

THE NEW YORK STATE ANTI-TRAFFICKING COALITION

THE TRAFFICKING VICTIMS PROTECTION AND JUSTICE ACT

STRENGTHENING NEW YORK STATE'S
RESPONSE TO HUMAN TRAFFICKING

This proposed legislation (A.2240A/S.2135A) improves the State's efforts to end human trafficking by enhancing protection for trafficking victims—particularly for sexually exploited children. It increases accountability for buyers and traffickers who are fueling the growth of this massive underground industry and it helps prevent re-victimization of trafficking victims by the justice system.

Recognizing that buying children for sex is child abuse

Currently, an individual convicted of patronizing a minor for prostitution receives a lower penalty than one convicted of raping a minor of the same age. This bill creates the felony sex offense of “aggravated patronizing a minor,” aligning the penalties for patronizing with those for statutory rape.

Calling men who buy sex from children “johns” minimizes the harm they do. At the very least, they are statutory rapists and child abusers.
Rachel Lloyd, founder of GEMS and author of *Girls Like Us*

When people think of sex trafficking, they often only think of women and girls being smuggled across international borders. But sex trafficking is happening within New York City, and its victims are American born.

Lauren Hersh, New York Director,
Equality Now

Acknowledging that prostituted children are victims

When it passed the Safe Harbor Act, the New York legislature recognized that prostituted individuals under the age of eighteen are sexually exploited youth. Likewise, the Federal Trafficking Victims Protection Act establishes that all prostituted children are trafficking victims. This bill brings State law in line with Federal law by removing the New York State's requirement of coercion in prosecutions for the sex trafficking of children.

This bill also addresses a problem with the Safe Harbor Act's implementation: the criminal justice system continues to treat sixteen- and seventeen-year-old trafficking victims as criminal defendants. This legislation assures that these trafficking victims are referred to services and shelter, and do not receive criminal records.

Prosecuting sex trafficking victims under prostitution laws intensifies their abuse and marginalization while empowering their exploiters.

Ted Bunch, Co-Founder and Co-Executive
Director of A CALL TO MEN

Defending trafficked people from criminal prosecution

In 2010, New York amended its Criminal Procedure Law to enable sex trafficking victims to vacate prostitution convictions. This bill establishes sex trafficking as an affirmative defense to prostitution, encouraging defense

counsel to investigate their clients' experiences carefully and bring trafficking concerns to the attention of prosecutors and courts. Preemptive advocacy will contribute to New York's efforts to protect victims and reduce trafficking, and it will obviate the need for post-conviction challenges.

Ensuring access to social services helps victims break the vicious cycle of dependency and humiliation.

Assemblywoman Amy R. Paulin
(D-88th A.D.).

Increasing accountability for traffickers

Penalties for trafficking should match the severity of the crime. Sex traffickers subject their victims to repeated rape. Labor traffickers force their victims to endure prolonged periods of enslavement. This bill designates sex trafficking as a Class B violent felony and raises the penalty for labor trafficking from a Class D felony to a Class B felony.

In order to evade police raids, pimps now collaborate with “chofers,” drivers who advertise “chicas” for sale, set up appointments, transport women to as many as thirty buyers during a ten to twelve hour shift, and collect the money paid to the victim after she has been raped by each buyer. The model for trafficking of victims has moved from the stationery brothel to a brothel on wheels.

Lori Cohen, Senior Staff
Attorney, Sanctuary for Families

Eliminating stigmatizing language

The use of the term “prostitute” is the only instance where the Penal Law identifies someone by the crime he or she has allegedly committed. This bill replaces all references in the Penal Law to “prostitute” with the phrase “person for prostitution.”

Strengthening cases against traffickers

In order to hold traffickers accountable, prosecutors need strong evidence that does not rely exclusively on traumatized victims’ statements. Currently, while investigating traffickers, law enforcement can obtain judicial warrants to intercept conversations only when they can establish coercion or that the victim is under sixteen-years-old. This amendment would enable law enforcement to obtain a judicial warrant when there is probable cause to believe that a suspect owns or manages a prostitution business, operates a sex tourism business, or is pimping children eighteen-years-old or younger.

Improving victim access to social services

Established providers of social and legal services are often the first to interact with trafficking victims and develop trusting relationships. This bill expands the group of people authorized to make referrals for social services.

We must treat sex trafficking as a violent crime because the victims experience countless hours of sexual abuse and psychological torture. The traffickers who recruit them intentionally seek them out for monetary gain and exploit them with no regard for their life or well being.

Deputy Elizabeth Fildes, Program Director of the
Western District of New York,
Human Trafficking Task Force and Alliance

Closing loopholes for exploiters

Traffickers are increasingly using a delivery model to sell their victims. This bill amends the Penal Law to take into consideration evolving modes of promoting prostitution, ensuring that the state can prosecute people who engage in a business or enterprise of transporting people to sell them for sex.

Traffickers use ecstasy to coerce and control their victims. This bill clarifies that providing this drug to a prostituted person with the intent to impair his or her judgment constitutes sex trafficking.

In 2011, the legislature passed a bill to address trafficking in school zones. Recognizing that the bill failed to fully address the problem, Governor Cuomo urged the legislature to protect our children by enacting “similar enhanced penalties for patronizing a prostitute within a school zone.” This bill amends the Penal Law consistent with the Governor’s recommendation.

The only instance where the Penal Law identifies someone by the crime he or she has allegedly committed is with “prostitute” - everyone else is simply a defendant, not a “robber” or “murderer.” It’s not only blatant gender bias, it unnecessarily stigmatizes trafficking victims.

Sonia Ossorio, President,
NOW New York
