

## **The Safe Harbour For Exploited Children Act**

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**STATUS:****A5258-C** Scarborough (MS) Same as [S 3175-C](#) VOLKER

Social Services Law

TITLE....Relates to providing services for exploited children

02/13/07 referred to children and families  
05/01/07 reported referred to codes  
05/01/07 reported referred to ways and means  
05/15/07 reported  
05/17/07 advanced to third reading cal.521  
05/31/07 passed assembly  
05/31/07 delivered to senate  
05/31/07 REFERRED TO RULES  
06/19/07 recalled from senate  
06/19/07 RETURNED TO ASSEMBLY  
06/19/07 vote reconsidered - restored to third reading  
06/19/07 amended on third reading 5258a  
06/22/07 repassed assembly  
06/22/07 returned to senate

06/22/07 RECOMMITTED TO RULES  
01/09/08 DIED IN SENATE  
01/09/08 RETURNED TO ASSEMBLY  
01/09/08 ordered to third reading cal.380  
01/23/08 committed to children and families  
06/06/08 amend and recommit to children and families  
06/06/08 print number 5258b  
06/10/08 reported referred to codes  
06/17/08 amend and recommit to codes  
06/17/08 print number 5258c  
06/18/08 reported referred to ways and means  
06/18/08 reported referred to rules  
06/18/08 reported  
06/18/08 rules report cal.463  
06/18/08 ordered to third reading rules cal.463  
06/19/08 passed assembly  
06/19/08 delivered to senate  
06/19/08 REFERRED TO RULES  
06/23/08 SUBSTITUTED FOR S3175C  
06/23/08 3RD READING CAL.237  
06/23/08 PASSED SENATE  
06/23/08 RETURNED TO ASSEMBLY  
09/15/08 delivered to governor  
09/25/08 signed chap.569

**VOTING:**

[06/23/08](#) A5258-C Senate Vote Aye: 62 Nay: 0  
06/23/08 A5258-C Senate Vote Aye: 62 Nay: 0

<b>Aye</b> Adams	<b>Aye</b> Alesi	<b>Aye</b> Aubertine	<b>Aye</b> Bonacic
<b>Aye</b> Breslin	<b>Aye</b> Bruno	<b>Aye</b> Connor	<b>Aye</b> DeFrancisco
<b>Aye</b> Diaz	<b>Aye</b> Dilan	<b>Aye</b> Duane	<b>Aye</b> Farley
<b>Aye</b> Flanagan	<b>Aye</b> Fuschillo	<b>Aye</b> Golden	<b>Aye</b> Gonzalez
<b>Aye</b> Griffo	<b>Aye</b> Hannon	<b>Aye</b> Hassell-Thompson	<b>Aye</b> Huntley
<b>Aye</b> Johnson C	<b>Aye</b> Johnson O	<b>Aye</b> Klein	<b>Aye</b> Krueger
<b>Aye</b> Kruger	<b>Aye</b> Lanza	<b>Aye</b> Larkin	<b>Aye</b> LaValle
<b>Aye</b> Leibell	<b>Aye</b> Libous	<b>Aye</b> Little	<b>Aye</b> Maltese
<b>Aye</b> Marcellino	<b>Aye</b> Maziarz	<b>Aye</b> Montgomery	<b>Aye</b> Morahan
<b>Aye</b> Nozzolio	<b>Aye</b> Onorato	<b>Aye</b> Oppenheimer	<b>Aye</b> Padavan
<b>Aye</b> Parker	<b>Aye</b> Perkins	<b>Aye</b> Rath	<b>Aye</b> Robach
<b>Aye</b> Sabini	<b>Aye</b> Saland	<b>Aye</b> Sampson	<b>Aye</b> Savino
<b>Aye</b> Schneiderman	<b>Aye</b> Serrano	<b>Aye</b> Seward	<b>Aye</b> Skelos
<b>Aye</b> Smith	<b>Aye</b> Stachowski	<b>Aye</b> Stavisky	<b>Aye</b> Stewart-Cousins
<b>Aye</b> Thompson	<b>Aye</b> Trunzo	<b>Aye</b> Valesky	<b>Aye</b> Volker
<b>Aye</b> Winner	<b>Aye</b> Young		

**SUMMARY:**

SCARBOROUGH, GLICK, BENJAMIN, PAULIN, COOK, HEASTIE, GREENE, CLARK, BRADLEY, ERRIGO,

BILL TEXT:

STATE OF NEW YORK

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5258--C

2007-2008 Regular Sessions

IN ASSEMBLY

February 13, 2007

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Introduced by M. of A. SCARBOROUGH, GLICK, BENJAMIN, PAULIN, COOK, HEASTIE, GREENE, CLARK, BRADLEY, ERRIGO, O'DONNELL, CARROZZA, GOTTFRIED, KAVANAGH, ROSENTHAL, JAFFEE, ORTIZ -- Multi-Sponsored by -- M. of A. ALFANO, BALL, BARCLAY, BARRA, BING, BOYLAND, BOYLE, BURLING, BUTLER, COLE, DeLMONTE, R. DIAZ, FINCH, FITZPATRICK, GIGLIO, HAWLEY, HAYES, KIRWAN, LENTOL, P. LOPEZ, McDONOUGH, McKEVITT, MILLER, MILLMAN, MOLINARO, PEOPLES, PHEFFER, QUINN, RABBITT, RAIA, REILICH, ROBINSON, SALADINO, SPANO, TOBACCO, TOWNSEND, WALKER -- read once and referred to the Committee on Children and Families -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading -- recommitted to the Committee on Children and Families in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law and the family court act, in relation to services for exploited children

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

- 1 Section 1. Article 6 of the social services law is amended by adding a
- 2 new title 8-A to read as follows:

3 TITLE 8-A  
4 SAFE HARBOUR FOR EXPLOITED CHILDREN ACT

- 5 Section 447-a. Definitions.
- 6 447-b. Services for exploited children.
- 7 § 447-a. Definitions. As used in this title:

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

LBD09312-12-8

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- 1 1. The term "sexually exploited child" means any person under the age
- 2 of eighteen who has been subject to sexual exploitation because he or
- 3 she:
- 4 (a) is the victim of the crime of sex trafficking as defined in
- 5 section 230.34 of the penal law;
- 6 (b) is an abused child as defined in paragraph (iii) of subdivision
- 7 (e) of section ten hundred twelve of the family court act;

8 (c) engages in any act as defined in section 230.00 or 240.37 of the  
9 penal law;  
10 (d) is a victim of the crime of compelling prostitution as defined in  
11 section 230.33 of the penal law;  
12 (e) engages in acts or conduct described in article two hundred  
13 sixty-three of the penal law.  
14 2. The term "short-term safe house" means a residential facility oper-  
15 ated by an authorized agency as defined in subdivision ten of section  
16 three hundred seventy-one of this article including a residential facil-  
17 ity operating as part of an approved runaway program as defined in  
18 subdivision four of section five hundred thirty-two-a of the executive  
19 law or a not-for-profit agency with experience in providing services to  
20 sexually exploited youth and approved in accordance with the regulations  
21 of the office of children and family services that provides emergency  
22 shelter, services and care to sexually exploited children including  
23 food, shelter, clothing, medical care, counseling and appropriate crisis  
24 intervention services at the time they are taken into custody by law  
25 enforcement and for the duration of any legal proceeding or proceedings  
26 in which they are either the complaining witness or the subject child.  
27 The short-term safe house shall also be available at the point in time  
28 that a child under the age of eighteen has first come into the custody  
29 of juvenile detention officials, law enforcement, local jails or the  
30 local commissioner of social services or is residing with the local  
31 runaway and homeless youth authority.  
32 3. The term "advocate" means an employee of the short-term safe house  
33 defined in subdivision two of this section that has been trained to work  
34 with and advocate for the needs of sexually exploited children. The  
35 advocate shall accompany the child to all court appearances and will  
36 serve as a liaison between the short-term safe house and the court.  
37 4. The term "safe house" means a residential facility operated by an  
38 authorized agency as defined in subdivision ten of section three hundred  
39 seventy-one of this article including a residential facility operating  
40 as part of an approved runaway program as defined in subdivision four of  
41 section five hundred thirty-two-a of the executive law or a not-for-pro-  
42 fit agency with experience in providing services to sexually exploited  
43 youth and approved in accordance with the regulations of the office of  
44 children and family services that provides shelter for sexually  
45 exploited children. A safe house created under this article shall  
46 provide or assist in securing necessary services for such sexually  
47 exploited children either through direct provision of services, or  
48 through written agreements with other community and public agencies for  
49 the provision of services including but not limited to housing, assess-  
50 ment, case management, medical care, legal, mental health and substance  
51 and alcohol abuse services. Where appropriate such safe house in accord-  
52 ance with a service plan for such sexually exploited child may also  
53 provide counseling and therapeutic services, educational services  
54 including life skills services and planning services to successfully  
55 transition residents back to the community. The safe house shall be  
56 available as a final disposition pursuant to section seven hundred

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1 fifty-six of the family court act to any sexually exploited child who is  
2 in need of long term housing. Nothing in the provisions of this article  
3 shall prevent a child who is the subject of a proceeding which has not  
4 reached final disposition from residing at the safe house for the dura-  
5 tion of that proceeding nor shall it prevent any sexually exploited  
6 child who is not the subject of a proceeding from residing at the safe  
7 house.  
8 5. The term "community-based program" means a program operated by a  
9 not-for-profit organization that provides services such as street  
10 outreach, voluntary drop-in services, peer counseling, individual coun-  
11 seling, family-therapy and referrals for services such as educational  
12 and vocational training and health care. Any community-based program  
13 funded under this article shall also work with the safe house created  
14 under this article to provide transitional services to children return-  
15 ing to the community.  
16 § 447-b. Services for exploited children. 1. Notwithstanding any  
17 inconsistent provision of law, pursuant to regulations of the office of  
18 children and family services, every local social services district shall  
19 as a component of the district's multi-year consolidated services child  
20 welfare services plan address the child welfare services needs of sexu-

21 ally exploited children and to the extent that funds are available  
22 ensure that preventative services including a short-term safe house or  
23 another short-term safe placement such as an approved runaway and home-  
24 less youth program, approved respite or crisis program providing crisis  
25 intervention or respite services or community-based program to serve  
26 sexually exploited children is available to children residing in such  
27 district. Nothing in this section shall prohibit a local social  
28 services district from utilizing existing respite or crisis intervention  
29 services already operated by such social services district or homeless  
30 youth programs or services for victims of human trafficking pursuant to  
31 article ten-D of this chapter so long as the staff members have received  
32 appropriate training approved by the office of children and family  
33 services regarding sexually exploited children and the existing programs  
34 and facilities provide a safe, secure and appropriate environment for  
35 sexually exploited children. Crisis intervention services, short-term  
36 safe house care and community-based programming may, where appropriate,  
37 be provided by the same not-for-profit agency. Local social services  
38 districts may work cooperatively to provide such short-term safe house  
39 or other short-term safe placement, services and programming and access  
40 to such placement, services and programming may be provided on a  
41 regional basis, provided, however, that every local social services  
42 district shall to the extent that funds are available ensure that such  
43 placement, services and programs shall be readily accessible to sexually  
44 exploited children residing within the district.  
45 2. All of the services created under this article may, to the extent  
46 possible provided by law, be available to all sexually exploited chil-  
47 dren whether they are accessed voluntarily, as a condition of an  
48 adjournment in contemplation of dismissal issued in criminal court,  
49 through the diversion services created under section seven hundred thir-  
50 ty-five of the family court act, through a proceeding under article  
51 three of the family court act, a proceeding under article ten of the  
52 family court act or through a referral from a local social services  
53 agency.  
54 3. The capacity of the crisis intervention services and community-  
55 based programs in subdivision one of this section shall be based on the  
56 number of sexually exploited children in each district who are in need  
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1 of such services. A determination of such need shall be made annually in  
2 every social services district by the local commissioner of social  
3 services and be included in the integrated county plan. Such determi-  
4 nation shall be made in consultation with local law enforcement, runaway  
5 and homeless youth program providers, local probation departments, local  
6 social services commissioners, the runaway and homeless youth coordina-  
7 tor for the local social services district, local law guardians,  
8 presentment agencies, public defenders and district attorney's offices  
9 and child advocates and services providers who work directly with sexu-  
10 ally exploited youth.  
11 4. In determining the need for and capacity of the services created  
12 under this section, each local social services district shall recognize  
13 that sexually exploited youth have separate and distinct service needs  
14 according to gender and, where a local social services district deter-  
15 mines that the need exists, to the extent that funds are available,  
16 appropriate programming shall be made available.  
17 5. The office of children and family services shall contract with an  
18 appropriate not-for-profit agency with experience working with sexually  
19 exploited children to operate at least one safe house in a geograph-  
20 ically appropriate area of the state which shall provide safe and secure  
21 long term housing and specialized services for sexually exploited chil-  
22 dren throughout the state. The appropriateness of the geographic  
23 location shall be determined taking into account the areas of the state  
24 with high numbers of sexually exploited children and the need for sexu-  
25 ally exploited children to find shelter and long term placement in a  
26 region that cannot be readily accessed by the perpetrators of sexual  
27 exploitation. The need for more than one safe house shall be determined  
28 by the office of children and family services based on the numbers and  
29 geographical location of sexually exploited children within the state.  
30 6. The local social services commissioner may, to the extent that  
31 funds are available, in conjunction with local law enforcement offi-  
32 cial, contract with an appropriate not-for-profit agency with experi-  
33 ence working with sexually exploited children to train law enforcement

34 officials who are likely to encounter sexually exploited children in the  
35 course of their law enforcement duties on the provisions of this section  
36 and how to identify and obtain appropriate services for sexually  
37 exploited children. Local social services districts may work coopera-  
38 tively to provide such training and such training may be provided on a  
39 regional basis. The office of children and family services shall assist  
40 local social services districts in obtaining any available funds for the  
41 purposes of conducting law enforcement training from the federal justice  
42 department and/or the office of juvenile justice and delinquency  
43 prevention.

44 § 2. Section 311.4 of the family court act is amended by adding a new  
45 subdivision 3 to read as follows:

46 3. In any proceeding under this article based upon an arrest for an  
47 act of prostitution, there is a presumption that the respondent meets  
48 the criteria for a certification as a victim of a severe form of traf-  
49 ficking as defined in section 7105 of title 22 of the United States Code  
50 (Trafficking Victims Protection Act of 2000). Upon the motion of the  
51 respondent, without the consent of the presentment agency, a petition  
52 alleging that the respondent is in need of supervision shall be substi-  
53 tuted for the delinquency petition. If, however, the respondent is not a  
54 victim of a severe form of trafficking as defined by the federal Traf-  
55 ficking Victims Protection Act of 2000, or has been previously found  
56 under this article to have committed an offense pursuant to article two

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1 hundred thirty of the penal law, or has been previously adjudicated  
2 under section seven hundred fifty-two of this chapter and placed with a  
3 commissioner of social services pursuant to subdivisions (a) and (b) of  
4 section seven hundred fifty-six of this chapter, or expresses a current  
5 unwillingness to cooperate with specialized services for sexually  
6 exploited youth, continuing with the delinquency proceeding shall be  
7 within the court's discretion. The necessary findings of fact to support  
8 the continuation of the delinquency proceeding shall be reduced to writ-  
9 ing and made part of the court record. If, subsequent to issuance of a  
10 substitution order under this subdivision, the respondent is not in  
11 substantial compliance with a lawful order of the court, the court may,  
12 in its discretion, substitute a petition alleging that the respondent is  
13 a juvenile delinquent for the petition alleging that the respondent is  
14 in need of supervision.

15 § 3. Subdivision (a) of section 712 of the family court act, as  
16 amended by chapter 596 of the laws of 2000, is amended to read as  
17 follows:

18 (a) "Person in need of supervision". A person less than eighteen years  
19 of age who does not attend school in accordance with the provisions of  
20 part one of article sixty-five of the education law or who is incorrigi-  
21 ble, ungovernable or habitually disobedient and beyond the lawful  
22 control of a parent or other person legally responsible for such child's  
23 care, or other lawful authority, or who violates the provisions of  
24 section 221.05, 230.00, or 240.37 of the penal law.

25 § 4. Subdivision (a) of section 732 of the family court act, as  
26 amended by section 6 of part E of chapter 57 of the laws of 2005, is  
27 amended to read as follows:

28 (a) the respondent is an habitual truant or is incorrigible, ungovern-  
29 able, or habitually disobedient and beyond the lawful control of his or  
30 her parents, guardian or lawful custodian, or has been the victim of  
31 sexual exploitation as defined in subdivision one of section four  
32 hundred forty-seven-a of the social services law, and specifying the  
33 acts on which the allegations are based and the time and place they  
34 allegedly occurred. Where habitual truancy is alleged or the petitioner  
35 is a school district or local educational agency, the petition shall  
36 also include the steps taken by the responsible school district or local  
37 educational agency to improve the school attendance and/or conduct of  
38 the respondent;

39 § 5. This act shall take effect April 1, 2010.

TITLE OF BILL: An act to amend the social services law and the family court act, in relation to services for exploited children

Purpose Or General Idea Of Bill: This bill would provide support and services to youth who are victims of sexual exploitation.

Summary Of Specific Provisions: Section one would establish the "Safe Harbor for Exploited Youth Act" within the Social Services Law which would:

\* define "sexually exploited child" as someone under the age of 18 who may be subject to sexual exploitation because they engaged or agreed or offered to engage in sexual conduct in return for a fee, food, clothing, a place to stay, has stripped being filmed or photographed doing sexual acts, traded sex for drugs or loitered for the purpose of engaging in a prostitution offense, as defined in §240.37 of the penal law;

\* define "Short-term safe house" as a facility that provides a safe, secure immediate and appropriate housing and 24 hour crisis intervention, access to various medical care and other supportive services to a sexually exploited child upon being taken into custody by law enforcement and during relevant legal proceedings and shall be available for other youth who may need such services;

\* define "advocate" as an employee of a short-term safe house who has been trained to work with and advocate for the needs of the sexually exploited children and will accompany the child to all court appearances and will be a liaison between the short-term safe house and the court;

\* define "safe house" as a multi-purpose facility that provides a safe, secure and appropriate potentially long term housing for sexually exploited children and will make available diagnostic assessments, individual case management, medical care, substance abuse services, individual counseling, therapeutic services and educational services;

\* define "community-based program" as one that provides outreach, drop-in services, peer and individual counseling, family therapy and referrals to other services such as educational, vocational and health care;

\* require each local social service district provide a short-term safe house to children in need who live in their district, existing resources including respite beds or runaway and homeless youth programs can be used as long as staff are appropriately trained and the facility can provide a safe, secure and appropriate environment and allows local social service districts to work together to provide such resources on a regional basis;

\* require each local social service district in consultation with various community stateholders to determine the needs of sexually exploited children in their respective district and to include the determination of the need in the integrated county plan and to provide crisis intervention and community based programs to meet the determined need;

\* require each local social services district to recognize and plan for the separate and distinct needs of girls, boys and transgendered youth who have been sexually exploited;

\* require the office of children and family services (OCFS) to contract with an appropriate agency with experience working with sexually exploited youth to provide at least one safe house, and more than one if needed, in a geographic area that would meet the need of sexually exploited youth and cannot be readily accessed by perpetrators of sexual exploitation ; and

\* require each social service district, in conjunction with local law enforcement, to contract with an appropriate agency with experience working with sexually exploited youth to provide training on the iden-

tification of such youth and how to obtain appropriate services to sexually exploited youth to law enforcement officials who in the course of their duties are likely to encounter such youth.

Section two allow for the presumption that a young person charge as a juvenile delinquent for a prostitution offense, as defined in §240.37 of penal law, is considered a severely trafficked person according to the definition within the federal Victims of Trafficking and Violence Protection Act of 2000. Such a presumption will require the court to proceed with a Person In Need of Supervision (PINS) petition, rather than a Juvenile Delinquent (JD) petition. However, it is in the court's discretion to continue with a JD petition, if the court finds that a young person is not a severely trafficked person according to the federal definition, or has previously committed a prostitution offense, or was previously placed with a local commissioner of social service as a PINS, or is unwilling to participate in services order by the court. The court is also required to place in writing the reasoning for continuing a JD proceeding and make it a part of the official court record. The court may also convert a PINS petition to a JD petition if the youth is out of compliance with the orders of the court.

Section three would modify the definition of "person in need of supervision" to include those who engaged in an act that if committed by and adult would constitute a criminal act of prostitution as defined in §230.00 of the penal law.

Section four would specify that a proceeding to adjudicate a person to be in need of supervision can be originated when the respondent has been the victim of sexually exploitation as defined in section one of this bill.

Section five would provide for an effective date of April 1, 2010.  
Effects Of Present Law Which This Bill Would Alter: Adds title 8-A of Article 6 of the Social Services Law and amends §311.4. §712 (a) and §732 (a) of the Family Court Act.

Justification: It has been reported that the number of youth victimized by the sex trade is on the rise and that youth as young as eleven and twelve years old are becoming involved. The overwhelming majority of these sexually exploited youth have a history of psychological, physical or sexual abuse as younger children and many have been raised amidst stark poverty and family dysfunction. Currently, the state's response to this issue has been to prosecute sexually exploited youth as criminals. This response is ineffective as arresting, prosecuting and incarcerating victimized youth serves to re-traumatize them and to increase their feelings of low self-esteem. This only makes the process of recovery more difficult. Appropriate services, for sexually exploited youth do not exist in the juvenile justice system and that both federal and international law recognize that sexually exploited youth are the victims of crime and should be treated as such. Therefore, sexually exploited youth should not be prosecuted under the penal law for acts of prostitution. Instead, services should be created to meet the needs of these youth outside of the justice system. Sexually exploited youth deserve the protection and services of the family court through processes in place for persons in need of supervision, including diversion, crisis intervention, counseling, and emergency and long term housing services.

Prior Legislative History: 5258-passed assembly-5/30/2007 5258 recalled from senate-6/19/07 5258-A amended on third reading 6/19/2007 5258A-repassed assembly and resent to senate-6/22/2007 5258A-committed to rules-6/22/07 5258-A died in senate-01/09/08 5258-A returned to assembly, placed on third reading cal.380-1/09/08 5258-A committed to children and families-1/23/08 5258-A amended and recommit to children and families-06/06/08 5258-A reprint 5258B-06/06/08 5258-B reported and referred to codes 06/10/08

Fiscal Implications For State And Local Governments: To be determine  
Effective Date: April 1, 2010



STATUS:

**S3175-C VOLKER** Same as [A 5258-C](#), Scarborough (MS)

Social Services Law

TITLE....Relates to providing services for exploited children

02/27/07 REFERRED TO SOCIAL SERVICES, CHILDREN AND FAMILIES  
 05/15/07 REPORTED AND COMMITTED TO FINANCE  
 06/18/07 AMEND AND RECOMMIT TO FINANCE  
 06/18/07 PRINT NUMBER 3175A  
 06/20/07 COMMITTEE DISCHARGED AND COMMITTED TO RULES  
 06/20/07 ORDERED TO THIRD READING CAL.1904  
 06/21/07 PASSED SENATE  
 06/21/07 DELIVERED TO ASSEMBLY  
 06/21/07 referred to children and families  
 01/09/08 died in assembly  
 01/09/08 returned to senate  
 01/09/08 REFERRED TO SOCIAL SERVICES, CHILDREN AND FAMILIES  
 01/10/08 AMEND AND RECOMMIT TO SOCIAL SERVICES, CHILDREN AND FAMILIES  
 01/10/08 PRINT NUMBER 3175B  
 02/05/08 1ST REPORT CAL.237  
 02/06/08 2ND REPORT CAL.  
 02/11/08 ADVANCED TO THIRD READING  
 02/12/08 PASSED SENATE  
 02/12/08 DELIVERED TO ASSEMBLY  
 02/12/08 referred to social services  
 06/16/08 RECALLED FROM ASSEMBLY  
 06/16/08 returned to senate  
 06/17/08 VOTE RECONSIDERED - RESTORED TO THIRD READING  
 06/17/08 AMENDED ON THIRD READING 3175C  
 06/23/08 SUBSTITUTED BY A5258C

**A05258 Scarborough (MS)**

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VOTING:

<a href="#">02/12/08</a>	S3175-B	Senate Vote	Aye: 59	Nay: 0
<a href="#">06/21/07</a>	S3175-A	Senate Vote	Aye: 62	Nay: 0

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02/12/08 S3175-B Senate Vote Aye: 59 Nay: 0

<b>Aye</b> Adams	<b>Exc</b> Alesi	<b>Aye</b> Bonacic	<b>Aye</b> Breslin
<b>Aye</b> Bruno	<b>Aye</b> Connor	<b>Aye</b> DeFrancisco	<b>Aye</b> Diaz
<b>Aye</b> Dilan	<b>Aye</b> Duane	<b>Aye</b> Farley	<b>Aye</b> Flanagan
<b>Aye</b> Fuschillo	<b>Aye</b> Golden	<b>Aye</b> Gonzalez	<b>Aye</b> Griffo
<b>Aye</b> Hannon	<b>Aye</b> Hassell-Thompson	<b>Aye</b> Huntley	<b>Aye</b> Johnson C
<b>Aye</b> Johnson O	<b>Aye</b> Klein	<b>Aye</b> Krueger	<b>Aye</b> Kruger
<b>Aye</b> Lanza	<b>Aye</b> Larkin	<b>Aye</b> LaValle	<b>Aye</b> Leibell
<b>Aye</b> Libous	<b>Aye</b> Little	<b>Aye</b> Maltese	<b>Aye</b> Marcellino
<b>Aye</b> Maziarz	<b>Aye</b> Montgomery	<b>Aye</b> Morahan	<b>Aye</b> Nozzolio
<b>Exc</b> Onorato	<b>Aye</b> Oppenheimer	<b>Aye</b> Padavan	<b>Aye</b> Parker
<b>Aye</b> Perkins	<b>Aye</b> Rath	<b>Aye</b> Robach	<b>Aye</b> Sabini
<b>Aye</b> Saland	<b>Aye</b> Sampson	<b>Aye</b> Savino	<b>Aye</b> Schneiderman
<b>Aye</b> Serrano	<b>Aye</b> Seward	<b>Aye</b> Skelos	<b>Aye</b> Smith
<b>Aye</b> Stachowski	<b>Aye</b> Stavisky	<b>Aye</b> Stewart-Cousins	<b>Aye</b> Thompson
<b>Aye</b> Trunzo	<b>Aye</b> Valesky	<b>Aye</b> Volker	<b>Aye</b> Winner
<b>Aye</b> Young			

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06/21/07 S3175-A Senate Vote Aye: 62 Nay: 0

<b>Aye</b> Adams	<b>Aye</b> Alesi	<b>Aye</b> Bonacic	<b>Aye</b> Breslin
<b>Aye</b> Bruno	<b>Aye</b> Connor	<b>Aye</b> DeFrancisco	<b>Aye</b> Diaz
<b>Aye</b> Dilan	<b>Aye</b> Duane	<b>Aye</b> Farley	<b>Aye</b> Flanagan
<b>Aye</b> Fuschillo	<b>Aye</b> Golden	<b>Aye</b> Gonzalez	<b>Aye</b> Griffo
<b>Aye</b> Hannon	<b>Aye</b> Hassell-Thompson	<b>Aye</b> Huntley	<b>Aye</b> Johnson C
<b>Aye</b> Johnson O	<b>Aye</b> Klein	<b>Aye</b> Krueger	<b>Aye</b> Kruger
<b>Aye</b> Lanza	<b>Aye</b> Larkin	<b>Aye</b> LaValle	<b>Aye</b> Leibell
<b>Aye</b> Libous	<b>Aye</b> Little	<b>Aye</b> Maltese	<b>Aye</b> Marcellino
<b>Aye</b> Maziarz	<b>Aye</b> Montgomery	<b>Aye</b> Morahan	<b>Aye</b> Nozzolio
<b>Aye</b> Onorato	<b>Aye</b> Oppenheimer	<b>Aye</b> Padavan	<b>Aye</b> Parker
<b>Aye</b> Perkins	<b>Aye</b> Rath	<b>Aye</b> Robach	<b>Aye</b> Sabini
<b>Aye</b> Saland	<b>Aye</b> Sampson	<b>Aye</b> Savino	<b>Aye</b> Schneiderman
<b>Aye</b> Serrano	<b>Aye</b> Seward	<b>Aye</b> Skelos	<b>Aye</b> Smith
<b>Aye</b> Stachowski	<b>Aye</b> Stavisky	<b>Aye</b> Stewart-Cousins	<b>Aye</b> Thompson
<b>Aye</b> Trunzo	<b>Aye</b> Valesky	<b>Aye</b> Volker	<b>Aye</b> Winner
<b>Aye</b> Wright	<b>Aye</b> Young		

SUMMARY:

VOLKER, DeFRANCISCO, FLANAGAN, FUSCHILLO, GOLDEN, GRIFFO, HANNON, LEIBELL, MALTESE, MAZIARZ, PADAVAN, PERKINS, RATH, SEWARD, TRUNZO, YOUNG

Add Art 6 Title 8-A SS447-a & 447-b, Soc Serv L; amd SS311.4, 712 & 732, Fam Ct Act

Requires local social services districts to provide crisis intervention services and community based programming for exploited youth.

CRIMINAL SANCTION IMPACT

BILL TEXT:

STATE OF NEW YORK

3175--C

Cal. No. 237

2007-2008 Regular Sessions

IN SENATE

Introduced by Sens. VOLKER, DeFRANCISCO, FLANAGAN, FUSCHILLO, GOLDEN, GRIFFO, HANNON, LEIBELL, MALTESE, MAZIARZ, PADAVAN, PERKINS, RATH, SEWARD, TRUNZO, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services, Children and Families -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Social Services, Children and Families in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the social services law and the family court act, in relation to services for exploited children

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

1 Section 1. Article 6 of the social services law is amended by adding a  
2 new title 8-A to read as follows:

3 TITLE 8-A  
4 SAFE HARBOUR FOR EXPLOITED CHILDREN ACT

5 Section 447-a. Definitions.

6 447-b. Services for exploited children.

7 § 447-a. Definitions. As used in this title:

8 1. The term "sexually exploited child" means any person under the age  
9 of eighteen who has been subject to sexual exploitation because he or  
10 she:

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

LBD09312-13-8

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1 (a) is the victim of the crime of sex trafficking as defined in  
2 section 230.34 of the penal law;  
3 (b) is an abused child as defined in paragraph (iii) of subdivision  
4 (e) of section ten hundred twelve of the family court act;  
5 (c) engages in any act as defined in section 230.00 or 240.37 of the  
6 penal law;  
7 (d) is a victim of the crime of compelling prostitution as defined in  
8 section 230.33 of the penal law;  
9 (e) engages in acts or conduct described in article two hundred  
10 sixty-three of the penal law.  
11 2. The term "short-term safe house" means a residential facility oper-  
12 ated by an authorized agency as defined in subdivision ten of section  
13 three hundred seventy-one of this article including a residential facil-  
14 ity operating as part of an approved runaway program as defined in  
15 subdivision four of section five hundred thirty-two-a of the executive  
16 law or a not-for-profit agency with experience in providing services to  
17 sexually exploited youth and approved in accordance with the regulations  
18 of the office of children and family services that provides emergency  
19 shelter, services and care to sexually exploited children including  
20 food, shelter, clothing, medical care, counseling and appropriate crisis  
21 intervention services at the time they are taken into custody by law  
22 enforcement and for the duration of any legal proceeding or proceedings  
23 in which they are either the complaining witness or the subject child.  
24 The short-term safe house shall also be available at the point in time  
25 that a child under the age of eighteen has first come into the custody  
26 of juvenile detention officials, law enforcement, local jails or the  
27 local commissioner of social services or is residing with the local  
28 runaway and homeless youth authority.

29 3. The term "advocate" means an employee of the short-term safe house  
30 defined in subdivision two of this section that has been trained to work  
31 with and advocate for the needs of sexually exploited children. The  
32 advocate shall accompany the child to all court appearances and will  
33 serve as a liaison between the short-term safe house and the court.  
34 4. The term "safe house" means a residential facility operated by an  
35 authorized agency as defined in subdivision ten of section three hundred  
36 seventy-one of this article including a residential facility operating  
37 as part of an approved runaway program as defined in subdivision four of  
38 section five hundred thirty-two-a of the executive law or a not-for-pro-  
39 fit agency with experience in providing services to sexually exploited  
40 youth and approved in accordance with the regulations of the office of  
41 children and family services that provides shelter for sexually  
42 exploited children. A safe house created under this article shall  
43 provide or assist in securing necessary services for such sexually  
44 exploited children either through direct provision of services, or  
45 through written agreements with other community and public agencies for  
46 the provision of services including but not limited to housing, assess-  
47 ment, case management, medical care, legal, mental health and substance  
48 and alcohol abuse services. Where appropriate such safe house in accord-  
49 ance with a service plan for such sexually exploited child may also  
50 provide counseling and therapeutic services, educational services  
51 including life skills services and planning services to successfully  
52 transition residents back to the community. The safe house shall be  
53 available as a final disposition pursuant to section seven hundred  
54 fifty-six of the family court act to any sexually exploited child who is  
55 in need of long term housing. Nothing in the provisions of this article  
56 shall prevent a child who is the subject of a proceeding which has not

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1 reached final disposition from residing at the safe house for the dura-  
2 tion of that proceeding nor shall it prevent any sexually exploited  
3 child who is not the subject of a proceeding from residing at the safe  
4 house.  
5 5. The term "community-based program" means a program operated by a  
6 not-for-profit organization that provides services such as street  
7 outreach, voluntary drop-in services, peer counseling, individual coun-  
8 seling, family-therapy and referrals for services such as educational  
9 and vocational training and health care. Any community-based program  
10 funded under this article shall also work with the safe house created  
11 under this article to provide transitional services to children return-  
12 ing to the community.  
13 § 447-b. Services for exploited children. 1. Notwithstanding any  
14 inconsistent provision of law, pursuant to regulations of the office of  
15 children and family services, every local social services district shall  
16 as a component of the district's multi-year consolidated services child  
17 welfare services plan address the child welfare services needs of sexu-  
18 ally exploited children and to the extent that funds are available  
19 ensure that preventative services including a short-term safe house or  
20 another short-term safe placement such as an approved runaway and home-  
21 less youth program, approved respite or crisis program providing crisis  
22 intervention or respite services or community-based program to serve  
23 sexually exploited children is available to children residing in such  
24 district. Nothing in this section shall prohibit a local social  
25 services district from utilizing existing respite or crisis intervention  
26 services already operated by such social services district or homeless  
27 youth programs or services for victims of human trafficking pursuant to  
28 article ten-D of this chapter so long as the staff members have received  
29 appropriate training approved by the office of children and family  
30 services regarding sexually exploited children and the existing programs  
31 and facilities provide a safe, secure and appropriate environment for  
32 sexually exploited children. Crisis intervention services, short-term  
33 safe house care and community-based programming may, where appropriate,  
34 be provided by the same not-for-profit agency. Local social services  
35 districts may work cooperatively to provide such short-term safe house  
36 or other short-term safe placement, services and programming and access  
37 to such placement, services and programming may be provided on a  
38 regional basis, provided, however, that every local social services  
39 district shall to the extent that funds are available ensure that such  
40 placement, services and programs shall be readily accessible to sexually  
41 exploited children residing within the district.

42 2. All of the services created under this article may, to the extent  
43 possible provided by law, be available to all sexually exploited chil-  
44 dren whether they are accessed voluntarily, as a condition of an  
45 adjournment in contemplation of dismissal issued in criminal court,  
46 through the diversion services created under section seven hundred thir-  
47 ty-five of the family court act, through a proceeding under article  
48 three of the family court act, a proceeding under article ten of the  
49 family court act or through a referral from a local social services  
50 agency.

51 3. The capacity of the crisis intervention services and community-  
52 based programs in subdivision one of this section shall be based on the  
53 number of sexually exploited children in each district who are in need  
54 of such services. A determination of such need shall be made annually in  
55 every social services district by the local commissioner of social  
56 services and be included in the integrated county plan. Such determi-

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1 nation shall be made in consultation with local law enforcement, runaway  
2 and homeless youth program providers, local probation departments, local  
3 social services commissioners, the runaway and homeless youth coordina-  
4 tor for the local social services district, local law guardians,  
5 presentment agencies, public defenders and district attorney's offices  
6 and child advocates and services providers who work directly with sexu-  
7 ally exploited youth.

8 4. In determining the need for and capacity of the services created  
9 under this section, each local social services district shall recognize  
10 that sexually exploited youth have separate and distinct service needs  
11 according to gender and, where a local social services district deter-  
12 mines that the need exists, to the extent that funds are available,  
13 appropriate programming shall be made available.

14 5. The office of children and family services shall contract with an  
15 appropriate not-for-profit agency with experience working with sexually  
16 exploited children to operate at least one safe house in a geograph-  
17 ically appropriate area of the state which shall provide safe and secure  
18 long term housing and specialized services for sexually exploited chil-  
19 dren throughout the state. The appropriateness of the geographic  
20 location shall be determined taking into account the areas of the state  
21 with high numbers of sexually exploited children and the need for sexu-  
22 ally exploited children to find shelter and long term placement in a  
23 region that cannot be readily accessed by the perpetrators of sexual  
24 exploitation. The need for more than one safe house shall be determined  
25 by the office of children and family services based on the numbers and  
26 geographical location of sexually exploited children within the state.

27 6. The local social services commissioner may, to the extent that  
28 funds are available, in conjunction with local law enforcement offi-  
29 cials, contract with an appropriate not-for-profit agency with experi-  
30 ence working with sexually exploited children to train law enforcement  
31 officials who are likely to encounter sexually exploited children in the  
32 course of their law enforcement duties on the provisions of this section  
33 and how to identify and obtain appropriate services for sexually  
34 exploited children. Local social services districts may work coopera-  
35 tively to provide such training and such training may be provided on a  
36 regional basis. The office of children and family services shall assist  
37 local social services districts in obtaining any available funds for the  
38 purposes of conducting law enforcement training from the federal justice  
39 department and/or the office of juvenile justice and delinquency  
40 prevention.

41 § 2. Section 311.4 of the family court act is amended by adding a new  
42 subdivision 3 to read as follows:

43 3. In any proceeding under this article based upon an arrest for an  
44 act of prostitution, there is a presumption that the respondent meets  
45 the criteria for a certification as a victim of a severe form of traf-  
46 ficking as defined in section 7105 of title 22 of the United States Code  
47 (Trafficking Victims Protection Act of 2000). Upon the motion of the  
48 respondent, without the consent of the presentment agency, a petition  
49 alleging that the respondent is in need of supervision shall be substi-  
50 tuted for the delinquency petition. If, however, the respondent is not a  
51 victim of a severe form of trafficking as defined by the federal Traf-  
52 ficking Victims Protection Act of 2000, or has been previously found  
53 under this article to have committed an offense pursuant to article two  
54 hundred thirty of the penal law, or has been previously adjudicated

1 section seven hundred fifty-six of this chapter, or expresses a current  
2 unwillingness to cooperate with specialized services for sexually  
3 exploited youth, continuing with the delinquency proceeding shall be  
4 within the court's discretion. The necessary findings of fact to support  
5 the continuation of the delinquency proceeding shall be reduced to writ-  
6 ing and made part of the court record. If, subsequent to issuance of a  
7 substitution order under this subdivision, the respondent is not in  
8 substantial compliance with a lawful order of the court, the court may,  
9 in its discretion, substitute a petition alleging that the respondent is  
10 a juvenile delinquent for the petition alleging that the respondent is  
11 in need of supervision.

12 § 3. Subdivision (a) of section 712 of the family court act, as  
13 amended by chapter 596 of the laws of 2000, is amended to read as  
14 follows:

15 (a) "Person in need of supervision". A person less than eighteen years  
16 of age who does not attend school in accordance with the provisions of  
17 part one of article sixty-five of the education law or who is incorrigi-  
18 ble, ungovernable or habitually disobedient and beyond the lawful  
19 control of a parent or other person legally responsible for such child's  
20 care, or other lawful authority, or who violates the provisions of  
21 section 221.05, 230.00, or 240.37 of the penal law.

22 § 4. Subdivision (a) of section 732 of the family court act, as  
23 amended by section 6 of part E of chapter 57 of the laws of 2005, is  
24 amended to read as follows:

25 (a) the respondent is an habitual truant or is incorrigible, ungovern-  
26 able, or habitually disobedient and beyond the lawful control of his or  
27 her parents, guardian or lawful custodian, or has been the victim of  
28 sexual exploitation as defined in subdivision one of section four  
29 hundred forty-seven-a of the social services law, and specifying the  
30 acts on which the allegations are based and the time and place they  
31 allegedly occurred. Where habitual truancy is alleged or the petitioner  
32 is a school district or local educational agency, the petition shall  
33 also include the steps taken by the responsible school district or local  
34 educational agency to improve the school attendance and/or conduct of  
35 the respondent;

36 § 5. This act shall take effect April 1, 2010.

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SPONSORS MEMO:

NEW YORK STATE SENATE

INTRODUCER'S MEMORANDUM IN SUPPORT

submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S3175C

SPONSOR: VOLKER

TITLE OF BILL:

An act to amend the social services law and the family court act, in  
relation to services for exploited children

PURPOSE:

This bill would provide support and services to youth who are victims of  
sexual exploitation.

SUMMARY OF PROVISIONS:

Section one would establish the "Safe Harbour for Exploited Youth Act"  
within the Social Services Law which would:

\* define "sexually exploited child" as someone under the age of 18 who  
may be subject to sexual exploitation because they engaged or agreed or  
offered to engage in sexual conduct in return for a fee, food, clothing,  
a place to stay, has stripped being filmed or photographed doing sexual  
acts, traded sex for drugs or loitered for the purpose of engaging in a  
prostitution offense, as defined in §240.37 of the Penal Law;

\* define "short-term safe house" as a facility that provides a safe,  
secure immediate and appropriate housing and 24 hours crisis inter-  
vention, access to various medical care and other supportive services to  
a sexually exploited child upon being taken into custody by law enforce-  
ment and during relevant legal proceedings and shall be available for  
other youth who may need such services;



- \* define "advocate" as an employee of a short-term safe house who has been trained to work with and advocate for the needs of the sexually exploited children and will accompany the child to all court appearances and will be a liaison between the short-term safe house and the court;
- \* define "safe house" as a multi-purpose facility that provides a safe, secure and appropriate potentially long-term housing for sexually exploited children and will make available diagnostic assessments, individual case management, medical care, substance abuse services individual counseling, therapeutic services and educational services;
- \* define "community-based program" as one that provides outreach, drop-in services, peer and individual counseling, family therapy and referrals to other services such as educational, vocational and health care;
- \* require each local social service district provide a short-term safe house to children in need who live in their district, existing resources including respite beds or runaway and homeless youth programs can be used as long as staff are appropriately trained and the facility can provide a safe, secure and appropriate environment and allows local social services districts to work together to provide such resources on a regional basis;
- \* require each local social service district in consultation with various community stakeholders to determine the needs of sexually exploited children in their respective district and to include the determination of need in the integrated county plan and to provide crisis intervention and community based programs to meet the determined need;
- \* require each local social service district to recognize and plan for the separate and distinct needs of girls, boys and transgendered youth who have been sexually exploited;
- \* require the Office of Children and Family Services (OCFS) to contract with an appropriate agency with experience working with sexually exploited youth to provide at least one safe house, and more than one if needed, in a geographic area that would meet the needs of sexually exploited youth and cannot be readily accessed by perpetrators of sexual exploitation; and
- \* require each local social service district, in conjunction with local law enforcement, to contract with an appropriate agency with experience working with sexually exploited youth to provide training on the identification of such youth and how to obtain appropriate services to sexually exploited youth to law enforcement officials who in the course of their duties are likely to encounter such youth.

Section two allows for the presumption that a young person charged as a juvenile delinquent for a prostitution offense, as defined in

§240.37 of the Penal Law, is considered a severely trafficked person according to the definition within the federal Victims of Trafficking and Violence Protection Act of 2000. Such a presumption will require the court to proceed with a Person In Need of Supervision (PINS) petition, rather than a Juvenile Delinquent (JD) petition. However, it is in the court's discretion to continue with a JD petition, if the court finds that a young person is not a severely trafficked person according to the federal definition, or has previously committed a prostitution offense, or was previously placed with a local commissioner of social services as a PINS, or is unwilling to participate in services ordered by the court. The court is also required to place in writing the reasoning for continuing a JD proceeding and make it a part of the official court record. The court may also convert a PINS petition to a JD petition if the youth is out of compliance with the orders of the court.

Section three would modify the definition of "person in need of supervision" to include those who engaged in an act that if committed by an adult would constitute a criminal act of prostitution as defined in §230.00 of the Penal Law.

Section four would specify that a proceeding to adjudicate a person to be in need of supervision can be originated when the respondent has been the victim of sexual exploitation as defined in section one of this bill.

Section five would provide for an effective date of April 1, 2010.

#### EXISTING LAW:

Adds Title 8-A of Article 6 of the Social Services Law and §311.4, §712(a) and §732(a) of the Family Court Act.

#### JUSTIFICATION:

It has been reported that the number of youth victimized by the sex trade is on the rise and that youth as young as eleven and twelve years old are becoming involved. The overwhelming majority of these sexually

exploited youth have a history of psychological, physical or sexual abuse as younger children and many have been raised amidst stark poverty and family dysfunction. Currently, the state's response to this issue has been to prosecute sexually exploited youth as criminals. This response is ineffective as arresting, prosecuting and incarcerating victimized youth serves to re-traumatize them and to increase their feelings of low self-esteem. This only makes the process of recovery more difficult. Appropriate services for sexually exploited youth do not exist in the juvenile justice system and both federal and international law recognize that sexually exploited youth are the victims of crime and should be treated as such. Therefore, sexually exploited youth should not be prosecuted under the Penal Law for acts of prostitution. Instead services should be created to meet the needs of these youth outside of the justice system. Sexually exploited youth deserve the protection and services of the family court through processes in place for persons in need of supervision, including diversion, crisis intervention, counseling, and emergency and long term housing services.

LEGISLATIVE HISTORY:

2007: S.5258-B.

FISCAL IMPLICATIONS:

To be determined.

EFFECTIVE DATE:

April 1, 2010.

**FOR IMMEDIATE RELEASE:  
September 26, 2008**

**GOVERNOR PATERSON SIGNS LAW TO PROTECT SEXUALLY EXPLOITED YOUTH  
"Safe Harbor" Law to Provide Support and Social Services to Victims  
Paterson Also Signs Law to Establish Green Residential Building Grants Program**

---

Governor David A. Paterson today signed a package of bills into law which will strengthen consumer protections, enhance child protection services and improve reproductive health care education and outreach.

Among the bills in the package is A.5258-C Scarborough / S.3175-C Volker which creates the "Safe Harbor for Exploited Youth Act" and requires local districts to provide crisis intervention services and community based programming for exploited youth. Currently, individuals under the age of 18 who are arrested for prostitution or other illegal activities of a sexual nature enter the criminal justice system with the legal presumption that they are juvenile delinquents. This bill would decriminalize child prostitution, recognizing these children as victims, not criminals, and provide them with necessary social services.

"As a society we must do everything in our power to prevent sexual exploitation, but when it does occur we must be prepared to assist our youth with appropriate outreach services. For too long we have been disciplining young children who are the victims of brutal sexual exploitation instead of providing them with the necessary services to reintegrate them into society and ensure they receive adequate crisis intervention," said Governor Paterson. "This law establishes a Safe Harbor Act which will ensure that sexually exploited youth receive counseling and emergency services as well as long term housing solutions."

---

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

Section 1. Article 6 of the social services law is amended by adding a new title 8-A to read as follows:

TITLE 8-A

SAFE HARBOUR FOR EXPLOITED CHILDREN ACT

Section 447-a. Definitions.

447-b. Services for exploited children.

§ 447-a. Definitions. As used in this title:

1. The term "sexually exploited child" means any person under the age of eighteen who has been subject to sexual exploitation because he or she:

(a) is the victim of the crime of sex trafficking as defined in section 230.34 of the penal law;

(b) is an abused child as defined in paragraph (iii) of subdivision

(e) of section ten hundred twelve of the family court act;

(c) engages in any act as defined in section 230.00 or 240.37 of the penal law;

(d) is a victim of the crime of compelling prostitution as defined in



section 230.33 of the penal law;

(e) engages in acts or conduct described in article two hundred sixty-three of the penal law.

2. The term "short-term safe house" means a residential facility operated by an authorized agency as defined in subdivision ten of section three hundred seventy-one of this article including a residential facility operating as part of an approved runaway program as defined in subdivision four of section five hundred thirty-two-a of the executive law or a not-for-profit agency with experience in providing services to sexually exploited youth and approved in accordance with the regulations of the office of children and family services that provides emergency shelter, services and care to sexually exploited children including food, shelter, clothing, medical care, counseling and appropriate crisis intervention services at the time they are taken into custody by law enforcement and for the duration of any legal proceeding or proceedings in which they are either the complaining witness or the subject child. The short-term safe house shall also be available at the point in time that a child under the age of eighteen has first come into the custody of juvenile detention officials, law enforcement, local jails or the local commissioner of social services or is residing with the local runaway and homeless youth authority.

3. The term "advocate" means an employee of the short-term safe house defined in subdivision two of this section that has been trained to work with and advocate for the needs of sexually exploited children. The advocate shall accompany the child to all court appearances and will serve as a liaison between the short-term safe house and the court.

4. The term "safe house" means a residential facility operated by an authorized agency as defined in subdivision ten of section three hundred seventy-one of this article including a residential facility operating as part of an approved runaway program as defined in subdivision four of section five hundred thirty-two-a of the executive law or a not-for-profit agency with experience in providing services to sexually exploited youth and approved in accordance with the regulations of the office of children and family services that provides shelter for sexually exploited children. A safe house created under this article shall provide or assist in securing necessary services for such sexually exploited children either through direct provision of services, or through written agreements with other community and public agencies for the provision of services including but not limited to housing, assessment, case management, medical care, legal, mental health and substance and alcohol abuse services. Where appropriate such safe house in accordance with a service plan for such sexually exploited child may also provide counseling and therapeutic services, educational services including life skills services and planning services to successfully transition residents back to the community. The safe house shall be available as a final disposition pursuant to section seven hundred fifty-six of the family court act to any sexually exploited child who is in need of long term housing. Nothing in the provisions of this article shall prevent a child who is the subject of a proceeding which has not reached final disposition from residing at the safe house for the duration of that proceeding nor shall it prevent any sexually exploited child who is not the subject of a proceeding from residing at the safe house.

5. The term "community-based program" means a program operated by a not-for-profit organization that provides services such as street outreach, voluntary drop-in services, peer counseling, individual counseling, family-therapy and referrals for services such as educational and vocational training and health care. Any community-based program funded under this article shall also work with the safe house created under this article to provide transitional services to children returning to the community.

§ 447-b. Services for exploited children. 1. Notwithstanding any inconsistent provision of law, pursuant to regulations of the office of children and family services, every local social services district shall as a component of the district's multi-year consolidated services child welfare services plan address the child welfare services needs of sexually exploited children and to the extent that funds are available ensure that preventative services including a short-term safe house or another short-term safe placement such as an approved runaway and homeless youth program, approved respite or crisis program providing crisis intervention or respite services or community-based program to serve

sexually exploited children is available to children residing in such district. Nothing in this section shall prohibit a local social services district from utilizing existing respite or crisis intervention services already operated by such social services district or homeless youth programs or services for victims of human trafficking pursuant to article ten-D of this chapter so long as the staff members have received appropriate training approved by the office of children and family services regarding sexually exploited children and the existing programs and facilities provide a safe, secure and appropriate environment for sexually exploited children. Crisis intervention services, short-term safe house care and community-based programming may, where appropriate, be provided by the same not-for-profit agency. Local social services districts may work cooperatively to provide such short-term safe house or other short-term safe placement, services and programming and access to such placement, services and programming may be provided on a regional basis, provided, however, that every local social services district shall to the extent that funds are available ensure that such placement, services and programs shall be readily accessible to sexually exploited children residing within the district.

2. All of the services created under this article may, to the extent possible provided by law, be available to all sexually exploited children whether they are accessed voluntarily, as a condition of an adjournment in contemplation of dismissal issued in criminal court, through the diversion services created under section seven hundred thirty-five of the family court act, through a proceeding under article three of the family court act, a proceeding under article ten of the family court act or through a referral from a local social services agency.

3. The capacity of the crisis intervention services and community-based programs in subdivision one of this section shall be based on the number of sexually exploited children in each district who are in need of such services. A determination of such need shall be made annually in every social services district by the local commissioner of social services and be included in the integrated county plan. Such determination shall be made in consultation with local law enforcement, runaway and homeless youth program providers, local probation departments, local social services commissioners, the runaway and homeless youth coordinator for the local social services district, local law guardians, presentment agencies, public defenders and district attorney's offices and child advocates and services providers who work directly with sexually exploited youth.

4. In determining the need for and capacity of the services created under this section, each local social services district shall recognize that sexually exploited youth have separate and distinct service needs according to gender and, where a local social services district determines that the need exists, to the extent that funds are available, appropriate programming shall be made available.

5. The office of children and family services shall contract with an appropriate not-for-profit agency with experience working with sexually exploited children to operate at least one safe house in a geographically appropriate area of the state which shall provide safe and secure long term housing and specialized services for sexually exploited children throughout the state. The appropriateness of the geographic location shall be determined taking into account the areas of the state with high numbers of sexually exploited children and the need for sexually exploited children to find shelter and long term placement in a region that cannot be readily accessed by the perpetrators of sexual exploitation. The need for more than one safe house shall be determined by the office of children and family services based on the numbers and geographical location of sexually exploited children within the state.

6. The local social services commissioner may, to the extent that funds are available, in conjunction with local law enforcement officials, contract with an appropriate not-for-profit agency with experience working with sexually exploited children to train law enforcement officials who are likely to encounter sexually exploited children in the course of their law enforcement duties on the provisions of this section and how to identify and obtain appropriate services for sexually exploited children. Local social services districts may work cooperatively to provide such training and such training may be provided on a regional basis. The office of children and family services shall assist local social services districts in obtaining any available funds for the

purposes of conducting law enforcement training from the federal justice department and/or the office of juvenile justice and delinquency prevention.

§ 2. Section 311.4 of the family court act is amended by adding a new subdivision 3 to read as follows:

3. In any proceeding under this article based upon an arrest for an act of prostitution, there is a presumption that the respondent meets the criteria for a certification as a victim of a severe form of trafficking as defined in section 7105 of title 22 of the United States Code (Trafficking Victims Protection Act of 2000). Upon the motion of the respondent, without the consent of the presentment agency, a petition alleging that the respondent is in need of supervision shall be substituted for the delinquency petition. If, however, the respondent is not a victim of a severe form of trafficking as defined by the federal Trafficking Victims Protection Act of 2000, or has been previously found under this article to have committed an offense pursuant to article two hundred thirty of the penal law, or has been previously adjudicated under section seven hundred fifty-two of this chapter and placed with a commissioner of social services pursuant to subdivisions (a) and (b) of section seven hundred fifty-six of this chapter, or expresses a current unwillingness to cooperate with specialized services for sexually exploited youth, continuing with the delinquency proceeding shall be within the court's discretion. The necessary findings of fact to support the continuation of the delinquency proceeding shall be reduced to writing and made part of the court record. If, subsequent to issuance of a substitution order under this subdivision, the respondent is not in substantial compliance with a lawful order of the court, the court may, in its discretion, substitute a petition alleging that the respondent is a juvenile delinquent for the petition alleging that the respondent is in need of supervision.

§ 3. Subdivision (a) of section 712 of the family court act, as amended by chapter 596 of the laws of 2000, is amended to read as follows:

(a) "Person in need of supervision". A person less than eighteen years of age who does not attend school in accordance with the provisions of part one of article sixty-five of the education law or who is incorrigible, ungovernable or habitually disobedient and beyond the lawful control of a parent or other person legally responsible for such child's care, or other lawful authority, or who violates the provisions of section 221.05, 230.00, or 240.37 of the penal law.

§ 4. Subdivision (a) of section 732 of the family court act, as amended by section 6 of part E of chapter 57 of the laws of 2005, is amended to read as follows:

(a) the respondent is an habitual truant or is incorrigible, ungovernable, or habitually disobedient and beyond the lawful control of his or her parents, guardian or lawful custodian, or has been the victim of sexual exploitation as defined in subdivision one of section four hundred forty-seven-a of the social services law, and specifying the acts on which the allegations are based and the time and place they allegedly occurred. Where habitual truancy is alleged or the petitioner is a school district or local educational agency, the petition shall also include the steps taken by the responsible school district or local educational agency to improve the school attendance and/or conduct of the respondent;

§ 5. This act shall take effect April 1, 2010.