

**NEW MEXICO 2008 SESSION LAWS
SECOND REGULAR SESSION OF THE 48TH LEGISLATURE (2008)**

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Ch. 17
S.B. No. 71
CRIMINAL LAW--HUMAN TRAFFICKING--PENALTIES

AN ACT RELATING TO CRIMINAL LAW; CREATING A NEW CRIMINAL OFFENSE KNOWN AS HUMAN TRAFFICKING; PROVIDING PENALTIES; ESTABLISHING THE TASK FORCE TO COMBAT HUMAN TRAFFICKING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Criminal Code is enacted to read:

HUMAN TRAFFICKING.--

A. Human trafficking consists of a person knowingly:

(1) recruiting, soliciting, enticing, transporting or obtaining by any means another person with the intent or knowledge that force, fraud or coercion will be used to subject the person to labor, services or commercial sexual activity;

(2) recruiting, soliciting, enticing, transporting or obtaining by any means a person under the age of eighteen years with the intent or knowledge that the person will be caused to engage in commercial sexual activity; or

(3) **benefiting**, financially or by receiving anything of value, from the labor, services or commercial sexual activity of another person with the knowledge that force, fraud or coercion was used to obtain the labor, services or commercial sexual activity.

B. The attorney general and the district attorney in the county of jurisdiction have concurrent jurisdiction to enforce the provisions of this section.

C. Whoever commits human trafficking is guilty of a third degree felony; except if the victim is under the age of:

(1) sixteen, the person is guilty of a second degree felony; or

(2) thirteen, the person is guilty of a first degree felony.

D. Prosecution pursuant to this section shall not prevent prosecution pursuant to any other provision of the law

when the conduct also constitutes a violation of that other provision.

E. In a prosecution pursuant to this section, a human trafficking victim shall not be charged with accessory to the crime of human trafficking.

F. A person convicted of human trafficking shall, in addition to any other punishment, be ordered to make restitution to the victim for the gross income or value of the victim's labor or services and any other actual damages in accordance with Section 31-17-1 NMSA 1978.

G. As used in this section:

(1) "coercion" means:

(a) causing or threatening to cause harm to any person;

(b) using or threatening to use physical force against any person;

(c) abusing or threatening to abuse the law or **legal** process;

(d) threatening to report the immigration status of any person to governmental authorities; or

(e) knowingly destroying, concealing, removing, confiscating or **retaining** any actual or purported government document of any person; and

(2) "commercial sexual activity" means any sexual act or sexually explicit exhibition for which anything of value is given, promised to or received by any person.

Section 2. HUMAN TRAFFICKING--**BENEFITS** AND SERVICES FOR HUMAN TRAFFICKING VICTIMS.--

A. Human trafficking victims found in the state shall be eligible for **benefits** and services from the state until the victim qualifies for **benefits** and services authorized by the **federal** Victims of Trafficking and Violence Protection Act of 2000; provided that the victim cooperates in the investigation or prosecution of the person charged with the crime of human trafficking. **Benefits** and services shall be provided to eligible human trafficking victims regardless of immigration status and may include:

(1) case management;

(2) emergency temporary housing;

(3) health care;

(4) mental health counseling;

(5) drug addiction screening and treatment;

- (6) language interpretation, translation services and English language instruction;
- (7) job training, job placement assistance and post-employment services for job retention;
- (8) services to assist the victim and the victim's family members; or
- (9) other general assistance services and benefits as determined by the children, youth and families department.

B. As used in this section, "human trafficking victim" means a person subjected to human trafficking by a person charged in New Mexico with the crime of human trafficking.

Section 3. TEMPORARY PROVISION--TASK FORCE TO COMBAT HUMAN TRAFFICKING--MEMBERSHIP--DUTIES.--

A. The "task force to combat human trafficking" is created. The task force shall consist of the following members:

- (1) the attorney general or the attorney general's designee;
- (2) the secretary of health or the secretary's designee;
- (3) the secretary of children, youth and families or the secretary's designee;
- (4) the secretary of public safety or the secretary's designee;
- (5) the chief public defender or the chief public defender's designee;
- (6) a representative from the New Mexico district attorneys association;
- (7) representatives of local law enforcement and state police from critical geographic areas of New Mexico affected by immigrant issues and human trafficking problems; and
- (8) representatives from organizations that provide services to victims of human trafficking, including immigrants and immigrant victims of sexual assault and domestic violence.

B. The task force shall:

- (1) collaborate with the United States attorney for the district of New Mexico, the United States border patrol and the United States immigration and customs enforcement to carry out the duties of the task force;
- (2) collect and organize data on the nature and extent of human trafficking in New Mexico;
- (3) monitor and evaluate the implementation of this 2008 act, including the progress of **federal**, state and local law enforcement agencies in preventing human trafficking, protecting and providing assistance to victims of human

trafficking and prosecuting human trafficking offenders;

(4) develop and conduct training for law enforcement personnel and victims services providers to identify victims of human trafficking;

(5) examine the training protocols developed by **federal**, state and local law enforcement agencies related to dealing with human trafficking victims and offenders;

(6) assist in coordinating **federal**, state and local government agencies in the implementation of this 2008 act;

(7) implement a media awareness campaign in communities affected by human trafficking;

(8) develop recommendations on how to strengthen state and local efforts to prevent human trafficking, protect and assist human trafficking victims and prosecute human trafficking offenders; and

(9) submit an annual report of its activities, findings and recommendations, including any proposed legislation, in December of each year to the governor and the legislature.

C. The chair of the task force shall be the attorney general or the attorney general's designee, and the task force shall meet at the call of the chair.

D. The public members of the task force are entitled to per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance.

E. The attorney general shall provide the staff for the task force.

F. The task force to combat human trafficking is terminated on July 1, 2016.

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2008.

Approved February 22, 2008.

NM LEGIS 17 (2008)

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