



Legislation Text

File #: Res 1346-2012, **Version:** *

Res. No. 1346

Resolution calling upon the New York State Legislature to pass and the Governor to enact A. 9804/S.7212, also known as the “Trafficking Victims Protection and Justice Act.”

By Council Members Ferreras, Fidler, Vallone, Halloran, Gonzalez, Barron, Brewer, Chin, Dickens, Gennaro, Gentile, Jackson, James, Koo, Koslowitz, Lander, Palma, Recchia, Rose, Seabrook, Vann, Williams, Wills, Rodriguez, Arroyo, Dromm and Koppell

Whereas, According to the United States Department of Justice (DOJ), trafficking in persons or “human trafficking” crimes as defined under the United States Criminal Code, involve the act of compelling or coercing a person’s labor, services or commercial sex acts; and

Whereas, Because New York State (NYS), and in particular New York City (NYC), is a known destination for trafficked persons from all over the world who are commercially sexually exploited and forced into labor servitude, NYS enacted an anti-trafficking law that took effect on November 1, 2007; and

Whereas, Advocates, service providers and criminal justice officials helped to craft the anti-trafficking law with the intent of better identifying and treating victims as well as better identifying and prosecuting traffickers, however, since its enactment, it has become evident that certain improvements to the law could help further that goal; and

Whereas, For example, it would be helpful to clarify certain portions of the law and address inconsistencies, particularly in cases involving minors and victims and purveyors of sex trafficking; and

Whereas, After several years of discussion by those who assist trafficking victims, including service providers, human rights advocates and law enforcement officials, new state legislation has been proposed; and

Whereas, A.9804/S.7212, also known as the Trafficking Victims Protection and Justice Act, seeks to address some of these proposals by amending several sections of state law; and

Whereas, Among other changes, A.9804/S.7212 would conform penalties for patronizing a prostitute with those for statutory rape and would amend the Penal Law to align the ages of victims in each degree of patronizing a prostitute with the age delineated in the corresponding degree of rape offense and also align the state anti-trafficking law with federal law by removing the coercion requirement for minors; and

Whereas, The legislation would amend the Criminal Procedure Law to enable the proceedings for persons under the age of 18 who are arrested for prostitution or loitering for the purposes of prostitution to be removed to Family Court for Persons In Need of Supervision (PINS) proceedings; and

Whereas, A.9804/S.7212 would repeal section 230.07 of the Penal Law, which currently provides a defense to those arrested for patronizing a person for prostitution in the first or second degree who claims that they did not have reasonable grounds to believe the victim was younger than the age stated; and

Whereas, A.9804/S.7212 would create a new section of the Penal Law that establishes sex trafficking as an affirmative defense to prostitution charges; and

Whereas, A.9804/S.7212 would designate sex trafficking as a Class B violent felony instead of a non-violent B felony and would raise the penalty for labor trafficking from a Class D to Class B felony; and

Whereas, A.9804/S.7212 would amend sections of the Penal Law to include the use of a vehicle for the purpose of advancing prostitution to constitute the offense of permitting prostitution and include the language of engaging a business or enterprise for the purposes of prostitution to constitute the crime of promoting prostitution in the third degree; and

Whereas, The legislation would add marijuana and ecstasy to the list of substances unlawfully provided to a person who is patronized with the intent to impair his/her judgment, thereby constituting sex trafficking under Section 230.34 of the Penal Law; and

Whereas, A.9804/S.7212 would further amend the Penal Law by eliminating the term “prostitute” and replacing it with “person for prostitution”; and

Whereas, The legislation would also amend the Criminal Procedure Law by raising the penalties for

patronizing a prostitute in a school zone to make it consistent with the current penalties for prostitution and promoting prostitution in a school zone; and

Whereas, A.9804/S.7212 would further amend the Criminal Procedure Law by allowing law enforcement to obtain judicial warrants and to conduct eavesdropping and video surveillance where there is a reasonable cause to believe that the suspect manages, supervises, controls or owns a house of prostitution or prostitutes minors or otherwise engages in activities that constitute promoting prostitution in the third degree; and

Whereas, A.9804/S.7212 would also amend the Social Services Law to allow social service providers to make referrals so that trafficking victims may receive services to which they are legally entitled; and

Whereas, Making the foregoing changes to existing state law will strengthen the state human trafficking law and focus on protecting victims and increasing accountability for buyers and traffickers; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Legislature to pass and the Governor to enact A.9804/S.7212, also known as the “Trafficking Victims Protection and Justice Act”.

LS#3610
JP
5/25/12