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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,

1 services or commercial sexual activity.

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

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

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

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

12 D. Prosecution pursuant to this section shall not
13 prevent prosecution pursuant to any other provision of the
14 law when the conduct also constitutes a violation of that
15 other provision.

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

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

24 G. As used in this section:

25 (1) "coercion" means:

- 1 (a) causing or threatening to cause
2 harm to any person;
- 3 (b) using or threatening to use
4 physical force against any person;
- 5 (c) abusing or threatening to abuse the
6 law or legal process;
- 7 (d) threatening to report the
8 immigration status of any person to governmental authorities;
9 or
- 10 (e) knowingly destroying, concealing,
11 removing, confiscating or retaining any actual or purported
12 government document of any person; and

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

16 Section 2. HUMAN TRAFFICKING--BENEFITS AND SERVICES FOR
17 HUMAN TRAFFICKING VICTIMS.--

18 A. Human trafficking victims found in the state
19 shall be eligible for benefits and services from the state
20 until the victim qualifies for benefits and services
21 authorized by the federal Victims of Trafficking and Violence
22 Protection Act of 2000; provided that the victim cooperates
23 in the investigation or prosecution of the person charged
24 with the crime of human trafficking. Benefits and services
25 shall be provided to eligible human trafficking victims

1 regardless of immigration status and may include:

- 2 (1) case management;
- 3 (2) emergency temporary housing;
- 4 (3) health care;
- 5 (4) mental health counseling;
- 6 (5) drug addiction screening and treatment;
- 7 (6) language interpretation, translation
8 services and English language instruction;
- 9 (7) job training, job placement assistance
10 and post-employment services for job retention;
- 11 (8) services to assist the victim and the
12 victim's family members; or
- 13 (9) other general assistance services and
14 benefits as determined by the children, youth and families
15 department.

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

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

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

- 25 (1) the attorney general or the attorney

1 general's designee;

2 (2) the secretary of health or the
3 secretary's designee;

4 (3) the secretary of children, youth and
5 families or the secretary's designee;

6 (4) the secretary of public safety or the
7 secretary's designee;

8 (5) the chief public defender or the chief
9 public defender's designee;

10 (6) a representative from the New Mexico
11 district attorneys association;

12 (7) representatives of local law enforcement
13 and state police from critical geographic areas of New Mexico
14 affected by immigrant issues and human trafficking problems;
15 and

16 (8) representatives from organizations that
17 provide services to victims of human trafficking, including
18 immigrants and immigrant victims of sexual assault and
19 domestic violence.

20 B. The task force shall:

21 (1) collaborate with the United States
22 attorney for the district of New Mexico, the United States
23 border patrol and the United States immigration and customs
24 enforcement to carry out the duties of the task force;

25 (2) collect and organize data on the nature

1 and extent of human trafficking in New Mexico;

2 (3) monitor and evaluate the implementation
3 of this 2008 act, including the progress of federal, state
4 and local law enforcement agencies in preventing human
5 trafficking, protecting and providing assistance to victims
6 of human trafficking and prosecuting human trafficking
7 offenders;

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

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

14 (6) assist in coordinating federal, state
15 and local government agencies in the implementation of this
16 2008 act;

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

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

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

1 governor and the legislature.

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

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

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

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

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

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