or dissolution of an
14 entity, including but not limited to corporations, partnerships, trusts,
15 or estates, against whom the action was brought be a defense against
16 such action.

17 (B) an action may be brought pursuant to this subdivision by the
18 personal representative, estate, successors, assignees, or distributees
19 of a human trafficking victim or a sexual exploitation by fraud victim.

20 (C) in any action brought pursuant to this subdivision against the
21 personal representative, estate, successors, assignees, or distributees
22 of a deceased person liable therefor, the trier of fact may award any
23 damages, including but not limited to punitive damages, permitted under
24 this subdivision.

25 § 6. The civil practice law and rules is amended by adding a new
26 section 214-k to read as follows:

27 § 214-k. Action by certain victims of trafficking. Notwithstanding
28 any provision of law which imposes a period of limitation to the contra-
29 ry and the provisions of any other law pertaining to the filing of a
30 notice of claim or a notice of intention to file a claim as a condition
31 precedent to commencement of an action or special proceeding, every
32 civil claim or cause of action brought against any party alleging inten-
33 tional or negligent acts or omissions by a person for physical, psycho-
34 logical, or other injury or condition suffered as a result of conduct
35 which would constitute benefiting from a sex trafficking venture or
36 aggravated benefiting from a sex trafficking venture as defined in arti-
37 cle two hundred thirty of the penal law, benefiting from a labor traf-
38 ficking venture as defined in article one hundred thirty-five of the
39 penal law, or is otherwise actionable pursuant to section four hundred
40 eighty-three-bb of the social services law, which is barred as of the
41 effective date of this section because the applicable period of limita-
42 tion has expired, and/or the plaintiff previously failed to file a
43 notice of claim or a notice of intention to file a claim, is hereby
44 revived, and action thereon may be commenced not earlier than one month
45 after, and not later than one year after the effective date of this
46 section. In any such claim or action, dismissal of a previous action,
47 ordered before the effective date of this section, on grounds that such
48 previous action was time barred, and/or for failure of a party to file a
49 notice of claim or a notice of intention to file a claim, shall not be
50 grounds for dismissal of a revival action pursuant to this section. No
51 civil claim or action brought against any party alleging intentional or
52 negligent acts or omission by a person for physical, psychological or
53 other injury or condition suffered as a result of conduct which would
54 constitute benefiting from a sex trafficking venture or aggravated bene-
55 fitting from a sex trafficking venture as defined in article two hundred
56 thirty of the penal law or from sexual exploitation by fraud defined in

1 section four hundred eighty-three-bb of the social services law shall be
2 dismissed on the ground that the conduct did not form the basis for a
3 civil claim or action at the time it was committed; provided, however,
4 it is commenced not earlier than one month after, and not later than one
5 year after the effective date of this section. The provisions of para-
6 graph (i) of subdivision (c) of section four hundred eighty-three-bb of
7 the social services law shall apply to all such claims and causes of
8 action asserted retroactively.

9 § 7. Paragraph 7 of subdivision (a) of rule 3403 of the civil practice
10 law and rules, as amended by chapter 203 of the laws of 2022, is amended
11 to read as follows:

12 7. any action which has been revived pursuant to section two hundred
13 fourteen-g [~~e~~], two hundred fourteen-j or two hundred fourteen-k of
14 this chapter.

15 § 8. The judiciary law is amended by adding a new section 219-f to
16 read as follows:

17 § 219-f. Rules reviving certain actions; benefiting from a trafficking
18 venture and for other purposes. The chief administrator of the courts
19 shall promulgate rules for the timely adjudication of revived and
20 retroactively commenced actions brought pursuant to section two hundred
21 fourteen-k of the civil practice law and rules.

22 § 9. Severability clause. If any clause, sentence, paragraph, subdivi-
23 sion, section or part of this act shall be adjudged by any court of
24 competent jurisdiction to be invalid, such judgment shall not affect,
25 impair, or invalidate the remainder thereof, but shall be confined in
26 its operation to the clause, sentence, paragraph, subdivision, section
27 or part thereof directly involved in the controversy in which such judg-
28 ment shall have been rendered. It is hereby declared to be the intent of
29 the legislature that this act would have been enacted even if such
30 invalid provisions had not been included herein.

31 § 10. This act shall take effect immediately.