
OLR Bill Analysis

HB 6657 (as amended by House "A" and "B")*

AN ACT CONCERNING HUMAN TRAFFICKING.

SUMMARY

This bill makes various changes to laws affecting human trafficking crime and victims. Principally, it:

1. (a) extends vacatur relief by allowing individuals who committed certain crimes due to being human trafficking victims to apply to have those convictions vacated and (b) requires the applicants to notify any victim of the crimes about the application (see COMMENT) (§ 7);
2. establishes an affirmative defense for a trafficking victim who is a minor charged with trafficking in persons (§ 3);
3. narrows the elements of the trafficking in persons crime by including only actions a person commits knowingly (§ 3);
4. broadens the crimes of “sex trafficking,” “patronizing a prostitute,” and “commercial sexual abuse of a minor” to include taking these actions in exchange for anything of value, instead of only for paying a fee, as under current law (§§ 3-5);
5. reduces, from annually to every three years, the required frequency of the Department of Children and Families (DCF) refresher training in human trafficking awareness for certain professions and extends the training requirement to emergency medical services (EMS) personnel (§ 6);
6. increases, from 27 to 35, the Trafficking in Persons Council’s membership and requires it, by January 1, 2022, to (a) examine how traffickers use the internet to groom minors to be trafficked and exploited and (b) report its findings to the Judiciary

Committee, including recommendations to combat online grooming (§§ 1 & 8); and

7. allows the court to compel certain witnesses to testify and produce evidence in delinquency proceedings (§ 2).

The bill also makes technical and conforming changes.

*House Amendment "A" (1) allows certain defendants convicted of a misdemeanor offense; class C, D, or E felony; or unclassified felony offense carrying up to a 10-year prison term, to apply for vacatur relief; (2) gives the court the discretion to vacate those convictions; (3) requires applicants for relief to notify the victims, rather than the Office of Victim Services; (4) requires the chief court administrator's office to prescribe the notice form; and (5) requires the court to give the victim a chance to be heard on the application (§ 7).

*House Amendment "B" adds the Trafficking in Persons Council reporting requirement (§ 8).

EFFECTIVE DATE: October 1, 2021, except that the Trafficking in Persons Council's membership provision is effective July 1, 2021, and the reporting provision is effective upon passage.

§ 7 — VACATUR RELIEF FOR TRAFFICKING VICTIMS

Eligibility

Under current law, at any time after a court enters a prostitution conviction, a class A misdemeanor, the defendant may apply to the Superior Court to vacate the judgment of conviction on the basis that his or her participation in the offense resulted from being a victim of another person's conduct that constitutes a human trafficking violation under state or federal law. The bill expands eligibility for this vacatur relief to include those convicted of any misdemeanor offense; class C, D, or E felony; or unclassified felony offense carrying up to a 10-year prison term.

Victim Notice

The bill requires anyone who applies for vacatur relief to notify the

victim of the crime by registered or certified mail about the (1) application for vacatur relief and (2) victim's opportunity to be heard by the court on the application. The Office of the Chief Court Administrator must prescribe the notice's form.

Investigation and Hearing

Existing law requires the court, before granting or denying the application, to give the prosecutor (1) a reasonable opportunity to investigate the defendant's claim and (2) an opportunity to be heard regarding the defendant's application. The bill requires the court to also give the victim an opportunity to be heard regarding the defendant's application.

Vacate Conviction and Dismiss Charges

Existing law and the bill require the court to vacate a conviction for prostitution (a class A misdemeanor) if the defendant proves that his or her participation in the offense was a result of having been a victim of another person's conduct that constitutes a human trafficking violation under state or federal law. (The bill appears to include an inaccurate statutory reference for the federal trafficking in persons law.)

The bill also allows the court, at its discretion, to vacate any judgment of conviction for any misdemeanor offense; class C, D, or E felony; or unclassified felony offense carrying up to a 10-year prison term applied for by a human trafficking victim (see COMMENT). As under existing law, the court must dismiss any charges related to an offense it vacates.

Under existing law, unchanged by the bill, vacating a judgment of conviction and dismissal of human trafficking charges does not constitute grounds for awarding compensation for wrongful arrest, prosecution, conviction, incarceration, or any other statutory provision.

§ 3 — AFFIRMATIVE DEFENSE FOR TRAFFICKING VICTIM

Under the bill, it is an affirmative defense in any human trafficking

prosecution or delinquency proceeding that the defendant was a minor (under age 18) and his or her participation in the offense was a result of having been a victim of another person's conduct that constitutes human trafficking.

Under current law, a person is guilty of trafficking in persons when he or she:

1. uses fraud, coercion, or force (or threat of force) to compel or induce another person to (a) engage in conduct involving sexual contact with one or more third persons or (b) provide labor or services that the other person has a legal right to refrain from providing;
2. compels or induces a minor (under age 18) to engage in conduct with one or more third persons involving sexual contact for which the third person may be charged with a criminal offense; or
3. commits a sex trafficking act (CGS § 53a-192a).

The bill narrows this crime to include only the above listed actions a person commits knowingly.

§§ 3-5 — ELEMENTS OF CERTAIN SEX CRIMES

The bill broadens the definition of the crimes of "sex trafficking," "patronizing a prostitute," and "commercial sexual abuse of a minor" by making it a crime to engage in the following conduct in exchange for anything of value, instead of only for a fee, as under current law:

1. for sex trafficking: the recruitment, harboring, transportation, or providing of a person to engage in sexual conduct with another person;
2. for patronizing a prostitute: paying another person based on an understanding that in return, the other person or a third person will engage in sexual conduct with him or her; and
3. for commercial sexual abuse of a minor: (a) paying a minor or

third person as compensation for the minor engaging in sexual conduct with the person or based on an understanding that in return for the payment, the minor will engage in sexual conduct or (b) soliciting or requesting to engage in sexual conduct with a minor, or someone the person reasonably believes to be a minor, in return for a fee.

The bill similarly broadens the crimes of patronizing a prostitute and commercial sexual abuse of a minor to include when they are committed based on an agreement to exchange anything of value, instead of an agreement for a fee, as under current law.

§ 6 — HUMAN TRAFFICKING AWARENESS COURSE

Existing law requires the DCF commissioner, in consultation with the commissioner of Emergency Services and Public Protection, to develop an initial and refresher training program to accurately and promptly identify and report suspected human trafficking. The bill reduces, from annually to every three years, the frequency with which DCF must offer the refresher training.

The bill also extends the training requirement to EMS personnel who have contact with patients. Existing law already requires the following professionals to complete the training: law enforcement personnel; judges, prosecutors, public defenders and certain other criminal attorneys; hospital emergency room staff who have patient contact; and local and regional school boards, or a constituent unit, who have contact with students.

§ 1 — TRAFFICKING IN PERSONS COUNCIL MEMBERSHIP

The bill increases the council's membership from 27 to 35 by adding (1) a Superior Court judge, appointed by the chief court administrator; (2) a state's attorney, appointed by the chief state's attorney; (3) a public defender, appointed by the chief public defender; and (4) five public members.

For the latter, the bill increases (1) from two to three, the public members appointed by the governor and (2) from one to two, the

public members appointed by each of the Senate and House majority and minority leaders. Table 1 lists the appointing authority and required qualifications for these additional five public members.

Table 1: New Public Member Qualifications

<i>Appointing Authority</i>	<i>Qualifications</i>
The governor	One representative of a coalition of children's advocacy centers and multidisciplinary teams dedicated to serving child abuse victims and their families
Senate majority leader	One representative of the Connecticut Coalition to End Homelessness
House majority leader	One representative of the Connecticut Criminal Defense Lawyers Association
Senate minority leader	One representative of massage therapists
House minority leader	One representative of an organization that works with adult trafficking victims

§ 2 — COMPELLING WITNESS TESTIMONY

By law, if the chief state's attorney, state's attorney, or deputy chief state's attorney determine that a witness's testimony or production of evidence is necessary to the public interest, they may apply to the court for an order compelling the witness to testify or produce evidence in certain proceedings. They may do this only if they notify the witness, after he or she has claimed privilege against self-incrimination.

Under the bill, these officials may take this action in delinquency proceedings in addition to grand jury investigations and certain criminal proceedings, as under existing law (e.g., those involving violent felonies; class A, B, and C felonies; and certain unclassified felonies).

COMMENT

Conflicting Provisions Regarding Vacatur Relief

The bill contains conflicting provisions. Under specified conditions,

the bill requires the court to vacate a conviction of prostitution which is a class A misdemeanor, but simultaneously gives the court discretion to vacate a conviction of any misdemeanor offense.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 27 Nay 10 (03/29/2021)