

## New York Safe Harbor for Exploited Children Act – Summary | Polaris Project

### INTRODUCTION TO THE SAFE HARBOR FOR EXPLOITED CHILDREN ACT

**Official Title:** An act to amend the social services law and the family court act, in relation to services for exploited children.

**Overview of the Act:** The Safe Harbor Act would create a presumption that a person under 16 years of age who is charged as a juvenile delinquent for a prostitution offense is a severely trafficked person. This presumption permits the child to avoid criminal charges of prostitution and instead be considered a “person in need of supervision.” The statute also provides support and services to sexually exploited youth who are under the age of 18. These services include safe houses, crisis intervention programs, community-based programs, and law-enforcement training to help officers identify sexually exploited youth.

**Date Passed:** June 23, 2008

**Current Status:** Awaiting signature by the governor.

**Effective Date (if signed):** April 1, 2010

### SERVICES FOR MINOR VICTIMS OF SEX TRAFFICKING

#### **Safe Houses**

- Every local social services district is required to provide a short-term safe house to sexually exploited children who live in its district. In addition to secure housing, the facility should include 24-hour crisis intervention and access to various medical care and other supportive services. Existing resources, including respite beds or runaway and homeless youth programs, can be used if appropriate, and local social service districts may work together to provide these resources on a regional basis.
- The Office of Children and Family Services (OCFS) is required to contract with an appropriate agency with experience working with sexually exploited youth to provide at least one safe house for longer-term care, in a geographic area that would meet the needs of sexually exploited youth and that cannot be readily accessed by perpetrators of sexual exploitation.

#### **Planning**

Every local social services district is required to:

- Determine the needs of sexually exploited children in their respective districts;
- Include the determination of the need in the integrated county plan;

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- Provide crisis intervention and community-based programs to meet the determined need; and
- Recognize and plan for the separate and distinct needs of girls, boys, and transgendered youth who have been sexually exploited.

### **Law Enforcement Training**

- Each social service district, in conjunction with local law enforcement, is required to contract with an experienced agency to provide training on the identification of sexually exploited youth and on available service to law enforcement officials who are likely to encounter such youth.

### **REMOVING CERTAIN MINOR VICTIMS OF SEX TRAFFICKING FROM THE JUVENILE OFFENDER SYSTEM**

- The Act would create a presumption that a person under 16 years of age who is charged as a juvenile delinquent for a prostitution offense is a severely trafficked person under the Trafficking Victims Protection Act of 2000.
- The presumption requires the court to proceed with a Person In Need of Supervision (PINS) petition rather than a Juvenile Delinquent (JD) petition.
- However, it is in the court's discretion to continue with a JD petition if it finds that the minor:
  - Is not a severely trafficked person according to the federal definition;
  - Has previously committed a prostitution offense;
  - Was previously placed with a local commissioner of social services as a PINS; or
  - Is unwilling to participate in services order by the court.
- The court is also required to place in writing the reasoning for continuing a JD proceeding and make it a part of the official court record. The court may also convert a PINS petition to a JD petition if the youth is out of compliance with the orders of the court.

### **DEFINITION OF KEY TERMS USED WITHIN THE ACT**

#### **Sexually Exploited Child**

- Someone under the age of 18 who may be subject to sexual exploitation because (s)he:
  - Engaged or agreed or offered to engage in sexual conduct in return for a fee, food, clothing, drugs, or a place to stay;
  - Has stripped or been filmed or photographed doing sexual acts; or
  - Loitered for the purpose of engaging in a prostitution offense.

#### **Community-Based Program**

- A program providing outreach, drop-in services, peer and individual counseling, family therapy, and referrals to other services, such as educational, vocational, and health care.