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ASSEMBLY:

Yes

Judiciary
Appropriations

SENATE:

No

FLOOR AMENDMENT STATEMENT:

No

LEGISLATIVE FISCAL NOTE:

Yes

VETO MESSAGE:

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LAW/KR

P.L.2011, CHAPTER 195, *approved January 17, 2012*
Senate Committee Substitute (*First Reprint*) for
Senate, Nos. 2599 and 2763

1 AN ACT concerning juveniles and revising various parts of the
2 statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1982, c.77 (C.2A:4A-21) is amended to
8 read as follows:

9 2. Purposes. This act shall be construed so as to effectuate the
10 following purposes:

11 a. To preserve the unity of the family whenever possible and to
12 provide for the care, protection, and wholesome mental and
13 physical development of juveniles coming within the provisions of
14 this act;

15 b. Consistent with the protection of the public interest, to
16 remove from children committing delinquent acts certain statutory
17 consequences of criminal behavior, and to substitute therefor an
18 adequate program of supervision, care and rehabilitation, and a
19 range of sanctions designed to promote accountability and protect
20 the public;

21 c. To separate juveniles from the family environment only
22 when necessary for their health, safety or welfare or in the interests
23 of public safety;

24 d. To secure for each child coming under the jurisdiction of the
25 court such care, guidance and control, preferably in his own home,
26 as will conduce to the child's welfare and the best interests of the
27 State; and when such child is removed from his own family, to
28 secure for him custody, care and discipline as nearly as possible
29 equivalent to that which should have been given by his parents;

30 e. To insure that children under the jurisdiction of the court are
31 wards of the State, subject to the discipline and entitled to the
32 protection of the State, which may intervene to safeguard them from
33 neglect or injury and to enforce the legal obligations due to them
34 and from them; **[and]**

35 f. Consistent with the protection of the public interest, to
36 insure that any services and sanctions for juveniles provide
37 balanced attention to the protection of the community, the
38 imposition of accountability for offenses committed, fostering

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted December 8, 2011.

1 interaction and dialogue between the offender, victim and
2 community and the development of competencies to enable children
3 to become responsible and productive members of the community;
4 and

5 g. To insure protection and a safe environment for those
6 sexually exploited juveniles who are charged with prostitution or
7 who are alleged to be victims of human trafficking; and to provide
8 these juveniles with the appropriate shelter, care, counseling and
9 crisis intervention services from the time they are taken into
10 custody and for the duration of any legal proceedings.

11 (cf: P.L. 2001, c.408, s.1).

12

13 2. Section 3 of P.L.1982, c.77 (C.2A:4A-22) is amended to
14 read as follows:

15 3. General definitions. As used in this act:

16 a. "Juvenile" means an individual who is under the age of 18
17 years.

18 b. "Adult" means an individual 18 years of age or older.

19 c. "Detention" means the temporary care of juveniles in
20 physically restricting facilities pending court disposition.

21 d. "Shelter care" means the temporary care of juveniles in
22 facilities without physical restriction pending court disposition.

23 e. "Commit" means to transfer legal custody to an institution.

24 f. "Guardian" means a person, other than a parent, to whom
25 legal custody of the child has been given by court order or who is
26 acting in the place of the parent or is responsible for the care and
27 welfare of the juvenile.

28 g. "Juvenile-family crisis" means behavior, conduct or a
29 condition of a juvenile, parent or guardian or other family member
30 which presents or results in (1) a serious threat to the well-being
31 and physical safety of a juvenile, or (2) a serious conflict between a
32 parent or guardian and a juvenile regarding rules of conduct which
33 has been manifested by repeated disregard for lawful parental
34 authority by a juvenile or misuse of lawful parental authority by a
35 parent or guardian, or (3) unauthorized absence by a juvenile for
36 more than 24 hours from his home, or (4) a pattern of repeated
37 unauthorized absences from school by a juvenile subject to the
38 compulsory education provision of Title 18A of the New Jersey
39 Statutes, or (5) an act which if committed by an adult would
40 constitute prostitution in violation of N.J.S.2C:34-1 or any offense
41 which the juvenile alleges is related to the juvenile being a victim
42 of human trafficking.

43 h. "Repetitive disorderly persons offense" means the second or
44 more disorderly persons offense committed by a juvenile on at least
45 two separate occasions and at different times.

46 i. "Court" means the Superior Court, Chancery Division,
47 Family Part unless a different meaning is plainly required.

1 j. "Commission" means the Juvenile Justice Commission
2 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-
3 170).

4 (cf: P.L.1995, c.280, s.2)

5

6 3. Section 23 of P.L.1982, c.77 (C.2A:4A-42) is amended to
7 read as follows:

8 23. Predispositional evaluation. a. Before making a disposition,
9 the court may refer the juvenile to an appropriate individual, agency
10 or institution for examination and evaluation.

11 b. In arriving at a disposition, the court may also consult with
12 such individuals and agencies as may be appropriate to the
13 juvenile's situation, including the county probation division, the
14 Department of Children and Families, the Juvenile Justice
15 Commission established pursuant to section 2 of P.L.1995, c.284
16 (C.52:17B-170), the county youth services commission, school
17 personnel, clergy, law enforcement authorities, family members and
18 other interested and knowledgeable parties. In so doing, the court
19 may convene a predispositional conference to discuss and
20 recommend disposition.

21 c. (1) The predisposition report ordered pursuant to the Rules
22 of Court may include a statement by the victim of the offense for
23 which the juvenile has been adjudicated delinquent or by the nearest
24 relative of a homicide victim. The statement may include the nature
25 and extent of any physical harm or psychological or emotional harm
26 or trauma suffered by the victim, the extent of any loss to include
27 loss of earnings or ability to work suffered by the victim and the
28 effect of the crime upon the victim's family. The probation division
29 shall notify the victim or nearest relative of a homicide victim of his
30 right to make a statement for inclusion in the predisposition report
31 if the victim or relative so desires. Any statement shall be made
32 within 20 days of notification by the probation division. The report
33 shall further include information on the financial resources of the
34 juvenile. This information shall be made available on request to the
35 Victims of Crime Compensation Board established pursuant to
36 section 3 of P.L.1971, c.317 (C.52:4B-3) or to any officer
37 authorized under section 3 of P.L.1979, c.396 (C.2C:46-4) to collect
38 payment of an assessment, restitution or fine. **【Any predisposition
39 report prepared pursuant to this section shall include an analysis of
40 the circumstances attending the commission of the act, the impact
41 of the offense on the community, the offender's history of
42 delinquency or criminality, family situation, financial resources, the
43 financial resources of the juvenile's parent or guardian, and
44 information concerning the parent or guardian's exercise of
45 supervision and control relevant to commission of the act】**

46 (2) Any predisposition report prepared pursuant to this section
47 shall include:

- 1 (a) an analysis of the circumstances attending the commission of
2 the act;
3 (b) the impact of the offense on the community;
4 (c) the offender's history of delinquency or criminality;
5 (d) the offender's family situation;
6 (e) the offender's financial resources;
7 (f) the financial resources of the juvenile's parent or guardian;
8 (g) the information concerning the parent or guardian's exercise
9 of supervision and control relevant to commission of the act; and
10 (h) in any case where the juvenile is charged with an act which
11 if committed by an adult would constitute prostitution in violation
12 of N.J.S.2C:34-1 or any offense which the juvenile alleges is related
13 to the juvenile being a victim of human trafficking, the
14 predisposition report may include any information relevant to the
15 commission of the act.

16 Information concerning financial resources included in the report
17 shall be made available to any officer authorized to collect payment
18 on any assessment, restitution or fine.

19 (cf: P.L. 2006, c.47, s.17)

20

21 4. Section 2 of P.L.1982, c.81 (C.2A:4A-71) is amended to
22 read as follows:

23 2. Review and processing of complaints.

24 a. The jurisdiction of the court in any complaint filed pursuant
25 to section 11 of P.L. 1982, c. 77 (C. 2A:4A-30) shall extend to the
26 juvenile who is the subject of the complaint and his parents or
27 guardian.

28 b. Every complaint shall be reviewed by court intake services
29 for recommendation as to whether the complaint should be
30 dismissed, diverted, or referred for court action. Where the
31 complaint alleges a crime which, if committed by an adult, would
32 be a crime of the first, second, third or fourth degree, or alleges a
33 repetitive disorderly persons offense or any disorderly persons
34 offense defined in chapter 35 or chapter 36 of Title 2C, the
35 complaint shall be referred for court action, unless the prosecutor
36 otherwise consents to diversion. Court intake services shall
37 consider the following factors in determining whether to
38 recommend diversion:

39 (1) The seriousness of the alleged offense or conduct and the
40 circumstances in which it occurred;

41 (2) The age and maturity of the juvenile;

42 (3) The risk that the juvenile presents as a substantial danger to
43 others;

44 (4) The family circumstances, including any history of drugs,
45 alcohol abuse or child abuse on the part of the juvenile, his parents
46 or guardian;

- 1 (5) The nature and number of contacts with court intake services
2 and the court that the juvenile or his family have had;
- 3 (6) The outcome of those contacts, including the services to
4 which the juvenile or family have been referred and the results of
5 those referrals;
- 6 (7) The availability of appropriate services outside referral to
7 the court;
- 8 (8) Any recommendations expressed by the victim or
9 complainant, or arresting officer, as to how the case should be
10 resolved; **[and]**
- 11 (9) Any recommendation expressed by the county prosecutor;
12 **'[and]'**
- 13 (10) 'The amenability of the juvenile to participation in a
14 remedial education or counseling program that satisfies the
15 requirements of subsection b. of section 2 of P.L.2011, c.128
16 (C.2A:4A-71.1) if the offense alleged is an eligible offense as
17 defined in subsection c. of section 2 of P.L.2011, c.128 (C.2A:4A-
18 71.1); and
- 19 (11)¹ Any information relevant to the offense in any case where
20 the juvenile is charged with an act which if committed by an adult
21 would constitute prostitution in violation of N.J.S.2C:34-1 or any
22 offense which the juvenile alleges is related to the juvenile being a
23 victim of human trafficking.
24 (cf: P.L.2011, c.128, s.1)
25
- 26 5. Section 5 of P.L.1982, c.81 (C.2A:4A-74) is amended to
27 read as follows:
- 28 5. Court intake service conference. a. Where the juvenile is
29 diverted to a court intake service conference, notices of the
30 conference shall be sent to the juvenile and his parents or guardian
31 and to the complainant or victim. The parties may be requested to
32 bring to the conference all pertinent documents in their possession,
33 including medical, social, and school records.
- 34 b. In determining the appropriate resolution of a complaint, the
35 following factors shall be considered by court intake services:
- 36 (1) The seriousness of the alleged offense or conduct and the
37 circumstances in which it occurred;
- 38 (2) The age and maturity of the juvenile;
- 39 (3) The risk that the juvenile presents as a substantial danger to
40 others;
- 41 (4) The family circumstances, including any history of drugs,
42 alcohol abuse or child abuse on the part of the juvenile, his parents
43 or guardian;
- 44 (5) The nature and number of contacts with court intake services
45 and the court that the juvenile and his family have had;

- 1 (6) The outcome of those contacts, including the services to
- 2 which the juvenile or family have been referred and the results of
- 3 those referrals;
- 4 (7) The availability of appropriate services;
- 5 (8) Any recommendations expressed by the victim or
- 6 complainant, or arresting officer, as to how the case should be
- 7 disposed;
- 8 (9) Whether diversion can be accomplished in a manner that
- 9 holds the juvenile accountable for the conduct;
- 10 (10) The impact of the offense on the victim or victims; **[and]**
- 11 (11) The impact of the offense on the community; and
- 12 (12) Any information relevant to the offense in any case where
- 13 the juvenile is charged with an act which if committed by an adult
- 14 would constitute prostitution in violation of N.J.S.2C:34-1 or any
- 15 offense which the juvenile alleges is related to the juvenile being a
- 16 victim of human trafficking.
- 17 c. Each juvenile shall be reviewed without a presumption of
- 18 guilt. The intake conference shall be concerned primarily with
- 19 providing balanced attention to the protection of the community, the
- 20 imposition of accountability for offenses committed, fostering
- 21 interaction and dialogue between the offender, victim and
- 22 community and the development of competencies to enable the
- 23 juvenile offender to become a responsible and productive member
- 24 of the community. In addition, the conference shall be concerned
- 25 with preventing more serious future misconduct by the juvenile
- 26 offender by obtaining the cooperation of the juvenile and his
- 27 parents or guardian in complying with its recommendations. The
- 28 court may schedule a hearing where the complainant or victim
- 29 objects to the recommendations from the conference.
- 30 d. The resolution from the conference may include but shall not
- 31 be limited to counseling, restitution, referral to appropriate
- 32 community agencies, or any other community work programs or
- 33 other conditions consistent with diversion that aids in providing
- 34 balanced attention to the protection of the community, the
- 35 imposition of accountability for offenses committed, fostering
- 36 interaction and dialogue between the offender, victim and
- 37 community and the development of competencies to enable the
- 38 juvenile offender to become a responsible and productive member
- 39 of the community, provided that:
- 40 (1) Obligations imposed as a result of the intake conference
- 41 shall be an order of the court approved by the presiding judge and
- 42 shall be set forth in writing and may not exceed six months. The
- 43 juvenile and his or her parents or guardian shall receive copies, as
- 44 shall any agencies providing services under the agreement;
- 45 (2) The court intake service worker shall inform the juvenile and
- 46 the juvenile's parents or guardian in writing of their right to object
- 47 at any time prior to their written agreement to the facts or terms of

1 the intake conference decision, and if objections arise, the intake
2 service worker may alter the terms of the proposed agreement or
3 refer the matter to the presiding judge who shall determine if the
4 complaint will be heard in court or returned to intake conference for
5 further action;

6 (3) Written agreement pursuant to intake conferences may be
7 terminated at any time upon the request of the juvenile and the
8 matter referred to the presiding judge;

9 (4) The court intake services conference may not order the
10 confinement of a juvenile, place a juvenile on probation, or remove
11 a juvenile from his family as a disposition; and

12 (5) If, at any time during the diversion period, the court intake
13 service worker determines that the obligations imposed under the
14 written agreement are not being met, the intake worker shall notify
15 the presiding judge in writing. In the case of failure to comply with
16 the obligations imposed under the agreement by the parents or
17 guardian, the court may proceed against such persons for
18 enforcement of the agreement. In the case of failure to comply by
19 the juvenile, the matter shall be referred to the court for action.

20 e. At the end of the diversion period a second court intake
21 services conference may be held with all parties to the written
22 agreement present to ascertain if the terms of the agreement have
23 been fulfilled. If all conditions have been met, the intake worker
24 shall so inform the presiding judge in writing who shall order the
25 complaint dismissed. A copy of the order dismissing the complaint
26 shall be sent to the juvenile. If the conditions of the written
27 agreement have not been met, the intake worker may refer the
28 matter to the presiding judge who shall determine if the complaint
29 will be heard in court or returned to court intake services for further
30 action. Based on the evaluations required under this paragraph, the
31 intake conference agreement may be extended beyond the six-
32 month maximum if all parties agree. In no case shall an intake
33 conference agreement exceed nine months.

34 f. All proceedings before the conference are confidential and
35 they shall receive only those records which in the court's judgment
36 are necessary to aid in making a recommendation.

37 (cf: P.L.2001, c.408, s.5)

38

39 6. N.J.S.2C:34-1 is amended to read as follows:

40 2C:34-1. Prostitution and Related Offenses.

41 a. As used in this section:

42 (1) "Prostitution" is sexual activity with another person in
43 exchange for something of economic value, or the offer or
44 acceptance of an offer to engage in sexual activity in exchange for
45 something of economic value.

46 (2) "Sexual activity" includes, but is not limited to, sexual
47 intercourse, including genital-genital, oral-genital, anal-genital, and

1 oral-anal contact, whether between persons of the same or opposite
2 sex; masturbation; touching of the genitals, buttocks, or female
3 breasts; sadistic or masochistic abuse and other deviate sexual
4 relations.

5 (3) "House of prostitution" is any place where prostitution or
6 promotion of prostitution is regularly carried on by one person
7 under the control, management or supervision of another.

8 (4) "Promoting prostitution" is:

9 (a) Owning, controlling, managing, supervising or otherwise
10 keeping, alone or in association with another, a house of
11 prostitution or a prostitution business;

12 (b) Procuring an inmate for a house of prostitution or place in a
13 house of prostitution for one who would be an inmate;

14 (c) Encouraging, inducing, or otherwise purposely causing
15 another to become or remain a prostitute;

16 (d) Soliciting a person to patronize a prostitute;

17 (e) Procuring a prostitute for a patron;

18 (f) Transporting a person into or within this State with purpose
19 to promote that person's engaging in prostitution, or procuring or
20 paying for transportation with that purpose; or

21 (g) Knowingly leasing or otherwise permitting a place
22 controlled by the actor, alone or in association with others, to be
23 regularly used for prostitution or promotion of prostitution, or
24 failure to make a reasonable effort to abate such use by ejecting the
25 tenant, notifying law enforcement authorities, or other legally
26 available means.

27 b. A person commits an offense if:

28 (1) The actor engages in prostitution;

29 (2) The actor promotes prostitution;

30 (3) The actor knowingly promotes prostitution of a child under
31 18 whether or not the actor mistakenly believed that the child was
32 18 years of age or older, even if such mistaken belief was
33 reasonable;

34 (4) The actor knowingly promotes prostitution of the actor's
35 child, ward, or any other person for whose care the actor is
36 responsible;

37 (5) The actor compels another to engage in or promote
38 prostitution;

39 (6) The actor promotes prostitution of the actor's spouse; or

40 (7) The actor knowingly engages in prostitution with a person
41 under the age of 18, or if the actor enters into or remains in a house
42 of prostitution for the purpose of engaging in sexual activity with a
43 child under the age of 18, or if the actor solicits or requests a child
44 under the age of 18 to engage in sexual activity. It shall be no
45 defense to a prosecution under this paragraph that the actor
46 mistakenly believed that the child was 18 years of age or older,
47 even if such mistaken belief was reasonable.

1 c. Grading of offenses under subsection b.

2 (1) An offense under subsection b. constitutes a crime of the
3 second degree if the offense falls within paragraph (3) or (4) of that
4 subsection.

5 (2) An offense under subsection b. constitutes a crime of the
6 third degree if the offense falls within paragraph (5), (6) or (7) of
7 that subsection.

8 (3) An offense under paragraph (2) of subsection b. constitutes a
9 crime of the third degree if the conduct falls within subparagraph
10 (a), (b), or (c) of paragraph (4) of subsection a. Otherwise the
11 offense is a crime of the fourth degree.

12 (4) An offense under subsection b. constitutes a disorderly
13 persons offense if the offense falls within paragraph (1) of that
14 subsection except that a second or subsequent conviction for such
15 an offense constitutes a crime of the fourth degree. In addition,
16 where a motor vehicle was used in the commission of any offense
17 under paragraph (1) of subsection b. the court shall suspend for six
18 months the driving privilege of any such offender who has a valid
19 driver's license issued by this State. Upon conviction, the court
20 shall immediately collect the offender's driver's license and shall
21 forward it, along with a report stating the first and last day of the
22 suspension imposed pursuant to this paragraph, to the New Jersey
23 Motor Vehicle Commission.

24 d. Presumption from living off prostitutes. A person, other
25 than the prostitute or the prostitute's minor child or other legal
26 dependent incapable of self-support, who is supported in whole or
27 substantial part by the proceeds of prostitution is presumed to be
28 knowingly promoting prostitution.

29 e. It is an affirmative defense to prosecution for a violation of
30 this section that, during the time of the alleged commission of the
31 offense, the defendant was a victim of human trafficking pursuant
32 to section 1 of P.L.2005, c.77 (C.2C:13-8) or the defendant was
33 under the age of 18.

34 (cf: P.L. 2005, c.77, s.2)

35

36 7. (New section) The Attorney General shall, in consultation
37 with the Commissioner of the Department of Health and Senior
38 Services, the Commissioner of Children and Families, the
39 Superintendent of State Police and representatives of providers of
40 services to victims of human trafficking and sexually exploited
41 minors, coordinate the establishment of standard protocols for the
42 provision of information and services to victims of human
43 trafficking and to minors under the age of 18 who are charged with
44 prostitution, including coordination of efforts with the appropriate
45 federal authorities pursuant to the "Trafficking Victims Protection
46 Reauthorization Act of 2003," 22 U.S.C. s.7101 et seq. and shall
47 make such protocols available upon request.

1 8. This act shall take effect immediately and shall be applicable
2 to all offenses committed on or after the effective date.

3

4

5

6

7 _____

8 Requires services be provided for sexually exploited juveniles
9 charged with certain offenses; creates an affirmative defense
regarding prostitution.

SENATE, No. 2599

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED DECEMBER 30, 2010

Sponsored by:

Senator NIA H. GILL

District 34 (Essex and Passaic)

SYNOPSIS

Requires services be provided for sexually exploited juveniles charged with prostitution or juvenile victims of human trafficking; creates a presumption of coercion under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning prostitution and revising various parts of the
2 statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1982, c.77 (C.2A:4A-21) is amended to
8 read as follows:

9 2. Purposes. This act shall be construed so as to effectuate the
10 following purposes:

11 a. To preserve the unity of the family whenever possible and to
12 provide for the care, protection, and wholesome mental and
13 physical development of juveniles coming within the provisions of
14 this act;

15 b. Consistent with the protection of the public interest, to
16 remove from children committing delinquent acts certain statutory
17 consequences of criminal behavior, and to substitute therefor an
18 adequate program of supervision, care and rehabilitation, and a
19 range of sanctions designed to promote accountability and protect
20 the public;

21 c. To separate juveniles from the family environment only
22 when necessary for their health, safety or welfare or in the interests
23 of public safety;

24 d. To secure for each child coming under the jurisdiction of the
25 court such care, guidance and control, preferably in his own home,
26 as will conduce to the child's welfare and the best interests of the
27 State; and when such child is removed from his own family, to
28 secure for him custody, care and discipline as nearly as possible
29 equivalent to that which should have been given by his parents;

30 e. To insure that children under the jurisdiction of the court are
31 wards of the State, subject to the discipline and entitled to the
32 protection of the State, which may intervene to safeguard them from
33 neglect or injury and to enforce the legal obligations due to them
34 and from them; **[and]**

35 f. Consistent with the protection of the public interest, to
36 insure that any services and sanctions for juveniles provide
37 balanced attention to the protection of the community, the
38 imposition of accountability for offenses committed, fostering
39 interaction and dialogue between the offender, victim and
40 community and the development of competencies to enable children
41 to become responsible and productive members of the community;
42 and

43 g. To insure protection and a safe environment for those
44 sexually exploited juveniles who are charged with prostitution or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 who are victims of human trafficking; and to provide these
2 juveniles with the appropriate shelter, care, counseling and crisis
3 intervention services from the time they are taken into custody and
4 for the duration of any legal proceedings.

5 (cf: P.L. 2001, c.408, s.1).

6

7 2. Section 12 of P.L.1982, c.77 (C.2A:4A-31) is amended to
8 read as follows:

9 12. Taking into custody. a. A juvenile may be taken into
10 custody:

11 (1) Pursuant to an order or warrant of any court having
12 jurisdiction; or

13 (2) For delinquency, when there has been no process issued by a
14 court, by a law enforcement officer, pursuant to the laws of arrest,
15 including when a juvenile is charged with an act which if
16 committed by an adult would constitute prostitution in violation of
17 N.J.S.2C:34-1 or a juvenile who is a victim of human trafficking
18 pursuant to section 1 of P.L.2005, c. 77, and the Rules of Court.

19 b. Except where delinquent conduct is alleged, a juvenile may
20 be taken into short-term custody by a law enforcement officer
21 without order of the court when:

22 (1) The officer has reasonable grounds to believe that the health
23 and safety of the juvenile is seriously in danger and taking into
24 immediate custody is necessary for his protection;

25 (2) The officer has reasonable grounds to believe the juvenile
26 has left the home and care of his parents or guardian without the
27 consent of such persons; or

28 (3) An agency legally charged with the supervision of a child
29 has notified the law enforcement agency that the child has run away
30 from out of home placement, provided, however, that in any case
31 where the law enforcement officer believes that the juvenile is an
32 "abused or neglected child" as defined in section 1 of P.L.1974,
33 c.119 (C.9:6-8.21), the officer shall handle the case pursuant to the
34 procedure set forth in that act.

35 c. The taking of a juvenile into custody shall not be construed
36 as an arrest, but shall be deemed a measure to protect the health,
37 morals and well being of the juvenile.

38 (cf: P.L.1982, c.77, s.12)

39

40 3. Section 13 of P.L.1982, c.77 (C.2A:4A-32) is amended to
41 read as follows:

42 13. Short-term custody. a. Under no circumstances shall any
43 juvenile taken into short-term custody under section 12 of P.L.1982,
44 c.77 (C.2A:4A-31) be held more than six hours. A juvenile taken
45 into short-term custody shall not be retained in a detention facility
46 or jail. A juvenile taken into short-term custody shall be retained in
47 a suitable residential facility if the juvenile is charged with a
48 violation of N.J.S.2C:34-1 or if the juvenile is a victim of human

1 trafficking pursuant to section 1 of P.L.2005, c.77. As used in this
2 section, the juvenile-family crisis intervention unit means that unit
3 established pursuant to P.L.1982, c.80 (C.2A:4A-76 et seq.).

4 b. An officer taking a juvenile into short-term custody shall
5 inform the juvenile of the reason for custody and shall where
6 possible transport, or arrange to have the juvenile transported to his
7 home. The officer releasing a juvenile from such custody shall
8 inform the juvenile's parents or guardian and the juvenile-family
9 crisis intervention unit of the reason for taking the juvenile into
10 custody and may, if he believes further services are needed, inform
11 the juvenile and his parents of the nature and location of appropriate
12 services.

13 c. A law enforcement officer taking a juvenile into short-term
14 custody may transport the juvenile to the home of a relative of the
15 juvenile or to the home of another responsible adult or make
16 arrangement for such transportation where the officer reasonably
17 believes that the child will be provided with adequate care and
18 supervision and that the child will remain in custody of the adult
19 until such time as the juvenile-family crisis intervention unit can
20 bring about the child's return home or an alternative living
21 arrangement or out of home placement. A law enforcement officer
22 placing a juvenile with a relative or responsible adult shall
23 immediately notify the juvenile-family crisis intervention unit of
24 this fact and the reason for taking the juvenile into custody.

25 d. A law enforcement officer acting reasonably and in good
26 faith pursuant to this section in releasing a juvenile to a person
27 other than a parent of a juvenile is immune from civil or criminal
28 liability for his action. A person other than a parent of the juvenile
29 who receives a child pursuant to this section and who acts
30 reasonably and in good faith in doing so is immune from civil or
31 criminal liability for the act of receiving the child. Immunity shall
32 not release a person from liability under any other laws, including
33 the laws regulating licensed child care or prohibiting child abuse
34 and neglect.

35 (cf: P.L.1995, c.280, s.6)

36

37 4. Section 15 of P.L.1982, c.77 (C.2A:4A-34) is amended to
38 read as follows:

39 15. Criteria for placing juvenile in detention.

40 a. Except as otherwise provided in this section, a juvenile
41 charged with an act of delinquency shall be released pending the
42 disposition of a case, if any, to any person or agency provided for in
43 this section upon assurance being received that such person or
44 persons accept responsibility for the juvenile and will bring him
45 before the court as ordered.

46 b. No juvenile shall be placed in detention without the
47 permission of a judge or the court intake service.

1 c. A juvenile charged with delinquency may not be placed or
2 retained in detention under this act prior to disposition, except as
3 otherwise provided by law, unless:

4 (1) Detention is necessary to secure the presence of the juvenile
5 at the next hearing as evidenced by a demonstrable record of recent
6 willful failure to appear at juvenile court proceedings or to remain
7 where placed by the court or the court intake service or the juvenile
8 is subject to a current warrant for failure to appear at court
9 proceedings which is active at the time of arrest; or

10 (2) The physical safety of persons or property of the community
11 would be seriously threatened if the juvenile were not detained and
12 the juvenile is charged with an offense which, if committed by an
13 adult, would constitute a crime of the first, second or third degree or
14 one of the following crimes of the fourth degree: aggravated
15 assault; stalking; criminal sexual contact; bias intimidation; failure
16 to control or report a dangerous fire; possession of a prohibited
17 weapon or device in violation of N.J.S.2C:39-3; or unlawful
18 possession of a weapon in violation of N.J.S.2C:39-5; or

19 (3) With respect to a juvenile charged with an offense which, if
20 committed by an adult, would constitute a crime of the fourth
21 degree other than those enumerated in paragraph (2) of this
22 subsection, or a disorderly persons or petty disorderly persons
23 offense, and with respect to a juvenile charged with an offense
24 enumerated in subsection c. when the criteria for detention are not
25 met, the juvenile may be temporarily placed in a shelter, a
26 residential facility or other non-secure placement if a parent or
27 guardian cannot be located or will not accept custody of the
28 juvenile. Police and court intake personnel shall make all
29 reasonable efforts to locate a parent or guardian to accept custody
30 of the juvenile prior to requesting or approving the juvenile's
31 placement in a shelter or other non-secure placement. If, after the
32 initial detention hearing, continued placement is necessary, the
33 juvenile shall be returned to a shelter, a residential facility or other
34 non-secure placement.

35 d. The judge or court intake officer prior to making a decision
36 of detention shall consider and, where appropriate, employ any of
37 the following alternatives:

38 (1) Release to parents;

39 (2) Release on juvenile's promise to appear at next hearing;

40 (3) Release to parents, guardian or custodian upon written
41 assurance to secure the juvenile's presence at the next hearing;

42 (4) Release into care of a custodian or public or private agency
43 reasonably capable of assisting the juvenile to appear at the next
44 hearing;

45 (5) Release with imposition of restrictions on activities,
46 associations, movements and residence reasonably related to
47 securing the appearance of the juvenile at the next hearing;

1 (6) Release with required participation in a home detention
2 program;

3 (7) Placement in a shelter care facility or residential facility; or

4 (8) Imposition of any other restrictions other than detention or
5 shelter care reasonably related to securing the appearance of the
6 juvenile.

7 e. In determining whether detention is appropriate for the
8 juvenile, the following factors shall be considered:

9 (1) The nature and circumstances of the offense charged;

10 (2) The age of the juvenile;

11 (3) The juvenile's ties to the community;

12 (4) The juvenile's record of prior adjudications, if any; and

13 (5) The juvenile's record of appearance or nonappearance at
14 previous court proceedings.

15 f. No juvenile 11 years of age or under shall be placed in
16 detention unless he is charged with an offense which, if committed
17 by an adult, would be a crime of the first or second degree or arson.

18 g. If the court places a juvenile in detention, the court shall
19 state on the record its reasons for that detention.

20 h. For purposes of this section, a failure to appear at juvenile
21 court proceedings or to remain where placed by the court or the
22 court intake service shall be deemed recent if it occurred within the
23 12 months immediately preceding the detention hearing, or if it
24 occurred within the period of 12 to 24 months preceding the
25 detention hearing and the juvenile is unable to demonstrate a record
26 of voluntary compliance with any subsequent court appearance and
27 placement requirements.

28 (cf: P.L. 2005, c.361, s.1)

29

30 5. Section 23 of P.L.1982, c.77 (C.2A:4A-42) is amended to
31 read as follows:

32 23. Predispositional evaluation. a. Before making a disposition,
33 the court may refer the juvenile to an appropriate individual, agency
34 or institution for examination and evaluation.

35 b. In arriving at a disposition, the court may also consult with
36 such individuals and agencies as may be appropriate to the
37 juvenile's situation, including the county probation division, the
38 Department of Children and Families, the Juvenile Justice
39 Commission established pursuant to section 2 of P.L.1995, c.284
40 (C.52:17B-170), the county youth services commission, school
41 personnel, clergy, law enforcement authorities, family members and
42 other interested and knowledgeable parties. In so doing, the court
43 may convene a predispositional conference to discuss and
44 recommend disposition.

45 c. The predisposition report ordered pursuant to the Rules of
46 Court may include a statement by the victim of the offense for
47 which the juvenile has been adjudicated delinquent or by the nearest
48 relative of a homicide victim. The statement may include the nature

1 and extent of any physical harm or psychological or emotional harm
2 or trauma suffered by the victim, the extent of any loss to include
3 loss of earnings or ability to work suffered by the victim and the
4 effect of the crime upon the victim's family. The probation division
5 shall notify the victim or nearest relative of a homicide victim of his
6 right to make a statement for inclusion in the predisposition report
7 if the victim or relative so desires. Any statement shall be made
8 within 20 days of notification by the probation division. The report
9 shall further include information on the financial resources of the
10 juvenile. This information shall be made available on request to the
11 Victims of Crime Compensation Board established pursuant to
12 section 3 of P.L.1971, c.317 (C.52:4B-3) or to any officer
13 authorized under section 3 of P.L.1979, c.396 (C.2C:46-4) to collect
14 payment of an assessment, restitution or fine. Any predisposition
15 report prepared pursuant to this section shall include an analysis of
16 the circumstances attending the commission of the act, the impact
17 of the offense on the community, the offender's history of
18 delinquency or criminality, family situation, financial resources, the
19 financial resources of the juvenile's parent or guardian, and
20 information concerning the parent or guardian's exercise of
21 supervision and control relevant to commission of the act. If the
22 juvenile is charged with prostitution or if the juvenile is a victim of
23 human trafficking the report shall also include an analysis of
24 whether the juvenile was coerced into committing the offense.

25 Information concerning financial resources included in the report
26 shall be made available to any officer authorized to collect payment
27 on any assessment, restitution or fine.

28 (cf: P.L. 2006, c.47, s.17)

29

30 6. Section 2 of P.L.1982, c.81 (C.2A:4A-71) is amended to
31 read as follows:

32 2. Review and processing of complaints.

33 a. The jurisdiction of the court in any complaint filed pursuant
34 to section 11 of P.L. 1982, c. 77 (C. 2A:4A-30) shall extend to the
35 juvenile who is the subject of the complaint and his parents or
36 guardian.

37 b. Every complaint shall be reviewed by court intake services
38 for recommendation as to whether the complaint should be
39 dismissed, diverted, or referred for court action. Where the
40 complaint alleges a crime which, if committed by an adult, would
41 be a crime of the first, second, third or fourth degree, or alleges a
42 repetitive disorderly persons offense or any disorderly persons
43 offense defined in chapter 35 or chapter 36 of Title 2C, the
44 complaint shall be referred for court action, unless the prosecutor
45 otherwise consents to diversion or unless the juvenile is charged
46 with the offense of prostitution or is a victim of human trafficking,
47 in which case court intake services shall recommend diversion of

1 the complaint. Court intake services shall consider the following
2 factors in determining whether to recommend diversion:

3 (1) The seriousness of the alleged offense or conduct and the
4 circumstances in which it occurred;

5 (2) The age and maturity of the juvenile;

6 (3) The risk that the juvenile presents as a substantial danger to
7 others;

8 (4) The family circumstances, including any history of drugs,
9 alcohol abuse or child abuse on the part of the juvenile, his parents
10 or guardian;

11 (5) The nature and number of contacts with court intake services
12 and the court that the juvenile or his family have had;

13 (6) The outcome of those contacts, including the services to
14 which the juvenile or family have been referred and the results of
15 those referrals;

16 (7) The availability of appropriate services outside referral to
17 the court;

18 (8) Any recommendations expressed by the victim or
19 complainant, or arresting officer, as to how the case should be
20 resolved; and

21 (9) Any recommendation expressed by the county prosecutor.

22 (cf: P.L.1988, c.44, s.17)

23

24 7. Section 1 of P.L.2005, c.77 (C.2C:13-8) is amended to read
25 as follows.

26 1. Human trafficking. a. A person commits the crime of human
27 trafficking if he :

28 (1) knowingly holds, recruits, lures, entices, harbors, transports,
29 provides or obtains, by any means, another, to engage in sexual
30 activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-
31 1 or to provide labor or services:

32 (a) by threats of serious bodily harm or physical restraint
33 against the person or any other person;

34 (b) by means of any scheme, plan or pattern intended to cause
35 the person to believe that the person or any other person would
36 suffer serious bodily harm or physical restraint;

37 (c) by committing a violation of N.J.S.2C:13-5 against the
38 person; or

39 (d) by destroying, concealing, removing, confiscating, or
40 possessing any passport, immigration-related document as defined
41 in section 1 of P.L.1997, c.1 (C.2C:21-31), or other document
42 issued by a governmental agency to any person which could be used
43 as a means of verifying the person's identity or age or any other
44 personal identifying information; or

45 (e) by means of the abuse or threatened abuse of the law or legal
46 process; or

1 (2) receives anything of value from participation as an
2 organizer, supervisor, financier or manager in a scheme or course of
3 conduct which violates paragraph (1) of this subsection.

4 b. An offense under this section constitutes a crime of the first
5 degree.

6 c. It is an affirmative defense to prosecution for a violation of
7 this section that, during the time of the alleged commission of the
8 offense of human trafficking created by this section, the defendant
9 was a victim of human trafficking.

10 d. Notwithstanding the provisions of N.J.S.2C:43-6, the term of
11 imprisonment imposed for a crime of the first degree under
12 paragraph (2) of subsection a. shall be either a term of 20 years
13 during which the actor shall not be eligible for parole, or a specific
14 term between 20 years and life imprisonment, of which the actor
15 shall serve 20 years before being eligible for parole.

16 e. In addition to any other disposition authorized by law, any
17 person who violates the provisions of this section shall be sentenced
18 to make restitution to any victim. The court shall award to the
19 victim restitution which is the greater of:

20 (1) the gross income or value to the defendant of the victim's
21 labor or services; or

22 (2) the value of the victim's labor or services as determined by
23 the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-
24 56.25 et seq.), the "New Jersey State Wage and Hour Law,"
25 P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal Farm Labor
26 Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws concerning the
27 regulation of child labor in chapter 2 of Title 34 of the Revised
28 Statutes, or any other applicable State law, and the "Fair Labor
29 Standards Act of 1938," 29 U.S.C. s.201 et seq. or any other
30 applicable federal law.

31 f. Presumption. If the defendant was under the age of 18
32 during the time of the alleged commission of the offense, there shall
33 be a presumption that the defendant was coerced into committing
34 the offense.

35 (cf: P.L.2005, c.77, s.1)

36

37 8. N.J.S. 2C:34-1 is amended to read as follows:

38 2C:34-1. Prostitution and Related Offenses.

39 a. As used in this section:

40 (1) "Prostitution" is sexual activity with another person in
41 exchange for something of economic value, or the offer or
42 acceptance of an offer to engage in sexual activity in exchange for
43 something of economic value.

44 (2) "Sexual activity" includes, but is not limited to, sexual
45 intercourse, including genital-genital, oral-genital, anal-genital, and
46 oral-anal contact, whether between persons of the same or opposite
47 sex; masturbation; touching of the genitals, buttocks, or female

1 breasts; sadistic or masochistic abuse and other deviate sexual
2 relations.

3 (3) "House of prostitution" is any place where prostitution or
4 promotion of prostitution is regularly carried on by one person
5 under the control, management or supervision of another.

6 (4) "Promoting prostitution" is:

7 (a) Owning, controlling, managing, supervising or otherwise
8 keeping, alone or in association with another, a house of
9 prostitution or a prostitution business;

10 (b) Procuring an inmate for a house of prostitution or place in a
11 house of prostitution for one who would be an inmate;

12 (c) Encouraging, inducing, or otherwise purposely causing
13 another to become or remain a prostitute;

14 (d) Soliciting a person to patronize a prostitute;

15 (e) Procuring a prostitute for a patron;

16 (f) Transporting a person into or within this State with purpose
17 to promote that person's engaging in prostitution, or procuring or
18 paying for transportation with that purpose; or

19 (g) Knowingly leasing or otherwise permitting a place
20 controlled by the actor, alone or in association with others, to be
21 regularly used for prostitution or promotion of prostitution, or
22 failure to make a reasonable effort to abate such use by ejecting the
23 tenant, notifying law enforcement authorities, or other legally
24 available means.

25 b. A person commits an offense if:

26 (1) The actor engages in prostitution;

27 (2) The actor promotes prostitution;

28 (3) The actor knowingly promotes prostitution of a child under
29 18 whether or not the actor mistakenly believed that the child was
30 18 years of age or older, even if such mistaken belief was
31 reasonable;

32 (4) The actor knowingly promotes prostitution of the actor's
33 child, ward, or any other person for whose care the actor is
34 responsible;

35 (5) The actor compels another to engage in or promote
36 prostitution;

37 (6) The actor promotes prostitution of the actor's spouse; or

38 (7) The actor knowingly engages in prostitution with a person
39 under the age of 18, or if the actor enters into or remains in a house
40 of prostitution for the purpose of engaging in sexual activity with a
41 child under the age of 18, or if the actor solicits or requests a child
42 under the age of 18 to engage in sexual activity. It shall be no
43 defense to a prosecution under this paragraph that the actor
44 mistakenly believed that the child was 18 years of age or older,
45 even if such mistaken belief was reasonable.

46 c. Grading of offenses under subsection b.

1 (1) An offense under subsection b. constitutes a crime of the
2 second degree if the offense falls within paragraph (3) or (4) of that
3 subsection.

4 (2) An offense under subsection b. constitutes a crime of the
5 third degree if the offense falls within paragraph (5), (6) or (7) of
6 that subsection.

7 (3) An offense under paragraph (2) of subsection b. constitutes a
8 crime of the third degree if the conduct falls within subparagraph
9 (a), (b), or (c) of paragraph (4) of subsection a. Otherwise the
10 offense is a crime of the fourth degree.

11 (4) An offense under subsection b. constitutes a disorderly
12 persons offense if the offense falls within paragraph (1) of that
13 subsection except that a second or subsequent conviction for such
14 an offense constitutes a crime of the fourth degree. In addition,
15 where a motor vehicle was used in the commission of any offense
16 under paragraph (1) of subsection b. the court shall suspend for six
17 months the driving privilege of any such offender who has a valid
18 driver's license issued by this State. Upon conviction, the court
19 shall immediately collect the offender's driver's license and shall
20 forward it, along with a report stating the first and last day of the
21 suspension imposed pursuant to this paragraph, to the New Jersey
22 Motor Vehicle Commission.

23 d. Presumptions.

24 (1) Presumption from living off prostitutes. A person, other
25 than the prostitute or the prostitute's minor child or other legal
26 dependent incapable of self-support, who is supported in whole or
27 substantial part by the proceeds of prostitution is presumed to be
28 knowingly promoting prostitution.

29 (2) Presumption that the defendant was coerced. If the defendant
30 was under the age of 18 during the time of the alleged commission
31 of the offense, there shall be a presumption that the defendant was
32 coerced into committing the offense.

33 e. It is an affirmative defense to prosecution for a violation of
34 this section that, during the time of the alleged commission of the
35 offense, the defendant was a victim of human trafficking pursuant
36 to section 1 of P.L.2005, c.77 (C.2C:13-8).

37 (cf: P.L. 2005, c.77, s.2)

38

39 9. (New section) The Attorney General shall, in consultation
40 with the Commissioner of the Department of Health and Senior
41 Services, the Commissioner of Children and Families, the
42 Superintendent of State Police and representatives of providers of
43 services to victims of human trafficking and sexually exploited
44 minors, coordinate the establishment of standard protocols for the
45 provision of information and services to victims of human
46 trafficking and to minors under the age of 18 who are charged with
47 prostitution, including coordination of efforts with the appropriate
48 federal authorities pursuant to the "Trafficking Victims Protection

1 Reauthorization Act of 2003," 22 U.S.C. s.7101 et seq. and shall
2 make such protocols available upon request.

3

4 10. This act shall take effect immediately and shall be applicable
5 to all offenses committed on or after the effective date.

6

7

8

STATEMENT

9

10 Under the current statutory scheme reasonable efforts are made
11 to provide appropriate placement for juveniles taken into custody or
12 waiting disposition of the matter. Unfortunately, some gaps exist in
13 the present system concerning juveniles who are charged with
14 prostitution or who are victims of human trafficking. These sexually
15 exploited and severely trafficked children should be directed
16 towards placement in a residential facility or shelter instead of
17 detention. It is the sponsor's intent to address these gaps in the
18 current law by amending the current law to insure that these
19 sexually exploited and severely trafficked children are treated as
20 victims and are provided with appropriate services, including
21 shelter, care, counseling and crisis intervention services. In this
22 regard, this bill would amend various sections of the current law to
23 insure services are provided to these individuals. This bill would
24 also amend the prostitution and human trafficking laws to create a
25 presumption of coercion under certain circumstances.

26 Juvenile Code:

27 The bill amends N.J.S.A.2A:4A-21, the purpose section of the
28 juvenile code, to insure that protection and insuring a safe
29 environment for sexually exploited juveniles charged with
30 prostitution or who are victims of human trafficking should be one
31 of the underlying purposes of the juvenile code.

32 N.J.S.A.2A:4A-31 currently provides that a juvenile may be
33 taken into custody pursuant to a court order or a warrant or for
34 delinquency by a law enforcement officer, when no process has
35 been issued by the court. This bill amends this section to clarify that
36 a juvenile may also be taken into custody when a juvenile is
37 charged with prostitution or a juvenile is a victim of human
38 trafficking.

39 In addition, the bill amends N.J.S.A.2A:4A-32 to clarify that if a
40 juvenile is charged with prostitution or is a victim of human
41 trafficking and that juvenile is taken into short term custody then
42 that juvenile should be retained in a suitable residential facility. The
43 bill also amends N.J.S.2A:4A-34 to clarify that placement in a
44 residential facility should be considered as an alternative by the
45 judge or court intake officer in addition to the current alternatives
46 such as temporary placement in a shelter or other non-secure
47 placement.

1 To insure that all reasonable efforts are made in providing
2 appropriate services, the bill amends N.J.S.A.2A:4A-42 concerning
3 predisposition evaluations. Currently, before making a disposition,
4 the court may refer a juvenile to an appropriate agency or institution
5 for an examination and evaluation. The court may consult with any
6 agency, including the Department of Children and Families, law
7 enforcement authorities, family members or other interested parties.
8 In so doing, the court may convene a predisposition conference to
9 discuss and recommend disposition of the matter. The
10 predisposition report can include information concerning the impact
11 of the crime on the victim and the community as well as the
12 circumstances surrounding the commission of the offense. This bill
13 amends this section to provide that if the juvenile is charged with
14 prostitution or is a victim of human trafficking the report would
15 also include an analysis of whether the juvenile was coerced into
16 committing the offense.

17 The bill also amends N.J.S.A.2A:4A-71 concerning court intake
18 services. At present, this section provides that if the complaint
19 alleges a crime which, if committed by an adult, would be a crime
20 of the first, second, third or fourth degree, or alleges a repetitive
21 disorderly persons offense or any disorderly persons offense
22 defined in chapter 35 or chapter 36 of Title 2C, the complaint must
23 be referred for court action, unless the prosecutor otherwise
24 consents to diversion. This bill would amend this section to provide
25 an exception to this general rule. Under the bill, a complaint can
26 also be referred to diversion if the juvenile is charged with the
27 offense of prostitution or is a victim of human trafficking.

28 *Human Trafficking:*

29 This bill also amends N.J.S.A.2C:13-8, human trafficking, to
30 create a presumption of coercion. Under the bill, if the defendant
31 was under the age of 18 during the time of the alleged commission
32 of the offense, there would be a presumption that the defendant was
33 a severely trafficked person who was coerced into committing the
34 offense.

35 *Prostitution:*

36 This bill amends N.J.S.A.2C:34-1, prostitution, to create a
37 similar presumption and make this section consistent to human
38 trafficking. Currently, this section provides for the presumption that
39 a person, other than the prostitute or the prostitute's minor child or
40 other legal dependent incapable of self support, who is supported in
41 whole or substantial part by the proceeds of prostitution is
42 presumed to be knowingly promoting prostitution. This bill would
43 create a second presumption that if the defendant was under the age
44 of 18 during the commission of the offense, there shall be a
45 presumption that the defendant was coerced into committing the
46 offense.

1 Standard of Protocols:

2 In addition, the bill requires the Attorney General to establish
3 standard protocols for the provision of information and services to
4 victims of human trafficking and to minors under the age of 18 who
5 are charged with prostitution, including coordination of efforts with
6 the appropriate federal authorities and to make such protocols
7 available upon request. The Attorney General would establish these
8 protocols in consultation with the Commissioner of the Department
9 of Health and Senior Services, the Commissioner of Children and
10 Families, the Superintendent of State Police and representatives of
11 providers of services to victims of human trafficking and sexually
12 exploited minors.

SENATE, No. 2763

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MARCH 10, 2011

Sponsored by:

Senator DIANE B. ALLEN

District 7 (Burlington and Camden)

Senator LORETTA WEINBERG

District 37 (Bergen)

Co-Sponsored by:

Senators Beck and Lesniak

SYNOPSIS

Provides affirmative defense to prostitution charge for persons under 16.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/27/2011)

1 AN ACT concerning sexually exploited minors and amending
2 N.J.S.2C:34-1

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. N.J.S.2C:34-1 is amended to read as follows:

8 2C:34-1. Prostitution and Related Offenses.

9 a. As used in this section:

10 (1) "Prostitution" is sexual activity with another person in
11 exchange for something of economic value, or the offer or
12 acceptance of an offer to engage in sexual activity in exchange for
13 something of economic value.

14 (2) "Sexual activity" includes, but is not limited to, sexual
15 intercourse, including genital-genital, oral-genital, anal-genital, and
16 oral-anal contact, whether between persons of the same or opposite
17 sex; masturbation; touching of the genitals, buttocks, or female
18 breasts; sadistic or masochistic abuse and other deviate sexual
19 relations.

20 (3) "House of prostitution" is any place where prostitution or
21 promotion of prostitution is regularly carried on by one person
22 under the control, management or supervision of another.

23 (4) "Promoting prostitution" is:

24 (a) Owning, controlling, managing, supervising or otherwise
25 keeping, alone or in association with another, a house of
26 prostitution or a prostitution business;

27 (b) Procuring an inmate for a house of prostitution or place in a
28 house of prostitution for one who would be an inmate;

29 (c) Encouraging, inducing, or otherwise purposely causing
30 another to become or remain a prostitute;

31 (d) Soliciting a person to patronize a prostitute;

32 (e) Procuring a prostitute for a patron;

33 (f) Transporting a person into or within this State with purpose
34 to promote that person's engaging in prostitution, or procuring or
35 paying for transportation with that purpose; or

36 (g) Knowingly leasing or otherwise permitting a place
37 controlled by the actor, alone or in association with others, to be
38 regularly used for prostitution or promotion of prostitution, or
39 failure to make a reasonable effort to abate such use by ejecting the
40 tenant, notifying law enforcement authorities, or other legally
41 available means.

42 b. A person commits an offense if:

43 (1) The actor engages in prostitution;

44 (2) The actor promotes prostitution;

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) The actor knowingly promotes prostitution of a child under
2 18 whether or not the actor mistakenly believed that the child was
3 18 years of age or older, even if such mistaken belief was
4 reasonable;

5 (4) The actor knowingly promotes prostitution of the actor's
6 child, ward, or any other person for whose care the actor is
7 responsible;

8 (5) The actor compels another to engage in or promote
9 prostitution;

10 (6) The actor promotes prostitution of the actor's spouse; or

11 (7) The actor knowingly engages in prostitution with a person
12 under the age of 18, or if the actor enters into or remains in a house
13 of prostitution for the purpose of engaging in sexual activity with a
14 child under the age of 18, or if the actor solicits or requests a child
15 under the age of 18 to engage in sexual activity. It shall be no
16 defense to a prosecution under this paragraph that the actor
17 mistakenly believed that the child was 18 years of age or older,
18 even if such mistaken belief was reasonable.

19 c. Grading of offenses under subsection b.

20 (1) An offense under subsection b. constitutes a crime of the
21 second degree if the offense falls within paragraph (3) or (4) of that
22 subsection.

23 (2) An offense under subsection b. constitutes a crime of the
24 third degree if the offense falls within paragraph (5), (6) or (7) of
25 that subsection.

26 (3) An offense under paragraph (2) of subsection b. constitutes a
27 crime of the third degree if the conduct falls within subparagraph
28 (a), (b), or (c) of paragraph (4) of subsection a. Otherwise the
29 offense is a crime of the fourth degree.

30 (4) An offense under subsection b. constitutes a disorderly
31 persons offense if the offense falls within paragraph (1) of that
32 subsection except that a second or subsequent conviction for such
33 an offense constitutes a crime of the fourth degree. In addition,
34 where a motor vehicle was used in the commission of any offense
35 under paragraph (1) of subsection b. the court shall suspend for six
36 months the driving privilege of any such offender who has a valid
37 driver's license issued by this State. Upon conviction, the court
38 shall immediately collect the offender's driver's license and shall
39 forward it, along with a report stating the first and last day of the
40 suspension imposed pursuant to this paragraph, to the New Jersey
41 Motor Vehicle Commission.

42 d. Presumption from living off prostitutes. A person, other
43 than the prostitute or the prostitute's minor child or other legal
44 dependent incapable of self-support, who is supported in whole or
45 substantial part by the proceeds of prostitution is presumed to be
46 knowingly promoting prostitution.

1 e. It is an affirmative defense to prosecution for a violation of
2 this section that, during the time of the alleged commission of the
3 offense, the defendant was a victim of human trafficking pursuant
4 to section 1 of P.L.2005, c.77 (C.2C:13-8) or the defendant was
5 under the age of 16.
6 (cf: P.L. 2005, c.77, s.2.)
7

8 2.. This act shall take effect immediately.
9
10

11 STATEMENT
12

13 This bill would provide an affirmative defense to any person
14 under the age of 16 who engages in prostitution. The bill is
15 intended to address situations where minors are charged criminally
16 as a result of being a victim of sexual abuse.

17 Under current law, a person is afforded an affirmative defense to
18 a charge of prostitution only if the person is a victim of human
19 trafficking.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 2599 and 2763**

STATE OF NEW JERSEY

DATED: SEPTEMBER 19, 2011

The Senate Judiciary Committee reports favorably Senate Committee Substitute for Senate Bill Nos. 2599 and 2763.

This bill would address the issue of juveniles who are charged with prostitution or charged with other offenses and are victims of human trafficking. The bill would amend various sections of current law to insure that these juveniles receive appropriate services and are diverted from prosecution. The bill would also make it an affirmative defense to a charge of prostitution that the defendant was under the age of 18.

Juvenile Code:

The bill amends N.J.S.A.2A:4A-21, the “purposes” section of the juvenile code, to add that the code is intended to insure protection and a safe environment for sexually exploited juveniles who are charged with prostitution or who are alleged victims of human trafficking, and to provide appropriate shelter, care, counseling and crisis intervention services for these juveniles.

The bill would amend N.J.S.A.2A:4A-22 to expand the definition of “juvenile-family crisis” to include any juvenile who has committed any of these acts. This would clarify that these juveniles would be diverted from prosecution and provided with services.

In addition, the bill amends N.J.S.A.2A:4A-42 concerning predisposition evaluations to insure diversion of these juveniles. Currently, before making a disposition, the court may refer a juvenile to an appropriate agency or institution for an examination and evaluation. The court may consult with any agency, including the Department of Children and Families, law enforcement authorities, family members or other interested parties, and may convene a predisposition conference to discuss and recommend disposition of the matter. The predisposition report can include information concerning the impact of the crime on the victim and the community as well as the circumstances surrounding the commission of the offense. This bill amends this section to provide that the predisposition report may also include any information relevant to the commission of the act where the juvenile is charged with an act which if committed by an adult would constitute prostitution or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.

For purposes of clarity, the amendments also reorganize the existing statutory factors included in the predisposition report into a new statutory format for ease of cross-referencing.

The bill amends N.J.S.A.2A:4A-71 and N.J.S.A.2A:4A-74, concerning court intake services, to expand the factors considered by court intake services in determining whether to recommend diversion. The bill would require court intake services to consider any information relevant to the offense in these cases.

Prostitution:

The bill amends N.J.S.A.2C:34-1, prostitution, to provide that it is an affirmative defense to prosecution that the defendant was under the age of 18 at the time of the commission of the offense.

Standard Protocols:

In addition, the bill requires the Attorney General to establish standard protocols for the provision of information and services to victims of human trafficking and to minors under the age of 18 who are charged with prostitution, including coordination of efforts with the appropriate federal authorities and to make such protocols available upon request. The Attorney General would establish these protocols in consultation with the Commissioner of the Department of Health and Senior Services, the Commissioner of Children and Families, the Superintendent of State Police and representatives of providers of services to victims of human trafficking and sexually exploited minors.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 2599 and 2763**

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2011

The Senate Budget and Appropriations Committee reports favorably Senate Bill Nos. 2599 and 2763 (SCS), with committee amendments,

The bill makes certain changes to current law to insure sexually exploited juveniles who are charged with prostitution or other offenses or who are alleged victims of human trafficking receive certain services and are diverted from prosecution. The bill would also make it an affirmative defense to a charge of prostitution that the defendant was under the age of 18.

JUVENILE CODE – The bill amends N.J.S.A.2A:4A-21, the “purposes” section of the juvenile code, to add that the code is intended to insure protection and a safe environment for sexually exploited juveniles who are charged with prostitution or who are alleged to be victims of human trafficking, and to provide appropriate shelter, care, counseling and crisis intervention services for these juveniles.

The bill amends N.J.S.A.2A:4A-22 to expand the definition of “juvenile-family crisis” to include acts committed by a juvenile which if committed by an adult would constitute prostitution and to include any offense committed by a juvenile which the juvenile alleges is related to the juvenile being a victim of human trafficking. This amendment clarifies that these juveniles will be diverted from prosecution and provided with services.

The bill amends N.J.S.A.2A:4A-42 concerning predisposition evaluations to insure diversion of sexually exploited juveniles. Currently, before making a disposition, the court may refer a juvenile to an appropriate agency or institution for an examination and evaluation. The court may consult with any agency, including the Department of Children and Families, law enforcement, family, or other interested parties, and may convene a predisposition conference to discuss and recommend disposition of the matter. The predisposition report can include information concerning the impact of the crime on the victim and the community and the circumstances surrounding the commission of the offense. The bill amends this

section of law to provide that the predisposition report may include information relevant to the commission of the act where the juvenile is charged with an act which if committed by an adult would constitute prostitution or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking. The bill reorganizes the existing statutory factors included in the predisposition report into a new statutory format for ease of cross-referencing.

The bill amends N.J.S.A.2A:4A-71 and N.J.S.A.2A:4A-74, concerning court intake services, to expand the factors considered by court intake services in determining whether to recommend diversion. The bill requires court intake services to consider any information relevant to the offense in any case where the juvenile is charged with an act which if committed by an adult would constitute prostitution or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.

PROSTITUTION – The bill amends N.J.S.A.2C:34-1, prostitution, to provide that it is an affirmative defense to prosecution that the defendant was under the age of 18 at the time of the commission of the offense.

STANDARD PROTOCOLS – The bill requires the Attorney General to establish standard protocols for the provision of information and services to victims of human trafficking and to minors under the age of 18 who are charged with prostitution, including coordination of efforts with the appropriate federal authorities and to make such protocols available upon request. The bill provides that the Attorney General is required to establish these protocols in consultation with the Commissioner of the Department of Health and Senior Services, the Commissioner of Children and Families, the Superintendent of State Police and providers of services to victims of human trafficking and sexually exploited minors.

COMMITTEE AMENDMENTS:

The committee amendments update the bill to reflect an intervening enactment, P.L.2011, c.128, since the bill's introduction.

The amendments also make the bill identical to the Assembly Bill Nos. 3700 and 3934 (ACS).

FISCAL IMPACT:

The Executive has estimated that this bill may increase State costs by \$2.8 million to \$9.6 million in the first year following enactment, and may increase State costs by \$2.8 million to \$10.0 million each year thereafter.

The Office of Legislative Services notes that the Executive's estimates are dependent largely on the number and spectrum of services provided sexually exploited juveniles affected by the bill, information for which precise data are not available.

FISCAL NOTE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, Nos. 2599 and 2763
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: DECEMBER 13, 2011

SUMMARY

Synopsis: Requires services be provided for sexually exploited juveniles charged with certain offenses; creates an affirmative defense regarding prostitution.

Type of Impact: General Fund Expenditure

Agencies Affected: Department of Children and Families, Office of the Attorney General, Judiciary

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$2.8 million to \$9.6 million – See comments below		

- The Office of Legislative Services (OLS) notes that the Office of Management and Budget (OMB) and Administrative Office of the Courts (AOC) estimates include only the number of juveniles who have been charged with prostitution or related offenses. The Department of Children and Families (DCF) number also includes an estimate of the number of juveniles who might be subject to human trafficking apart from prostitution. The OLS notes that there is not enough data available to determine with any certainty the total number of juveniles who might be affected by this bill but concurs that the cost of implementation could range between \$2.8 million and \$9.6 million.
- The bill would amend various sections of current law to insure that juveniles who are charged with prostitution or charged with other offenses and are victims of human trafficking receive appropriate services and are diverted from prosecution. The bill would also make it an affirmative defense to a charge of prostitution that the defendant was under the age of 18.
- The DCF states that assuming approximately 100 youths would require treatment home services, care management services and additional clinical supports, the annual cost of providing services would total \$9,103,185. Additional costs include legal, medical and interpreter services, initial assessments for examinations for physical and sexual abuse, and psychological and social evaluations totaling \$485,800 for a total first year cost of \$9,588,985. Second, and subsequent year costs would amount to \$10,029,735.

- The OMB states that it anticipates that it will be necessary to serve an average of 20 youths at any given time, vs. the DCF estimate of 100 youths. Assuming a level of 20 youth offenders entering the stem each year, OMB estimates an annual cost of \$2.8 million for treatment homes, doctors, psychiatrists, legal personnel and transitional living to serve that population. The OMB agrees with DCF statement that many significant costs may be covered by Medicaid if a child is eligible.

BILL DESCRIPTION

Senate Committee Substitute to Senate Bill Nos. 2599 and 2763 would address the issue of juveniles who are charged with prostitution or charged with other offenses and are victims of human trafficking. The bill would amend various sections of current law to insure that these juveniles receive appropriate services and are diverted from prosecution. The bill would also make it an affirmative defense to a charge of prostitution that the defendant was under the age of 18.

Juvenile Code:

The bill amends N.J.S.A.2A:4A-21, the “purposes” section of the juvenile code, to add that the code is intended to insure protection and a safe environment for sexually exploited juveniles who are charged with prostitution or who are alleged victims of human trafficking, and to provide appropriate shelter, care, counseling and crisis intervention services for these juveniles.

The bill would amend N.J.S.A.2A:4A-22 to expand the definition of “juvenile-family crisis” to include any juvenile who has committed any of these acts. This would clarify that these juveniles would be diverted from prosecution and provided with services.

In addition, the bill amends N.J.S.A.2A:4A-42 concerning predisposition evaluations to insure diversion of these juveniles. Currently, before making a disposition, the court may refer a juvenile to an appropriate agency or institution for an examination and evaluation. The court may consult with any agency, including the Department of Children and Families, law enforcement authorities, family members or other interested parties, and may convene a predisposition conference to discuss and recommend disposition of the matter. The predisposition report can include information concerning the impact of the crime on the victim and the community as well as the circumstances surrounding the commission of the offense. This bill amends this section to provide that the predisposition report may also include any information relevant to the commission of the act where the juvenile is charged with an act which if committed by an adult would constitute prostitution or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.

For purposes of clarity, the amendments also reorganize the existing statutory factors included in the predisposition report into a new statutory format for ease of cross-referencing.

The bill amends N.J.S.A.2A:4A-71 and N.J.S.A.2A:4A-74, concerning court intake services, to expand the factors considered by court intake services in determining whether to recommend diversion. The bill would require court intake services to consider any information relevant to the offense in these cases.

Prostitution:

The bill amends N.J.S.A.2C:34-1, prostitution, to provide that it is an affirmative defense to prosecution that the defendant was under the age of 18 at the time of the commission of the offense.

Standard Protocols:

In addition, the bill requires the Attorney General to establish standard protocols for the provision of information and services to victims of human trafficking and to minors under the

age of 18 who are charged with prostitution, including coordination of efforts with the appropriate federal authorities and to make such protocols available upon request. The Attorney General would establish these protocols in consultation with the Commissioner of the Department of Health and Senior Services, the Commissioner of Children and Families, the Superintendent of State Police and representatives of providers of services to victims of human trafficking and sexually exploited minors.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Department of Children and Families

The DCF states that assuming approximately 100 youths would require treatment home services, care management services and additional clinical supports, the annual cost of providing services would total \$9,103,185. Additional costs include legal, medical and interpreter services, initial assessments for examinations for physical and sexual abuse and psychological and social evaluations totaling \$485,800. Total costs during the first full year of program operation would amount to \$9,588,985. The DCF notes that in subsequent years, transitional living support would be required for 10 percent of all youth for whom housing and support services following treatment may be required. Second, and subsequent year costs would total \$10,029,735.

The DCF states that depending upon the eligibility of the youthful participants in the program, some medical costs could be federally matchable. However, it is not possible to determine the number of youths who would be eligible for these services at this time.

Office of Management and Budget

The OMB states that it anticipates that it will be necessary to serve an average of 20 youths at any given time, vs. the DCF's estimate of 100 youths. This estimate is based on crime statistics from the Judiciary and Law and Public Safety crime reports. Assuming a level of 20 youth offenders entering the stem each year, OMB estimates an annual cost of \$2.8 million for treatment homes, doctors, psychiatrists, legal personnel and transitional living to serve that population. The OMB agrees with the DCF statement that many significant costs may be covered by Medicaid if a child is eligible.

The Judiciary

The AOC states that from 2000 through 2010, approximately 192 juveniles have been charged with prostitution or related offenses, resulting in a statewide average of 19 juveniles being taken into custody each year. Unfortunately, the Judiciary does not have the historical data necessary to determine the number of juveniles who were victims of human trafficking. As a result, the Judiciary cannot determine the legislation's impact on the number of juveniles requiring services from a Family Crisis Intervention Unit (FCIU), or determine the subsequent impact on FCIU expenditures. The AOC notes that although any increase in expenditures an FCIU may experience as a result of this bill is not expected to be significant, the Judiciary is unable to estimate the fiscal impact of this legislation with any accuracy.

Office of the Attorney General

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that the OMB and AOC estimates include only the number of juveniles who have been charged with prostitution or related offenses. The DCF number also includes an estimate of the number of juveniles who might be subject to human trafficking apart from prostitution. The OLS notes that there is not enough data available to determine with any certainty the total number of juveniles who might be affected by this bill but concurs that the cost of implementation could range between \$2.8 million and \$9.6 million.

Section: Judiciary

Analyst: Anne Raughley
Principal Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

FISCAL NOTE
 [First Reprint]
 SENATE COMMITTEE SUBSTITUTE FOR
SENATE Nos. 2599 and 2763
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: JANUARY 5, 2012

SUMMARY

- Synopsis:** Requires services be provided for sexually exploited juveniles charged with certain offenses; creates an affirmative defense regarding prostitution.
- Type of Impact:** General Fund Expenditure
- Agencies Affected:** Department of Children and Families, Office of the Attorney General, Judiciary

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$2.8 million to \$9.6 million – See comments below		

- The Office of Legislative Services (OLS) notes that the Office of Management and Budget (OMB) and Administrative Office of the Courts (AOC) estimates include only the number of juveniles who have been charged with prostitution or related offenses. The Department of Children and Families (DCF) number also includes an estimate of the number of juveniles who might be subject to human trafficking apart from prostitution. The OLS notes that there is not enough data available to determine with any certainty the total number of juveniles who might be affected by this bill but concurs that the cost of implementation could range between \$2.8 million and \$9.6 million.
- The bill would amend various sections of current law to insure that juveniles who are charged with prostitution or charged with other offenses and are victims of human trafficking receive appropriate services and are diverted from prosecution. The bill would also make it an affirmative defense to a charge of prostitution that the defendant was under the age of 18.
- The DCF states that assuming approximately 100 youths would require treatment home services, care management services and additional clinical supports, the annual cost of providing services would total \$9,103,185. Additional costs include legal, medical and

interpreter services, initial assessments for examinations for physical and sexual abuse, and psychological and social evaluations totaling \$485,800 for a total first year cost of \$9,588,985. Second, and subsequent year costs would amount to \$10,029,735.

- The OMB states that it anticipates that it will be necessary to serve an average of 20 youths at any given time, vs. the DCF estimate of 100 youths. Assuming a level of 20 youth offenders entering the system each year, OMB estimates an annual cost of \$2.8 million for treatment homes, doctors, psychiatrists, legal personnel and transitional living to serve that population. The OMB agrees with DCF statement that many significant costs may be covered by Medicaid if a child is eligible.

BILL DESCRIPTION

Senate Committee Substitute to Senate Bill Nos. 2599 and 2763 (1R) makes certain changes to current law to insure sexually exploited juveniles who are charged with prostitution or other offenses or who are alleged victims of human trafficking receive certain services and are diverted from prosecution. The bill would also make it an affirmative defense to a charge of prostitution that the defendant was under the age of 18.

JUVENILE CODE – The bill amends N.J.S.A.2A:4A-21, the “purposes” section of the juvenile code, to add that the code is intended to insure protection and a safe environment for sexually exploited juveniles who are charged with prostitution or who are alleged to be victims of human trafficking, and to provide appropriate shelter, care, counseling and crisis intervention services for these juveniles.

The bill amends N.J.S.A.2A:4A-22 to expand the definition of “juvenile-family crisis” to include acts committed by a juvenile which if committed by an adult would constitute prostitution and to include any offense committed by a juvenile which the juvenile alleges is related to the juvenile being a victim of human trafficking. This amendment clarifies that these juveniles will be diverted from prosecution and provided with services.

The bill amends N.J.S.A.2A:4A-42 concerning predisposition evaluations to insure diversion of sexually exploited juveniles. Currently, before making a disposition, the court may refer a juvenile to an appropriate agency or institution for an examination and evaluation. The court may consult with any agency, including the Department of Children and Families, law enforcement, family, or other interested parties, and may convene a predisposition conference to discuss and recommend disposition of the matter. The predisposition report can include information concerning the impact of the crime on the victim and the community and the circumstances surrounding the commission of the offense. The bill amends this section of law to provide that the predisposition report may include information relevant to the commission of the act where the juvenile is charged with an act which if committed by an adult would constitute prostitution or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking. The bill reorganizes the existing statutory factors included in the predisposition report into a new statutory format for ease of cross-referencing.

The bill amends N.J.S.A.2A:4A-71 and N.J.S.A.2A:4A-74, concerning court intake services, to expand the factors considered by court intake services in determining whether to recommend diversion. The bill requires court intake services to consider any information relevant to the offense in any case where the juvenile is charged with an act which if committed by an adult would constitute prostitution or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.

PROSTITUTION – The bill amends N.J.S.A.2C:34-1, prostitution, to provide that it is an affirmative defense to prosecution that the defendant was under the age of 18 at the time of the commission of the offense.

STANDARD PROTOCOLS – The bill requires the Attorney General to establish standard protocols for the provision of information and services to victims of human trafficking and to minors under the age of 18 who are charged with prostitution, including coordination of efforts with the appropriate federal authorities and to make such protocols available upon request. The bill provides that the Attorney General is required to establish these protocols in consultation with the Commissioner of the Department of Health and Senior Services, the Commissioner of Children and Families, the Superintendent of State Police and providers of services to victims of human trafficking and sexually exploited minors.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Department of Children and Families

The DCF states that assuming approximately 100 youths would require treatment home services, care management services and additional clinical supports, the annual cost of providing services would total \$9,103,185. Additional costs include legal, medical and interpreter services, initial assessments for examinations for physical and sexual abuse and psychological and social evaluations totaling \$485,800. Total costs during the first full year of program operation would amount to \$9,588,985. The DCF notes that in subsequent years, transitional living support would be required for 10 percent of all youth for whom housing and support services following treatment may be required. Second, and subsequent year costs would total \$10,029,735.

The DCF states that depending upon the eligibility of the youthful participants in the program, some medical costs could be federally matchable. However, it is not possible to determine the number of youths who would be eligible for these services at this time.

Office of Management and Budget

The OMB states that it anticipates that it will be necessary to serve an average of 20 youths at any given time, vs. the DCF's estimate of 100 youths. This estimate is based on crime statistics from the Judiciary and Law and Public Safety crime reports. Assuming a level of 20 youth offenders entering the system each year, OMB estimates an annual cost of \$2.8 million for treatment homes, doctors, psychiatrists, legal personnel and transitional living to serve that population. The OMB agrees with the DCF statement that many significant costs may be covered by Medicaid if a child is eligible.

The Judiciary

The AOC states that from 2000 through 2010, approximately 192 juveniles have been charged with prostitution or related offenses, resulting in a statewide average of 19 juveniles being taken into custody each year. Unfortunately, the Judiciary does not have the historical data necessary to determine the number of juveniles who were victims of human trafficking. As a result, the Judiciary cannot determine the legislation's impact on the number of juveniles requiring services from a Family Crisis Intervention Unit (FCIU), or determine the subsequent impact on FCIU expenditures. The AOC notes that although any increase in expenditures an FCIU may experience as a result of this bill is not expected to be significant, the Judiciary is unable to estimate the fiscal impact of this legislation with any accuracy.

Office of the Attorney General

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that the OMB and AOC estimates include only the number of juveniles who have been charged with prostitution or related offenses. The DCF number also includes an estimate of the number of juveniles who might be subject to human trafficking apart from prostitution. The OLS notes that there is not enough data available to determine with any certainty the total number of juveniles who might be affected by this bill but concurs that the cost of implementation could range between \$2.8 million and \$9.6 million.

Section: Judiciary

*Analyst: Anne Raughley
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 3700

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED JANUARY 10, 2010

Sponsored by:

Assemblywoman L. GRACE SPENCER

District 29 (Essex and Union)

Assemblywoman CLEOPATRA G. TUCKER

District 28 (Essex)

SYNOPSIS

Requires services be provided for sexually exploited juveniles charged with prostitution or juvenile victims of human trafficking; creates a presumption of coercion under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/29/2011)

1 AN ACT concerning prostitution and revising various parts of the
2 statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1982, c.77 (C.2A:4A-21) is amended to
8 read as follows:

9 2. Purposes. This act shall be construed so as to effectuate the
10 following purposes:

11 a. To preserve the unity of the family whenever possible and to
12 provide for the care, protection, and wholesome mental and
13 physical development of juveniles coming within the provisions of
14 this act;

15 b. Consistent with the protection of the public interest, to
16 remove from children committing delinquent acts certain statutory
17 consequences of criminal behavior, and to substitute therefor an
18 adequate program of supervision, care and rehabilitation, and a
19 range of sanctions designed to promote accountability and protect
20 the public;

21 c. To separate juveniles from the family environment only
22 when necessary for their health, safety or welfare or in the interests
23 of public safety;

24 d. To secure for each child coming under the jurisdiction of the
25 court such care, guidance and control, preferably in his own home,
26 as will conduce to the child's welfare and the best interests of the
27 State; and when such child is removed from his own family, to
28 secure for him custody, care and discipline as nearly as possible
29 equivalent to that which should have been given by his parents;

30 e. To insure that children under the jurisdiction of the court are
31 wards of the State, subject to the discipline and entitled to the
32 protection of the State, which may intervene to safeguard them from
33 neglect or injury and to enforce the legal obligations due to them
34 and from them; **[and]**

35 f. Consistent with the protection of the public interest, to
36 insure that any services and sanctions for juveniles provide
37 balanced attention to the protection of the community, the
38 imposition of accountability for offenses committed, fostering
39 interaction and dialogue between the offender, victim and
40 community and the development of competencies to enable children
41 to become responsible and productive members of the community;
42 and

43 g. To insure protection and a safe environment for those
44 sexually exploited juveniles who are charged with prostitution or

EXPLANATION – Matter enclosed in bold-faced brackets **[thus] in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 who are victims of human trafficking; and to provide these
2 juveniles with the appropriate shelter, care, counseling and crisis
3 intervention services from the time they are taken into custody and
4 for the duration of any legal proceedings.

5 (cf: P.L.2001, c.408, s.1)

6

7 2. Section 12 of P.L.1982, c.77 (C.2A:4A-31) is amended to
8 read as follows:

9 12. Taking into custody. a. A juvenile may be taken into
10 custody:

11 (1) Pursuant to an order or warrant of any court having
12 jurisdiction; or

13 (2) For delinquency, when there has been no process issued by a
14 court, by a law enforcement officer, pursuant to the laws of arrest,
15 including when a juvenile is charged with an act which if
16 committed by an adult would constitute prostitution in violation of
17 N.J.S.2C:34-1 or a juvenile who is a victim of human trafficking
18 pursuant to section 1 of P.L.2005, c. 77, and the Rules of Court.

19 b. Except where delinquent conduct is alleged, a juvenile may
20 be taken into short-term custody by a law enforcement officer
21 without order of the court when:

22 (1) The officer has reasonable grounds to believe that the health
23 and safety of the juvenile is seriously in danger and taking into
24 immediate custody is necessary for his protection;

25 (2) The officer has reasonable grounds to believe the juvenile
26 has left the home and care of his parents or guardian without the
27 consent of such persons; or

28 (3) An agency legally charged with the supervision of a child
29 has notified the law enforcement agency that the child has run away
30 from out of home placement, provided, however, that in any case
31 where the law enforcement officer believes that the juvenile is an
32 "abused or neglected child" as defined in section 1 of P.L.1974,
33 c.119 (C.9:6-8.21), the officer shall handle the case pursuant to the
34 procedure set forth in that act.

35 c. The taking of a juvenile into custody shall not be construed
36 as an arrest, but shall be deemed a measure to protect the health,
37 morals and well being of the juvenile.

38 (cf: P.L.1982, c.77, s.12)

39

40 3. Section 13 of P.L.1982, c.77 (C.2A:4A-32) is amended to
41 read as follows:

42 13. Short-term custody. a. Under no circumstances shall any
43 juvenile taken into short-term custody under section 12 of P.L.1982,
44 c.77 (C.2A:4A-31) be held more than six hours. A juvenile taken
45 into short-term custody shall not be retained in a detention facility
46 or jail. A juvenile taken into short-term custody shall be retained in
47 a suitable residential facility if the juvenile is charged with a
48 violation of N.J.S.2C:34-1 or if the juvenile is a victim of human

1 trafficking pursuant to section 1 of P.L.2005, c.77. As used in this
2 section, the juvenile-family crisis intervention unit means that unit
3 established pursuant to P.L.1982, c.80 (C.2A:4A-76 et seq.).

4 b. An officer taking a juvenile into short-term custody shall
5 inform the juvenile of the reason for custody and shall where
6 possible transport, or arrange to have the juvenile transported to his
7 home. The officer releasing a juvenile from such custody shall
8 inform the juvenile's parents or guardian and the juvenile-family
9 crisis intervention unit of the reason for taking the juvenile into
10 custody and may, if he believes further services are needed, inform
11 the juvenile and his parents of the nature and location of appropriate
12 services.

13 c. A law enforcement officer taking a juvenile into short-term
14 custody may transport the juvenile to the home of a relative of the
15 juvenile or to the home of another responsible adult or make
16 arrangement for such transportation where the officer reasonably
17 believes that the child will be provided with adequate care and
18 supervision and that the child will remain in custody of the adult
19 until such time as the juvenile-family crisis intervention unit can
20 bring about the child's return home or an alternative living
21 arrangement or out of home placement. A law enforcement officer
22 placing a juvenile with a relative or responsible adult shall
23 immediately notify the juvenile-family crisis intervention unit of
24 this fact and the reason for taking the juvenile into custody.

25 d. A law enforcement officer acting reasonably and in good
26 faith pursuant to this section in releasing a juvenile to a person
27 other than a parent of a juvenile is immune from civil or criminal
28 liability for his action. A person other than a parent of the juvenile
29 who receives a child pursuant to this section and who acts
30 reasonably and in good faith in doing so is immune from civil or
31 criminal liability for the act of receiving the child. Immunity shall
32 not release a person from liability under any other laws, including
33 the laws regulating licensed child care or prohibiting child abuse
34 and neglect.

35 (cf: P.L.1995, c.280, s.6)

36

37 4. Section 15 of P.L.1982, c.77 (C.2A:4A-34) is amended to
38 read as follows:

39 15. Criteria for placing juvenile in detention.

40 a. Except as otherwise provided in this section, a juvenile
41 charged with an act of delinquency shall be released pending the
42 disposition of a case, if any, to any person or agency provided for in
43 this section upon assurance being received that such person or
44 persons accept responsibility for the juvenile and will bring him
45 before the court as ordered.

46 b. No juvenile shall be placed in detention without the
47 permission of a judge or the court intake service.

1 c. A juvenile charged with delinquency may not be placed or
2 retained in detention under this act prior to disposition, except as
3 otherwise provided by law, unless:

4 (1) Detention is necessary to secure the presence of the juvenile
5 at the next hearing as evidenced by a demonstrable record of recent
6 willful failure to appear at juvenile court proceedings or to remain
7 where placed by the court or the court intake service or the juvenile
8 is subject to a current warrant for failure to appear at court
9 proceedings which is active at the time of arrest; or

10 (2) The physical safety of persons or property of the community
11 would be seriously threatened if the juvenile were not detained and
12 the juvenile is charged with an offense which, if committed by an
13 adult, would constitute a crime of the first, second or third degree or
14 one of the following crimes of the fourth degree: aggravated
15 assault; stalking; criminal sexual contact; bias intimidation; failure
16 to control or report a dangerous fire; possession of a prohibited
17 weapon or device in violation of N.J.S.2C:39-3; or unlawful
18 possession of a weapon in violation of N.J.S.2C:39-5; or

19 (3) With respect to a juvenile charged with an offense which, if
20 committed by an adult, would constitute a crime of the fourth
21 degree other than those enumerated in paragraph (2) of this
22 subsection, or a disorderly persons or petty disorderly persons
23 offense, and with respect to a juvenile charged with an offense
24 enumerated in subsection c. when the criteria for detention are not
25 met, the juvenile may be temporarily placed in a shelter, a
26 residential facility or other non-secure placement if a parent or
27 guardian cannot be located or will not accept custody of the
28 juvenile. Police and court intake personnel shall make all
29 reasonable efforts to locate a parent or guardian to accept custody
30 of the juvenile prior to requesting or approving the juvenile's
31 placement in a shelter or other non-secure placement. If, after the
32 initial detention hearing, continued placement is necessary, the
33 juvenile shall be returned to a shelter, a residential facility or other
34 non-secure placement.

35 d. The judge or court intake officer prior to making a decision
36 of detention shall consider and, where appropriate, employ any of
37 the following alternatives:

38 (1) Release to parents;

39 (2) Release on juvenile's promise to appear at next hearing;

40 (3) Release to parents, guardian or custodian upon written
41 assurance to secure the juvenile's presence at the next hearing;

42 (4) Release into care of a custodian or public or private agency
43 reasonably capable of assisting the juvenile to appear at the next
44 hearing;

45 (5) Release with imposition of restrictions on activities,
46 associations, movements and residence reasonably related to
47 securing the appearance of the juvenile at the next hearing;

1 (6) Release with required participation in a home detention
2 program;

3 (7) Placement in a shelter care facility or residential facility; or

4 (8) Imposition of any other restrictions other than detention or
5 shelter care reasonably related to securing the appearance of the
6 juvenile.

7 e. In determining whether detention is appropriate for the
8 juvenile, the following factors shall be considered:

9 (1) The nature and circumstances of the offense charged;

10 (2) The age of the juvenile;

11 (3) The juvenile's ties to the community;

12 (4) The juvenile's record of prior adjudications, if any; and

13 (5) The juvenile's record of appearance or nonappearance at
14 previous court proceedings.

15 f. No juvenile 11 years of age or under shall be placed in
16 detention unless he is charged with an offense which, if committed
17 by an adult, would be a crime of the first or second degree or arson.

18 g. If the court places a juvenile in detention, the court shall
19 state on the record its reasons for that detention.

20 h. For purposes of this section, a failure to appear at juvenile
21 court proceedings or to remain where placed by the court or the
22 court intake service shall be deemed recent if it occurred within the
23 12 months immediately preceding the detention hearing, or if it
24 occurred within the period of 12 to 24 months preceding the
25 detention hearing and the juvenile is unable to demonstrate a record
26 of voluntary compliance with any subsequent court appearance and
27 placement requirements.

28 (cf: P.L.2005, c.361, s.1)

29

30 5. Section 23 of P.L.1982, c.77 (C.2A:4A-42) is amended to
31 read as follows:

32 23. Predispositional evaluation. a. Before making a disposition,
33 the court may refer the juvenile to an appropriate individual, agency
34 or institution for examination and evaluation.

35 b. In arriving at a disposition, the court may also consult with
36 such individuals and agencies as may be appropriate to the
37 juvenile's situation, including the county probation division, the
38 Department of Children and Families, the Juvenile Justice
39 Commission established pursuant to section 2 of P.L.1995, c.284
40 (C.52:17B-170), the county youth services commission, school
41 personnel, clergy, law enforcement authorities, family members and
42 other interested and knowledgeable parties. In so doing, the court
43 may convene a predispositional conference to discuss and
44 recommend disposition.

45 c. The predisposition report ordered pursuant to the Rules of
46 Court may include a statement by the victim of the offense for
47 which the juvenile has been adjudicated delinquent or by the nearest
48 relative of a homicide victim. The statement may include the nature

1 and extent of any physical harm or psychological or emotional harm
2 or trauma suffered by the victim, the extent of any loss to include
3 loss of earnings or ability to work suffered by the victim and the
4 effect of the crime upon the victim's family. The probation division
5 shall notify the victim or nearest relative of a homicide victim of his
6 right to make a statement for inclusion in the predisposition report
7 if the victim or relative so desires. Any statement shall be made
8 within 20 days of notification by the probation division. The report
9 shall further include information on the financial resources of the
10 juvenile. This information shall be made available on request to the
11 Victims of Crime Compensation Board established pursuant to
12 section 3 of P.L.1971, c.317 (C.52:4B-3) or to any officer
13 authorized under section 3 of P.L.1979, c.396 (C.2C:46-4) to collect
14 payment of an assessment, restitution or fine. Any predisposition
15 report prepared pursuant to this section shall include an analysis of
16 the circumstances attending the commission of the act, the impact
17 of the offense on the community, the offender's history of
18 delinquency or criminality, family situation, financial resources, the
19 financial resources of the juvenile's parent or guardian, and
20 information concerning the parent or guardian's exercise of
21 supervision and control relevant to commission of the act. If the
22 juvenile is charged with prostitution or if the juvenile is a victim of
23 human trafficking the report shall also include an analysis of
24 whether the juvenile was coerced into committing the offense.

25 Information concerning financial resources included in the report
26 shall be made available to any officer authorized to collect payment
27 on any assessment, restitution or fine.

28 (cf: P.L.2006, c.47, s.17)

29

30 6. Section 2 of P.L.1982, c.81 (C.2A:4A-71) is amended to
31 read as follows:

32 2. Review and processing of complaints.

33 a. The jurisdiction of the court in any complaint filed pursuant
34 to section 11 of P.L.1982, c.77 (C.2A:4A-30) shall extend to the
35 juvenile who is the subject of the complaint and his parents or
36 guardian.

37 b. Every complaint shall be reviewed by court intake services
38 for recommendation as to whether the complaint should be
39 dismissed, diverted, or referred for court action. Where the
40 complaint alleges a crime which, if committed by an adult, would
41 be a crime of the first, second, third or fourth degree, or alleges a
42 repetitive disorderly persons offense or any disorderly persons
43 offense defined in chapter 35 or chapter 36 of Title 2C, the
44 complaint shall be referred for court action, unless the prosecutor
45 otherwise consents to diversion or unless the juvenile is charged
46 with the offense of prostitution or is a victim of human trafficking,
47 in which case court intake services shall recommend diversion of

1 the complaint. Court intake services shall consider the following
2 factors in determining whether to recommend diversion:

3 (1) The seriousness of the alleged offense or conduct and the
4 circumstances in which it occurred;

5 (2) The age and maturity of the juvenile;

6 (3) The risk that the juvenile presents as a substantial danger to
7 others;

8 (4) The family circumstances, including any history of drugs,
9 alcohol abuse or child abuse on the part of the juvenile, his parents
10 or guardian;

11 (5) The nature and number of contacts with court intake services
12 and the court that the juvenile or his family have had;

13 (6) The outcome of those contacts, including the services to
14 which the juvenile or family have been referred and the results of
15 those referrals;

16 (7) The availability of appropriate services outside referral to
17 the court;

18 (8) Any recommendations expressed by the victim or
19 complainant, or arresting officer, as to how the case should be
20 resolved; and

21 (9) Any recommendation expressed by the county prosecutor.

22 (cf: P.L.1988, c.44, s.17)

23

24 7. Section 1 of P.L.2005, c.77 (C.2C:13-8) is amended to read
25 as follows.

26 1. Human trafficking. a. A person commits the crime of human
27 trafficking if he :

28 (1) knowingly holds, recruits, lures, entices, harbors, transports,
29 provides or obtains, by any means, another, to engage in sexual
30 activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-
31 1 or to provide labor or services:

32 (a) by threats of serious bodily harm or physical restraint
33 against the person or any other person;

34 (b) by means of any scheme, plan or pattern intended to cause
35 the person to believe that the person or any other person would
36 suffer serious bodily harm or physical restraint;

37 (c) by committing a violation of N.J.S.2C:13-5 against the
38 person; or

39 (d) by destroying, concealing, removing, confiscating, or
40 possessing any passport, immigration-related document as defined
41 in section 1 of P.L.1997, c.1 (C.2C:21-31), or other document
42 issued by a governmental agency to any person which could be used
43 as a means of verifying the person's identity or age or any other
44 personal identifying information; or

45 (e) by means of the abuse or threatened abuse of the law or legal
46 process; or

1 (2) receives anything of value from participation as an
2 organizer, supervisor, financier or manager in a scheme or course of
3 conduct which violates paragraph (1) of this subsection.

4 b. An offense under this section constitutes a crime of the first
5 degree.

6 c. It is an affirmative defense to prosecution for a violation of
7 this section that, during the time of the alleged commission of the
8 offense of human trafficking created by this section, the defendant
9 was a victim of human trafficking.

10 d. Notwithstanding the provisions of N.J.S.2C:43-6, the term of
11 imprisonment imposed for a crime of the first degree under
12 paragraph (2) of subsection a. shall be either a term of 20 years
13 during which the actor shall not be eligible for parole, or a specific
14 term between 20 years and life imprisonment, of which the actor
15 shall serve 20 years before being eligible for parole.

16 e. In addition to any other disposition authorized by law, any
17 person who violates the provisions of this section shall be sentenced
18 to make restitution to any victim. The court shall award to the
19 victim restitution which is the greater of:

20 (1) the gross income or value to the defendant of the victim's
21 labor or services; or

22 (2) the value of the victim's labor or services as determined by
23 the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-
24 56.25 et seq.), the "New Jersey State Wage and Hour Law,"
25 P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal Farm Labor
26 Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws concerning the
27 regulation of child labor in chapter 2 of Title 34 of the Revised
28 Statutes, or any other applicable State law, and the "Fair Labor
29 Standards Act of 1938," 29U.S.C. s.201 et seq. or any other
30 applicable federal law.

31 f. Presumption. If the defendant was under the age of 18
32 during the time of the alleged commission of the offense, there shall
33 be a presumption that the defendant was coerced into committing
34 the offense.

35 (cf: P.L.2005, c.77, s.1)

36
37 8. N.J.S.2C:34-1 is amended to read as follows:
38 2C:34-1. Prostitution and Related Offenses.

39 a. As used in this section:

40 (1) "Prostitution" is sexual activity with another person in
41 exchange for something of economic value, or the offer or
42 acceptance of an offer to engage in sexual activity in exchange for
43 something of economic value.

44 (2) "Sexual activity" includes, but is not limited to, sexual
45 intercourse, including genital-genital, oral-genital, anal-genital, and
46 oral-anal contact, whether between persons of the same or opposite
47 sex; masturbation; touching of the genitals, buttocks, or female

- 1 breasts; sadistic or masochistic abuse and other deviate sexual
2 relations.
- 3 (3) "House of prostitution" is any place where prostitution or
4 promotion of prostitution is regularly carried on by one person
5 under the control, management or supervision of another.
- 6 (4) "Promoting prostitution" is:
- 7 (a) Owning, controlling, managing, supervising or otherwise
8 keeping, alone or in association with another, a house of
9 prostitution or a prostitution business;
- 10 (b) Procuring an inmate for a house of prostitution or place in a
11 house of prostitution for one who would be an inmate;
- 12 (c) Encouraging, inducing, or otherwise purposely causing
13 another to become or remain a prostitute;
- 14 (d) Soliciting a person to patronize a prostitute;
- 15 (e) Procuring a prostitute for a patron;
- 16 (f) Transporting a person into or within this State with purpose
17 to promote that person's engaging in prostitution, or procuring or
18 paying for transportation with that purpose; or
- 19 (g) Knowingly leasing or otherwise permitting a place
20 controlled by the actor, alone or in association with others, to be
21 regularly used for prostitution or promotion of prostitution, or
22 failure to make a reasonable effort to abate such use by ejecting the
23 tenant, notifying law enforcement authorities, or other legally
24 available means.
- 25 b. A person commits an offense if:
- 26 (1) The actor engages in prostitution;
- 27 (2) The actor promotes prostitution;
- 28 (3) The actor knowingly promotes prostitution of a child under
29 18 whether or not the actor mistakenly believed that the child was
30 18 years of age or older, even if such mistaken belief was
31 reasonable;
- 32 (4) The actor knowingly promotes prostitution of the actor's
33 child, ward, or any other person for whose care the actor is
34 responsible;
- 35 (5) The actor compels another to engage in or promote
36 prostitution;
- 37 (6) The actor promotes prostitution of the actor's spouse; or
- 38 (7) The actor knowingly engages in prostitution with a person
39 under the age of 18, or if the actor enters into or remains in a house
40 of prostitution for the purpose of engaging in sexual activity with a
41 child under the age of 18, or if the actor solicits or requests a child
42 under the age of 18 to engage in sexual activity. It shall be no
43 defense to a prosecution under this paragraph that the actor
44 mistakenly believed that the child was 18 years of age or older,
45 even if such mistaken belief was reasonable.
- 46 c. Grading of offenses under subsection b.

1 (1) An offense under subsection b. constitutes a crime of the
2 second degree if the offense falls within paragraph (3) or (4) of that
3 subsection.

4 (2) An offense under subsection b. constitutes a crime of the
5 third degree if the offense falls within paragraph (5), (6) or (7) of
6 that subsection.

7 (3) An offense under paragraph (2) of subsection b. constitutes a
8 crime of the third degree if the conduct falls within subparagraph
9 (a), (b), or (c) of paragraph (4) of subsection a. Otherwise the
10 offense is a crime of the fourth degree.

11 (4) An offense under subsection b. constitutes a disorderly
12 persons offense if the offense falls within paragraph (1) of that
13 subsection except that a second or subsequent conviction for such
14 an offense constitutes a crime of the fourth degree. In addition,
15 where a motor vehicle was used in the commission of any offense
16 under paragraph (1) of subsection b. the court shall suspend for six
17 months the driving privilege of any such offender who has a valid
18 driver's license issued by this State. Upon conviction, the court
19 shall immediately collect the offender's driver's license and shall
20 forward it, along with a report stating the first and last day of the
21 suspension imposed pursuant to this paragraph, to the New Jersey
22 Motor Vehicle Commission.

23 d. Presumptions.

24 (1) Presumption from living off prostitutes. A person, other
25 than the prostitute or the prostitute's minor child or other legal
26 dependent incapable of self-support, who is supported in whole or
27 substantial part by the proceeds of prostitution is presumed to be
28 knowingly promoting prostitution.

29 (2) Presumption that the defendant was coerced. If the
30 defendant was under the age of 18 during the time of the alleged
31 commission of the offense, there shall be a presumption that the
32 defendant was coerced into committing the offense.

33 e. It is an affirmative defense to prosecution for a violation of
34 this section that, during the time of the alleged commission of the
35 offense, the defendant was a victim of human trafficking pursuant
36 to section 1 of P.L.2005, c.77 (C.2C:13-8).

37 (cf: P.L.2005, c.77, s.2)

38

39 9. (New section) The Attorney General shall, in consultation
40 with the Commissioner of the Department of Health and Senior
41 Services, the Commissioner of Children and Families, the
42 Superintendent of State Police and representatives of providers of
43 services to victims of human trafficking and sexually exploited
44 minors, coordinate the establishment of standard protocols for the
45 provision of information and services to victims of human
46 trafficking and to minors under the age of 18 who are charged with
47 prostitution, including coordination of efforts with the appropriate
48 federal authorities pursuant to the "Trafficking Victims Protection

1 Reauthorization Act of 2003," 22U.S.C. s.7101 et seq. and shall
2 make such protocols available upon request.

3

4 10. This act shall take effect immediately and shall be applicable
5 to all offenses committed on or after the effective date.

6

7

8

STATEMENT

9

10 Under the current statutory scheme reasonable efforts are made
11 to provide appropriate placement for juveniles taken into custody or
12 waiting disposition of the matter. Unfortunately, some gaps exist in
13 the present system concerning juveniles who are charged with
14 prostitution or who are victims of human trafficking. These sexually
15 exploited and severely trafficked children should be directed
16 towards placement in a residential facility or shelter instead of
17 detention. It is the sponsor's intent to address these gaps in the
18 current law by amending the current law to insure that these
19 sexually exploited and severely trafficked children are treated as
20 victims and are provided with appropriate services, including
21 shelter, care, counseling and crisis intervention services. In this
22 regard, this bill would amend various sections of the current law to
23 insure services are provided to these individuals. This bill would
24 also amend the prostitution and human trafficking laws to create a
25 presumption of coercion under certain circumstances.

26 Juvenile Code:

27 The bill amends N.J.S.A.2A:4A-21, the purpose section of the
28 juvenile code, to insure that protection and insuring a safe
29 environment for sexually exploited juveniles charged with
30 prostitution or who are victims of human trafficking should be one
31 of the underlying purposes of the juvenile code.

32 N.J.S.A.2A:4A-31 currently provides that a juvenile may be
33 taken into custody pursuant to a court order or a warrant or for
34 delinquency by a law enforcement officer, when no process has
35 been issued by the court. This bill amends this section to clarify that
36 a juvenile may also be taken into custody when a juvenile is
37 charged with prostitution or a juvenile is a victim of human
38 trafficking.

39 In addition, the bill amends N.J.S.A.2A:4A-32 to clarify that if a
40 juvenile is charged with prostitution or is a victim of human
41 trafficking and that juvenile is taken into short term custody then
42 that juvenile should be retained in a suitable residential facility. The
43 bill also amends N.J.S.2A:4A-34 to clarify that placement in a
44 residential facility should be considered as an alternative by the
45 judge or court intake officer in addition to the current alternatives
46 such as temporary placement in a shelter or other non-secure
47 placement.

1 To insure that all reasonable efforts are made in providing
2 appropriate services, the bill amends N.J.S.A.2A:4A-42 concerning
3 predisposition evaluations. Currently, before making a disposition,
4 the court may refer a juvenile to an appropriate agency or institution
5 for an examination and evaluation. The court may consult with any
6 agency, including the Department of Children and Families, law
7 enforcement authorities, family members or other interested parties.
8 In so doing, the court may convene a predisposition conference to
9 discuss and recommend disposition of the matter. The
10 predisposition report can include information concerning the impact
11 of the crime on the victim and the community as well as the
12 circumstances surrounding the commission of the offense. This bill
13 amends this section to provide that if the juvenile is charged with
14 prostitution or is a victim of human trafficking the report would
15 also include an analysis of whether the juvenile was coerced into
16 committing the offense.

17 The bill also amends N.J.S.A.2A:4A-71 concerning court intake
18 services. At present, this section provides that if the complaint
19 alleges a crime which, if committed by an adult, would be a crime
20 of the first, second, third or fourth degree, or alleges a repetitive
21 disorderly persons offense or any disorderly persons offense
22 defined in chapter 35 or chapter 36 of Title 2C, the complaint must
23 be referred for court action, unless the prosecutor otherwise
24 consents to diversion. This bill would amend this section to provide
25 an exception to this general rule. Under the bill, a complaint can
26 also be referred to diversion if the juvenile is charged with the
27 offense of prostitution or is a victim of human trafficking.

28 *Human Trafficking:*

29 This bill also amends N.J.S.A.2C:13-8, human trafficking, to
30 create a presumption of coercion. Under the bill, if the defendant
31 was under the age of 18 during the time of the alleged commission
32 of the offense, there would be a presumption that the defendant was
33 a severely trafficked person who was coerced into committing the
34 offense.

35 *Prostitution:*

36 This bill amends N.J.S.A.2C:34-1, prostitution, to create a
37 similar presumption and make this section consistent to human
38 trafficking. Currently, this section provides for the presumption that
39 a person, other than the prostitute or the prostitute's minor child or
40 other legal dependent incapable of self support, who is supported in
41 whole or substantial part by the proceeds of prostitution is
42 presumed to be knowingly promoting prostitution. This bill would
43 create a second presumption that if the defendant was under the age
44 of 18 during the commission of the offense, there shall be a
45 presumption that the defendant was coerced into committing the
46 offense.

1 Standard of Protocols:

2 In addition, the bill requires the Attorney General to establish
3 standard protocols for the provision of information and services to
4 victims of human trafficking and to minors under the age of 18 who
5 are charged with prostitution, including coordination of efforts with
6 the appropriate federal authorities and to make such protocols
7 available upon request. The Attorney General would establish these
8 protocols in consultation with the Commissioner of the Department
9 of Health and Senior Services, the Commissioner of Children and
10 Families, the Superintendent of State Police and representatives of
11 providers of services to victims of human trafficking and sexually
12 exploited minors.

ASSEMBLY, No. 3934

STATE OF NEW JERSEY 214th LEGISLATURE

INTRODUCED MAY 5, 2011

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman ALBERT COUTINHO

District 29 (Essex and Union)

Assemblywoman ANNETTE QUIJANO

District 20 (Union)

SYNOPSIS

Provides affirmative defense to prostitution charge for persons under 16.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning sexually exploited minors and amending
2 N.J.S.2C:34-1

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. N.J.S.2C:34-1 is amended to read as follows:

8 2C:34-1. Prostitution and Related Offenses.

9 a. As used in this section:

10 (1) "Prostitution" is sexual activity with another person in
11 exchange for something of economic value, or the offer or
12 acceptance of an offer to engage in sexual activity in exchange for
13 something of economic value.

14 (2) "Sexual activity" includes, but is not limited to, sexual
15 intercourse, including genital-genital, oral-genital, anal-genital, and
16 oral-anal contact, whether between persons of the same or opposite
17 sex; masturbation; touching of the genitals, buttocks, or female
18 breasts; sadistic or masochistic abuse and other deviate sexual
19 relations.

20 (3) "House of prostitution" is any place where prostitution or
21 promotion of prostitution is regularly carried on by one person
22 under the control, management or supervision of another.

23 (4) "Promoting prostitution" is:

24 (a) Owning, controlling, managing, supervising or otherwise
25 keeping, alone or in association with another, a house of
26 prostitution or a prostitution business;

27 (b) Procuring an inmate for a house of prostitution or place in a
28 house of prostitution for one who would be an inmate;

29 (c) Encouraging, inducing, or otherwise purposely causing
30 another to become or remain a prostitute;

31 (d) Soliciting a person to patronize a prostitute;

32 (e) Procuring a prostitute for a patron;

33 (f) Transporting a person into or within this State with purpose
34 to promote that person's engaging in prostitution, or procuring or
35 paying for transportation with that purpose; or

36 (g) Knowingly leasing or otherwise permitting a place
37 controlled by the actor, alone or in association with others, to be
38 regularly used for prostitution or promotion of prostitution, or
39 failure to make a reasonable effort to abate such use by ejecting the
40 tenant, notifying law enforcement authorities, or other legally
41 available means.

42 b. A person commits an offense if:

43 (1) The actor engages in prostitution;

44 (2) The actor promotes prostitution;

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (3) The actor knowingly promotes prostitution of a child under
2 18 whether or not the actor mistakenly believed that the child was
3 18 years of age or older, even if such mistaken belief was
4 reasonable;

5 (4) The actor knowingly promotes prostitution of the actor's
6 child, ward, or any other person for whose care the actor is
7 responsible;

8 (5) The actor compels another to engage in or promote
9 prostitution;

10 (6) The actor promotes prostitution of the actor's spouse; or

11 (7) The actor knowingly engages in prostitution with a person
12 under the age of 18, or if the actor enters into or remains in a house
13 of prostitution for the purpose of engaging in sexual activity with a
14 child under the age of 18, or if the actor solicits or requests a child
15 under the age of 18 to engage in sexual activity. It shall be no
16 defense to a prosecution under this paragraph that the actor
17 mistakenly believed that the child was 18 years of age or older,
18 even if such mistaken belief was reasonable.

19 c. Grading of offenses under subsection b.

20 (1) An offense under subsection b. constitutes a crime of the
21 second degree if the offense falls within paragraph (3) or (4) of that
22 subsection.

23 (2) An offense under subsection b. constitutes a crime of the
24 third degree if the offense falls within paragraph (5), (6) or (7) of
25 that subsection.

26 (3) An offense under paragraph (2) of subsection b. constitutes a
27 crime of the third degree if the conduct falls within subparagraph
28 (a), (b), or (c) of paragraph (4) of subsection a. Otherwise the
29 offense is a crime of the fourth degree.

30 (4) An offense under subsection b. constitutes a disorderly
31 persons offense if the offense falls within paragraph (1) of that
32 subsection except that a second or subsequent conviction for such
33 an offense constitutes a crime of the fourth degree. In addition,
34 where a motor vehicle was used in the commission of any offense
35 under paragraph (1) of subsection b. the court shall suspend for six
36 months the driving privilege of any such offender who has a valid
37 driver's license issued by this State. Upon conviction, the court
38 shall immediately collect the offender's driver's license and shall
39 forward it, along with a report stating the first and last day of the
40 suspension imposed pursuant to this paragraph, to the New Jersey
41 Motor Vehicle Commission.

42 d. Presumption from living off prostitutes. A person, other
43 than the prostitute or the prostitute's minor child or other legal
44 dependent incapable of self-support, who is supported in whole or
45 substantial part by the proceeds of prostitution is presumed to be
46 knowingly promoting prostitution.

1 e. It is an affirmative defense to prosecution for a violation of
2 this section that, during the time of the alleged commission of the
3 offense, the defendant was a victim of human trafficking pursuant
4 to section 1 of P.L.2005, c.77 (C.2C:13-8) or the defendant was
5 under the age of 16.
6 (cf: P.L. 2005, c.77, s.2.)
7

8 2. This act shall take effect immediately.
9

10

11

STATEMENT

12

13 This bill would provide an affirmative defense to any person
14 under the age of 16 who engages in prostitution. The bill is
15 intended to address situations where minors are charged criminally
16 as a result of being a victim of sexual abuse.

17 Under current law, a person is afforded an affirmative defense to
18 a charge of prostitution only if the person is a victim of human
19 trafficking.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 3700 and 3934

STATE OF NEW JERSEY

DATED: NOVEMBER 28, 2011

The Assembly Judiciary Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 3700 and 3934.

This substitute would address the issue of juveniles who are charged with prostitution or other offenses and are victims of human trafficking. The substitute would amend various sections of current law to insure that these juveniles receive appropriate services and are diverted from prosecution. The substitute would also make it an affirmative defense to a charge of prostitution that the defendant was under the age of 18.

Juvenile Code:

The substitute amends N.J.S.A.2A:4A-21, the “purposes” section of the juvenile code, to add that the code is intended to insure protection and a safe environment for sexually exploited juveniles who are charged with prostitution or who are alleged victims of human trafficking, and to provide appropriate shelter, care, counseling and crisis intervention services for these juveniles.

The substitute would amend N.J.S.A.2A:4A-22 to expand the definition of “juvenile-family crisis” to include any juvenile who has committed any of these acts. This would clarify that these juveniles would be diverted from prosecution and provided with services.

In addition, the substitute amends N.J.S.A.2A:4A-42 concerning predisposition evaluations to insure diversion of these juveniles. Currently, before making a disposition, the court may refer a juvenile to an appropriate agency or institution for an examination and evaluation. The court may consult with any agency, including the Department of Children and Families, law enforcement authorities, family members or other interested parties, and may convene a predisposition conference to discuss and recommend disposition of the matter. The predisposition report can include information concerning the impact of the crime on the victim and the community as well as the circumstances surrounding the commission of the offense. This substitute amends this section to provide that the predisposition report may also include any information relevant to the commission of the act where the juvenile is charged with an act which if committed by an

adult would constitute prostitution or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.

For purposes of clarity, the amendments also reorganize the existing statutory factors included in the predisposition report into a new statutory format for ease of cross-referencing.

The substitute amends N.J.S.A.2A:4A-71 and N.J.S.A.2A:4A-74, concerning court intake services, to expand the factors considered by court intake services in determining whether to recommend diversion. The substitute would require court intake services to consider any information relevant to the offense in these cases.

Prostitution:

The substitute amends N.J.S.A.2C:34-1, prostitution, to provide that it is an affirmative defense to prosecution that the defendant was under the age of 18 at the time of the commission of the offense.

Standard Protocols:

In addition, the substitute requires the Attorney General to establish standard protocols for the provision of information and services to victims of human trafficking and to minors under the age of 18 who are charged with prostitution, including coordination of efforts with the appropriate federal authorities and to make such protocols available upon request. The Attorney General would establish these protocols in consultation with the Commissioner of the Department of Health and Senior Services, the Commissioner of Children and Families, the Superintendent of State Police and representatives of providers of services to victims of human trafficking and sexually exploited minors.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, Nos. 3700 and 3934

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2011

The Assembly Appropriations Committee reports favorably Assembly Bill Nos. 3700 and 3934 (ACS).

This bill makes certain changes to current law to insure sexually exploited juveniles who are charged with prostitution or other offenses or who are alleged victims of human trafficking receive certain services and are diverted from prosecution.

JUVENILE CODE – The bill amends N.J.S.A.2A:4A-21, the “purposes” section of the juvenile code, to add that the code is intended to insure protection and a safe environment for sexually exploited juveniles who are charged with prostitution or who are alleged victims of human trafficking, and to provide appropriate shelter, care, counseling and crisis intervention services for these juveniles.

The bill amends N.J.S.A.2A:4A-22 to expand the definition of “juvenile-family crisis” to include acts committed by a juvenile which if committed by an adult would constitute prostitution and to include any offense committed by a juvenile which the juvenile alleges is related to the juvenile being a victim of human trafficking. This amendment clarifies that these juveniles will be diverted from prosecution and provided with services.

The bill amends N.J.S.A.2A:4A-42 concerning predisposition evaluations to insure diversion of sexually exploited juveniles. Currently, before making a disposition, the court may refer a juvenile to an appropriate agency or institution for an examination and evaluation. The court may consult with any agency, including the Department of Children and Families, law enforcement, family, or other interested parties, and may convene a predisposition conference to discuss and recommend disposition of the matter. The predisposition report can include information concerning the impact of the crime on the victim and the community and the circumstances surrounding the commission of the offense. The bill amends this section of law to provide that the predisposition report may include information relevant to the commission of the act where the juvenile is charged with an act which if committed by an adult would constitute prostitution or any offense which the juvenile alleges is related to the

juvenile being a victim of human trafficking. The bill reorganizes the existing statutory factors included in the predisposition report into a new statutory format for ease of cross-referencing.

The bill amends N.J.S.A.2A:4A-71 and N.J.S.A.2A:4A-74, concerning court intake services, to expand the factors considered by court intake services in determining whether to recommend diversion. The bill requires court intake services to consider any information relevant to the offense in any case where the juvenile is charged with an act which if committed by an adult would constitute prostitution or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.

PROSTITUTION – The bill amends N.J.S.A.2C:34-1, prostitution, to provide that it is an affirmative defense to prosecution that the defendant was under the age of 18 at the time of the commission of the offense.

STANDARD PROTOCOLS – The bill requires the Attorney General to establish standard protocols for the provision of information and services to victims of human trafficking and to minors under the age of 18 who are charged with prostitution, including coordination of efforts with the appropriate federal authorities and to make such protocols available upon request. The bill provides that the Attorney General is required to establish these protocols in consultation with the Commissioner of the Department of Health and Senior Services, the Commissioner of Children and Families, the Superintendent of State Police and providers of services to victims of human trafficking and sexually exploited minors.

FISCAL IMPACT:

The Executive has estimated that this bill may increase State costs by \$2.8 million to \$9.6 million in the first year following enactment, and may increase State costs by \$2.8 million to \$10.0 million each year thereafter.

The Office of Legislative Services notes that the Executive's estimates are dependent on the number and spectrum of services provided sexually exploited juveniles affected by the bill, information for which precise data are not currently available.

FISCAL NOTE
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 3700 and 3934
STATE OF NEW JERSEY
214th LEGISLATURE

DATED: DECEMBER 13, 2011

SUMMARY

Synopsis: Requires services be provided for sexually exploited juveniles charged with certain offenses; creates an affirmative defense regarding prostitution.

Type of Impact: General Fund Expenditure

Agencies Affected: Department of Children and Families, Office of the Attorney General, Judiciary

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$2.8 million to \$9.6 million – See comments below		

- The Office of Legislative Services (OLS) notes that the Office of Management and Budget (OMB) and Administrative Office of the Courts (AOC) estimates include only the number of juveniles who have been charged with prostitution or related offenses. The Department of Children and Families (DCF) number also includes an estimate of the number of juveniles who might be subject to human trafficking apart from prostitution. The OLS notes that there is not enough data available to determine with any certainty the total number of juveniles who might be affected by this bill but concurs that the cost of implementation could range between \$2.8 million and \$9.6 million.
- The bill would amend various sections of current law to insure that juveniles who are charged with prostitution or charged with other offenses and are victims of human trafficking receive appropriate services and are diverted from prosecution. The bill would also make it an affirmative defense to a charge of prostitution that the defendant was under the age of 18.
- The DCF states that assuming approximately 100 youths would require treatment home services, care management services and additional clinical supports, the annual cost of providing services would total \$9,103,185. Additional costs include legal, medical and interpreter services, initial assessments for examinations for physical and sexual abuse, and

psychological and social evaluations totaling \$485,800 for a total first year cost of \$9,588,985. Second, and subsequent year costs would amount to \$10,029,735.

- The OMB states that it anticipates that it will be necessary to serve an average of 20 youths at any given time, vs. the DCF estimate of 100 youths. Assuming a level of 20 youth offenders entering the stem each year, OMB estimates an annual cost of \$2.8 million for treatment homes, doctors, psychiatrists, legal personnel and transitional living to serve that population. The OMB agrees with DCF statement that many significant costs may be covered by Medicaid if a child is eligible.

BILL DESCRIPTION

Assembly Committee Substitute to Assembly Bill Nos. 3700 and 3934 would address the issue of juveniles who are charged with prostitution or charged with other offenses and are victims of human trafficking. The bill would amend various sections of current law to insure that these juveniles receive appropriate services and are diverted from prosecution. The bill would also make it an affirmative defense to a charge of prostitution that the defendant was under the age of 18.

Juvenile Code:

The bill amends N.J.S.A.2A:4A-21, the “purposes” section of the juvenile code, to add that the code is intended to insure protection and a safe environment for sexually exploited juveniles who are charged with prostitution or who are alleged victims of human trafficking, and to provide appropriate shelter, care, counseling and crisis intervention services for these juveniles.

The bill would amend N.J.S.A.2A:4A-22 to expand the definition of “juvenile-family crisis” to include any juvenile who has committed any of these acts. This would clarify that these juveniles would be diverted from prosecution and provided with services.

In addition, the bill amends N.J.S.A.2A:4A-42 concerning predisposition evaluations to insure diversion of these juveniles. Currently, before making a disposition, the court may refer a juvenile to an appropriate agency or institution for an examination and evaluation. The court may consult with any agency, including the Department of Children and Families, law enforcement authorities, family members or other interested parties, and may convene a predisposition conference to discuss and recommend disposition of the matter. The predisposition report can include information concerning the impact of the crime on the victim and the community as well as the circumstances surrounding the commission of the offense. This bill amends this section to provide that the predisposition report may also include any information relevant to the commission of the act where the juvenile is charged with an act which if committed by an adult would constitute prostitution or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.

For purposes of clarity, the amendments also reorganize the existing statutory factors included in the predisposition report into a new statutory format for ease of cross-referencing.

The bill amends N.J.S.A.2A:4A-71 and N.J.S.A.2A:4A-74, concerning court intake services, to expand the factors considered by court intake services in determining whether to recommend diversion. The bill would require court intake services to consider any information relevant to the offense in these cases.

Prostitution:

The bill amends N.J.S.A.2C:34-1, prostitution, to provide that it is an affirmative defense to prosecution that the defendant was under the age of 18 at the time of the commission of the offense.

Standard Protocols:

In addition, the bill requires the Attorney General to establish standard protocols for the provision of information and services to victims of human trafficking and to minors under the age of 18 who are charged with prostitution, including coordination of efforts with the appropriate federal authorities and to make such protocols available upon request. The Attorney General would establish these protocols in consultation with the Commissioner of the Department of Health and Senior Services, the Commissioner of Children and Families, the Superintendent of State Police and representatives of providers of services to victims of human trafficking and sexually exploited minors.

FISCAL ANALYSIS

EXECUTIVE BRANCH

Department of Children and Families

The DCF states that assuming approximately 100 youths would require treatment home services, care management services and additional clinical supports, the annual cost of providing services would total \$9,103,185. Additional costs include legal, medical and interpreter services, initial assessments for examinations for physical and sexual abuse and psychological and social evaluations totaling \$485,800. Total costs during the first full year of program operation would amount to \$9,588,985. The DCF notes that in subsequent years, transitional living support would be required for 10 percent of all youth for whom housing and support services following treatment may be required. Second, and subsequent year costs would total \$10,029,735.

The DCF states that depending upon the eligibility of the youthful participants in the program, some medical costs could be federally matchable. However, it is not possible to determine the number of youths who would be eligible for these services at this time.

Office of Management and Budget

The OMB states that it anticipates that it will be necessary to serve an average of 20 youths at any given time, vs. the DCF's estimate of 100 youths. This estimate is based on crime statistics from the Judiciary and Law and Public Safety crime reports. Assuming a level of 20 youth offenders entering the stem each year, OMB estimates an annual cost of \$2.8 million for treatment homes, doctors, psychiatrists, legal personnel and transitional living to serve that population. The OMB agrees with the DCF statement that many significant costs may be covered by Medicaid if a child is eligible.

The Judiciary

The AOC states that from 2000 through 2010, approximately 192 juveniles have been charged with prostitution or related offenses, resulting in a statewide average of 19 juveniles being taken into custody each year. Unfortunately, the Judiciary does not have the historical data necessary to determine the number of juveniles who were victims of human trafficking. As a result, the Judiciary cannot determine the legislation's impact on the number of juveniles requiring services from a Family Crisis Intervention Unit (FCIU), or determine the subsequent impact on FCIU expenditures. The AOC notes that although any increase in expenditures an

FCIU may experience as a result of this bill is not expected to be significant, the Judiciary is unable to estimate the fiscal impact of this legislation with any accuracy.

Office of the Attorney General

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS notes that the OMB and AOC estimates include only the number of juveniles who have been charged with prostitution or related offenses. The DCF number also includes an estimate of the number of juveniles who might be subject to human trafficking apart from prostitution. The OLS notes that there is not enough data available to determine with any certainty the total number of juveniles who might be affected by this bill but concurs that the cost of implementation could range between \$2.8 million and \$9.6 million.

Section: Judiciary

*Analyst: Anne Raughley
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).