

AN ACT

RELATING TO HUMAN TRAFFICKING; PROVIDING FOR CIVIL REMEDIES;
PROVIDING FOR CERTAIN STATE BENEFITS AND SERVICES FOR HUMAN
TRAFFICKING VICTIMS.

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

**SECTION 1. HUMAN TRAFFICKING--CIVIL REMEDY FOR HUMAN
TRAFFICKING VICTIMS.--**

A. A human trafficking victim may bring a civil action in any court of competent jurisdiction against an alleged human trafficker for actual damages, compensatory damages, punitive damages, injunctive relief or any other appropriate relief. Where the court finds that a defendant's actions were willful and malicious, the court may award treble damages to the plaintiff. A prevailing plaintiff is also entitled to recover reasonable attorney fees and costs.

B. A civil action pursuant to this section shall be forever barred unless the action is filed within ten years from the date on which:

(1) the defendant's human trafficking actions occurred; or

(2) the victim attains eighteen years of age if the victim was a minor when the defendant's actions occurred.

SECTION 2. SEALING OF RECORDS OF HUMAN TRAFFICKING

VICTIMS.--

A. On petition to the district court, a person who is a victim of human trafficking who has been charged with crimes arising out of the actions of someone charged with human trafficking may have all legal and law enforcement records of the charges and convictions in the person's case sealed. The court may issue an order sealing records and files if the court finds:

(1) the petitioner is a victim of human trafficking;

(2) the charge or conviction is for a non-homicide crime; and

(3) the petitioner's involvement in the offense was due to duress, coercion, use of force, threat to or fraud committed against the petitioner by a person who has committed human trafficking involving the petitioner.

B. Reasonable notice of the petition shall be given to the district attorney or prosecutor who filed the original case and to the law enforcement agency that has custody of the law enforcement files and records for the case.

C. Upon the entry of the sealing order, the proceedings in the case shall be treated as if they never occurred and all index references shall be deleted. The court, law enforcement agencies and the petitioner shall respond to an inquiry that no record exists with respect to

the petitioner for the referenced case. Copies of the sealed order shall be sent by the court to the district attorney or prosecutor who filed the original case, and each law enforcement agency shall be named in the order.

D. Inspection of files and records or release of information in the records included in the sealing order may be permitted by the court only upon subsequent order of the court on a showing of good cause after notice to all parties to the original petition.

SECTION 3. Section 30-52-2 NMSA 1978 (being Laws 2008, Chapter 17, Section 2) is amended to read:

"30-52-2. 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 as quickly as can reasonably be arranged regardless of immigration status and shall include, when appropriate to a particular case:

- (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) child care;
- (9) advocacy services;
- (10) state-funded cash assistance;
- (11) food assistance;
- (12) services to assist the victim and the victim's family members; and
- (13) other general assistance services and benefits as determined by the children, youth and families department or the human services department.

B. A human trafficking victim advocate shall be provided immediately upon identification by law enforcement of a human trafficking victim.

C. Before providing benefits and services pursuant to Subsection A of this section, law enforcement shall certify to the human services department and the children, youth and families department that a person is:

(1) a victim of human trafficking; and

(2) cooperating in the investigation or prosecution of the person charged with the crime of human trafficking.

D. A victim's ability to cooperate shall be determined by the court, if that issue is raised by a human trafficking victim advocate. The victim is not required to cooperate if the court determines that the victim is unable to cooperate due to physical or psychological trauma. Benefits and services shall continue unless the court rejects the victim's claim regarding inability to cooperate. A victim who is younger than eighteen years of age is eligible for benefits and services without a finding by the court. Any court proceeding regarding the victim's ability to cooperate shall be held in camera. The human trafficking victim advocate shall be allowed to attend the proceeding. The record of any such proceeding shall be sealed.

E. The attorney general shall coordinate plans developed by state and local law enforcement agencies to provide a human trafficking victim or the victim's family members protection from retaliatory action immediately upon identifying the presence in the state of a victim who offers state or local law enforcement agencies information regarding

a perpetrator of human trafficking.

F. The prosecuting authority shall take all reasonable steps within its authority to provide a human trafficking victim with:

(1) all necessary documentation required pursuant to federal law for an adjustment of immigration status that applies to that victim; and

(2) assistance in accessing civil legal services providers who are able to petition for adjustment of immigration status on behalf of the victim.

G. As used in this section:

(1) "human trafficking victim" means a person subjected to human trafficking; and

(2) "human trafficking victim advocate" means a person provided by a state or nonprofit agency with experience in providing services for victims of crime."

SECTION 4. Section 31-22-8 NMSA 1978 (being Laws 1981, Chapter 325, Section 8, as amended) is amended to read:

"31-22-8. CRIMES ENUMERATED.--

A. The crimes to which the Crime Victims Reparation Act applies and for which reparation to victims may be made are the following enumerated offenses and all other offenses in which any enumerated offense is necessarily included:

(1) arson resulting in bodily injury;

- (2) aggravated arson;
- (3) aggravated assault or aggravated battery;
- (4) dangerous use of explosives;
- (5) negligent use of a deadly weapon;
- (6) murder;
- (7) voluntary manslaughter;
- (8) involuntary manslaughter;
- (9) kidnapping;
- (10) criminal sexual penetration;
- (11) criminal sexual contact of a minor;
- (12) homicide by vehicle or great bodily injury by vehicle, as provided in Section 66-8-101 NMSA 1978;
- (13) abandonment or abuse of a child;
- (14) aggravated indecent exposure, as provided in Section 30-9-14.3 NMSA 1978;
- (15) aggravated stalking, as provided in Section 30-3A-3.1 NMSA 1978; and
- (16) human trafficking.

B. No award shall be made for any loss or damage to property."

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2013. _____