

S T A T E O F N E W Y O R K

1898--B

2005-2006 Regular Sessions

I N A S S E M B L Y

January 21, 2005

Introduced by M. of A. DINOWITZ, PAULIN, GREENE, GALEF, FIELDS, AUBER-TINE, SCARBOROUGH, LAFAYETTE, ZEBROWSKI, JACOBS, PHEFFER, EDDINGTON, GUNTHER, CLARK, ESPAILLAT, CARROZZA, BRODSKY, KOON-Multi-Sponsored by-M. of A. ALESSI, ALFANO, ARROYO, BARRA, BENEDETTO, BOYLAND, BRADLEY, BRENNAN, CAMARA, CASALE, CHRISTENSEN, A. COHEN, COLTON, COOK, CROUCH, CUSICK, CYMBROWITZ, DelMONTE, DESTITO, R. DIAZ, DiNAPOLI, ERRIGO, GANTT, GIANARIS, GIGLIO, GORDON, GOTTFRIED, GRANNIS, GREEN, HEASTIE, HEVESI, HIKIND, JOHN, LATIMER, LAVELLE, LAVINE, LIFTON, LUPARDO, MAGNARELLI, MARKEY, MAYERSOHN, McDONOUGH, McENENY, MENG, MILLER, MILLMAN, NOLAN, ORTIZ, PERALTA, PERRY, PRETLOW, REILLY, J. RIVERA, N. RIVERA, P. RIVERA, ROBINSON, SCHIMMINGER, SWEENEY, TITUS, TOKASZ, TONKO, WALKER, WEISENBERG, WRIGHT-read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee-recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, the civil practice law and rules, the criminal procedure law, the social services law, and the executive law in relation to criminalizing the trafficking of persons for labor servitude and sexual servitude and providing services for trafficked persons

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "anti-human

2 trafficking act of 2006".

3 S 1-a. The penal law is amended by adding a new article 136 to

4 read as

5 follows:

6 ARTICLE 136

7 TRAFFICKING OF PERSONS FOR LABOR SERVITUDE AND SEXUAL SERVITUDE

8 SECTION 136.00 DEFINITIONS.

EXPLANATION-Matter in ITALICS (underscored) is new; matter in brackets { } is old law to be omitted.

LBD04861-19-6

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1 136.05 TRAFFICKING A PERSON FOR LABOR SERVITUDE.
2 136.10 TRAFFICKING A PERSON FOR SEXUAL SERVITUDE.
3 136.12 TRAFFICKING A MINOR FOR SEXUAL SERVITUDE.
4 136.13 AGGRAVATED TRAFFICKING.
5 136.15 BENEFITING FROM TRAFFICKING.
6 136.20 PROMOTING SEX TOURISM.
7 136.25 ACCOMPLICE LIABILITY.
8 136.35 VICTIM PROSECUTION; DEFENSE.
9 136.40 RESTITUTION.
10 136.45 VICTIM ASSISTANCE.
11 136.50 ASSESSMENT OF VICTIM PROTECTION NEEDS.

12 S 136.00 DEFINITIONS.

13 FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL
HAVE THE

14 FOLLOWING MEANINGS:

15 1. "ACTOR" MEANS A PERSON WHO VIOLATES ANY OF THE PROVISIONS OF
THIS
16 ARTICLE.

17 2. "BLACKMAIL" MEANS THE EXTORTION OF MONEY, LABOR, COMMERCIAL
SEXUAL
18 ACTIVITY, OR SOMETHING ELSE OF VALUE FROM A PERSON BY A THREAT TO
EXPOSE

19 A SECRET OR PUBLICIZE AN ASSERTED FACT, WHETHER TRUE OR FALSE,
THAT

20 WOULD TEND TO SUBJECT A PERSON TO HATRED, CONTEMPT, OR RIDICULE.

21 3. "FINANCIAL HARM" MEANS EXERTING FINANCIAL CONTROL OVER
ANOTHER
22 PERSON BY MEANS OF CREDIT EXTORTION, IN VIOLATION OF ANY STATE
LAWS

23 RELATING TO USURY, OR EMPLOYMENT CONTRACTS WHICH VIOLATE THE
LABOR LAW

24 OR SECTION 2-201 OF THE UNIFORM COMMERCIAL CODE.

25 4. "DEBT BONDAGE" MEANS A CONDITION OR ARRANGEMENT IN WHICH A
DEBTOR,

26 OR A PERSON UNDER THE DEBTOR'S CONTROL, IS REQUIRED TO PERFORM
SERVICES

27 OR COMMERCIAL SEXUAL ACTIVITY AS A SECURITY FOR DEBT, IF THE
VALUE OF

28 THOSE SERVICES AS REASONABLY ASSESSED IS NOT APPLIED TOWARD THE
LIQUI-

29 DATION OF THE DEBT.

30 5. "LABOR SERVITUDE" MEANS LABOR THAT IS PERFORMED OR
PROVIDED BY

31 ANOTHER PERSON AND IS INDUCED OR MAINTAINED THROUGH AN ACTOR'S
CONDUCT

32 BY ONE OR MORE OF THE FOLLOWING MEANS:

33 (A) WITHHOLDING, DESTROYING, OR CONFISCATING ANY ACTUAL OR
PURPORTED

34 PASSPORT, IMMIGRATION DOCUMENT, OR ANY OTHER ACTUAL OR PURPORTED
GOVERN-

35 MENT IDENTIFICATION DOCUMENT, OF ANOTHER PERSON;

36 (B) ABUSING OR THREATENING TO ABUSE THE LAW OR LEGAL PROCESS;

37 © CAUSING OR THREATENING TO CAUSE HARM TO THE PHYSICAL HEALTH
OR

38 SAFETY OF ANY PERSON;

39 (D) RESTRAINING THE PERSON AS DEFINED IN SUBDIVISION ONE OF
SECTION
40 135.00 OF THIS TITLE;
41 (E) COERCING THE PERSON AS DEFINED IN SECTION 135.60 OF THIS
TITLE;
42 (F) PROVIDING A NARCOTIC OR INTOXICATING SUBSTANCE TO THE PERSON
WITH
43 THE INTENT TO IMPAIR THE PERSON'S JUDGMENT OR TO MAINTAIN A
STATE OF
44 CHEMICAL DEPENDENCE;
45 (G) WRONGFULLY TAKING, OBTAINING, OR WITHHOLDING PROPERTY;
46 (H) DECEPTION OR FRAUD;
47 (I) BLACKMAIL;
48 (J) DEBT BONDAGE; OR
49 (K) CAUSING OR THREATENING TO CAUSE DEATH OR PHYSICAL INJURY
TO ANY
50 PERSON.

51 6. "SEXUAL SERVITUDE" MEANS COMMERCIAL SEXUAL ACTIVITY
THAT IS
52 PERFORMED OR PROVIDED BY ANOTHER PERSON AND IS INDUCED OR
MAINTAINED
53 THROUGH AN ACTOR'S CONDUCT BY ONE OR MORE OF THE FOLLOWING MEANS:
54 (A) WITHHOLDING, DESTROYING, OR CONFISCATING ANY ACTUAL OR
PURPORTED
55 PASSPORT, IMMIGRATION DOCUMENT, OR ANY OTHER ACTUAL OR PURPORTED
GOVERN-
56 MENT IDENTIFICATION DOCUMENT, OF ANOTHER PERSON;

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1 (B) ABUSING OR THREATENING TO ABUSE THE LAW OR LEGAL PROCESS;
2 © CAUSING OR THREATENING TO CAUSE HARM TO THE PHYSICAL, MENTAL
OR
3 EMOTIONAL HEALTH OR SAFETY OF ANY PERSON;
4 (D) RESTRAINING THE PERSON, AS DEFINED IN SUBDIVISION ONE OF
SECTION
5 135.00 OF THIS TITLE;
6 (E) COERCING THE PERSON AS DEFINED IN SECTION 135.60 OF THIS
TITLE;
7 (F) PROVIDING A NARCOTIC OR INTOXICATING SUBSTANCE TO THE PERSON;
8 (G) WRONGFULLY TAKING, OBTAINING OR WITHHOLDING PROPERTY;
9 (H) DECEPTION OR FRAUD;
10 (I) BLACKMAIL;
11 (J) DEBT BONDAGE; OR
12 (K) CAUSING OR THREATENING TO CAUSE DEATH OR PHYSICAL INJURY
TO ANY
13 PERSON.
14 7. "LABOR" MEANS WORK OF ECONOMIC OR FINANCIAL VALUE.
15 8. "COMMERCIAL SEXUAL ACTIVITY" MEANS ANY SEXUAL CONDUCT, AS
DEFINED
16 IN SUBDIVISION TEN OF SECTION 130.00 OF THIS TITLE, ON ACCOUNT OF
WHICH
17 ANYTHING OF VALUE IS GIVEN, PROMISED, OR RECEIVED BY ANY PERSON.
18 9. "SEXUAL CONDUCT" HAS THE SAME MEANING AS IN SUBDIVISION
TEN OF
19 SECTION 130.00 OF THIS TITLE.
20 10. "COERCION" HAS THE SAME MEANING AS IN SECTION 135.60 OF
THIS

21 TITLE.

22 11. "MAINTAIN" MEANS, IN RELATION TO LABOR OR COMMERCIAL
SEXUAL
23 ACTIVITY, TO SECURE CONTINUED PERFORMANCE THEREOF, REGARDLESS
OF ANY
24 INITIAL AGREEMENT ON THE PART OF THE TRAFFICKING VICTIM TO PERFORM
SUCH
25 LABOR OR COMMERCIAL SEXUAL ACTIVITY.

26 12. "TRAFFICKING VICTIM" MEANS A PERSON SUBJECTED TO THE
PRACTICES
27 PROHIBITED BY SECTION 136.05, 136.10, 136.12 OR 136.13 OF THIS
ARTICLE.

28 13. "ABUSE OF LAW" MEANS ANY EXPRESS OR IMPLIED THREAT TO BRING
ANY
29 PERSON TO THE ATTENTION OF POLICE, IMMIGRATION AUTHORITIES, OR ANY
OTHER
30 LAW ENFORCEMENT OR GOVERNMENT AGENCY, OR ANY EXPRESS OR IMPLIED
THREAT
31 TO REPORT THAT A PERSON HAS COMMITTED A CRIME OR IMMIGRATION
VIOLATION,
32 WHEN SUCH THREAT IS MADE WITH THE PURPOSE OF INDUCING OR
MAINTAINING A
33 PERSON'S COMPLIANCE WITH CONDITIONS OF LABOR SERVITUDE OR SEXUAL
SERVI-
34 TUDE.
35 S 136.05 TRAFFICKING A PERSON FOR LABOR SERVITUDE.
36 A PERSON IS GUILTY OF TRAFFICKING A PERSON FOR LABOR SERVITUDE
WHEN HE
37 OR SHE KNOWINGLY:
38 1. RECRUITS, ENTICES, HARBORS, TRANSPORTS, PROVIDES OR OBTAINS
BY ANY
39 MEANS, OR ATTEMPTS TO RECRUIT, ENTICE, HARBOR, TRANSPORT,
PROVIDE OR
40 OBTAIN BY ANY MEANS, ANOTHER PERSON FOR THE PURPOSE OF SUBJECTING
SUCH
41 PERSON TO LABOR SERVITUDE; OR
42 2. SUBJECTS ANOTHER PERSON TO LABOR SERVITUDE.
43 TRAFFICKING A PERSON FOR LABOR SERVITUDE IS A CLASS C FELONY.
44 S 136.10 TRAFFICKING A PERSON FOR SEXUAL SERVITUDE.
45 1. A PERSON IS GUILTY OF TRAFFICKING A PERSON FOR SEXUAL
SERVITUDE
46 WHEN HE OR SHE KNOWINGLY:
47 (A) RECRUITS, ENTICES, HARBORS, TRANSPORTS, PROVIDES OR OBTAINS
BY ANY
48 MEANS, OR ATTEMPTS TO RECRUIT, ENTICE, HARBOR, TRANSPORT,
PROVIDE OR
49 OBTAIN BY ANY MEANS, ANOTHER PERSON FOR THE PURPOSE OF SUBJECTING
SUCH
50 PERSON TO SEXUAL SERVITUDE; OR
51 (B) SUBJECTS ANOTHER PERSON TO SEXUAL SERVITUDE.
52 2. EVIDENCE OF THE FOLLOWING FACTS OR CONDITIONS SHALL NOT
CONSTITUTE
53 A DEFENSE UNDER THIS SECTION, NOR SHALL SUCH EVIDENCE PRECLUDE A
FINDING
54 OF SEXUAL SERVITUDE:
55 (A) A TRAFFICKING VICTIM'S SEXUAL HISTORY OR HISTORY OF
COMMERCIAL

56 SEXUAL ACTIVITY;

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1 (B) A TRAFFICKING VICTIM'S CONNECTION BY BLOOD OR MARRIAGE
TO A

2 DEFENDANT IN THE CASE;

3 © CONSENT OF OR PERMISSION BY A TRAFFICKING VICTIM OR ANYONE ELSE
ON

4 THE TRAFFICKING VICTIM'S BEHALF TO COMMERCIAL SEXUAL ACTIVITY.

5 TRAFFICKING A PERSON FOR SEXUAL SERVITUDE IS A CLASS C FELONY.

6 S 136.12 TRAFFICKING A MINOR FOR SEXUAL SERVITUDE.

7 1. A PERSON IS GUILTY OF TRAFFICKING A MINOR FOR SEXUAL
SERVITUDE

8 WHEN HE OR SHE KNOWINGLY:

9 (A) RECRUITS, ENTICES, HARBORS, TRANSPORTS, PROVIDES, OBTAINS,
OR

10 MAINTAINS BY ANY MEANS, OR ATTEMPTS TO RECRUIT, ENTICE, HARBOR,
TRANS-

11 PORT, PROVIDE, OBTAIN, OR MAINTAIN BY ANY MEANS, ANOTHER PERSON
UNDER

12 EIGHTEEN YEARS OF AGE, KNOWING THAT THE MINOR WILL ENGAGE IN, OR BE
USED

13 IN, COMMERCIAL SEXUAL ACTIVITY, SEXUAL PERFORMANCE AS DEFINED IN
SECTION

14 263.00 OF THIS CHAPTER, OR OBSCENE SEXUAL PERFORMANCE AS
DEFINED IN

15 SECTION 263.00 OF THIS CHAPTER; OR

16 (B) SUBJECTS A PERSON UNDER SEVENTEEN YEARS OF AGE TO SEXUAL
SERVI-

17 TUDE.

18 2. EVIDENCE OF THE FOLLOWING FACTS OR CONDITIONS SHALL NOT
CONSTITUTE

19 A DEFENSE UNDER THIS SECTION, NOR SHALL SUCH EVIDENCE PRECLUDE A
FINDING

20 OF SEXUAL SERVITUDE OF A MINOR:

21 (A) A MINOR TRAFFICKING VICTIM'S SEXUAL HISTORY OR HISTORY OF
COMMER-

22 CIAL SEXUAL ACTIVITY;

23 (B) A MINOR TRAFFICKING VICTIM'S CONNECTION BY BLOOD OR MARRIAGE
TO A

24 DEFENDANT IN THE CASE;

25 © CONSENT OF OR PERMISSION BY A MINOR TRAFFICKING VICTIM OR
ANYONE

26 ELSE ON THE MINOR TRAFFICKING VICTIM'S BEHALF TO COMMERCIAL
SEXUAL

27 ACTIVITY, SEXUAL PERFORMANCE, OR OBSCENE SEXUAL PERFORMANCE; OR

28 (D) THAT THE ACTOR BELIEVED OR HAD CAUSE TO BELIEVE THAT THE
MINOR

29 TRAFFICKING VICTIM WAS AT LEAST SEVENTEEN YEARS OF AGE.

30 TRAFFICKING A MINOR FOR SEXUAL SERVITUDE IS A CLASS B FELONY.

31 S 136.13 AGGRAVATED TRAFFICKING.

32 A PERSON IS GUILTY OF AGGRAVATED TRAFFICKING WHEN HE OR SHE
COMMITTS

33 THE CRIME OF TRAFFICKING A PERSON FOR LABOR SERVITUDE, OR
TRAFFICKING A

34 PERSON FOR SEXUAL SERVITUDE, AND:

35 1. THE OFFENSE INVOLVES MORE THAN ONE TRAFFICKING VICTIM, OR

36 2. THE VICTIM IS MAINTAINED IN LABOR SERVITUDE OR SEXUAL
SERVITUDE FOR
37 MORE THAN THIRTY DAYS, OR
38 3. THE VICTIM SUFFERS PHYSICAL INJURY, SERIOUS PHYSICAL
INJURY, OR
39 DEATH, OR
40 4. WHILE IN A CONDITION OF LABOR SERVITUDE OR SEXUAL SERVITUDE,
THE
41 VICTIM IS SUBJECTED TO RAPE IN THE FIRST DEGREE, CRIMINAL SEXUAL
ACT IN
42 THE FIRST DEGREE, SEXUAL ABUSE IN THE FIRST DEGREE, OR AGGRAVATED
SEXUAL
43 ABUSE IN THE FIRST, SECOND, THIRD, OR FOURTH DEGREE.
44 AGGRAVATED TRAFFICKING IS A CLASS B FELONY.
45 S 136.15 BENEFITING FROM TRAFFICKING.
46 A PERSON IS GUILTY OF BENEFITING FROM TRAFFICKING WHEN HE OR SHE
KNOW-
47 INGLY RECEIVES ANYTHING OF VALUE FROM PARTICIPATION IN A VENTURE
WHICH
48 HAS INVOLVED AN ACT IN VIOLATION OF SECTION 136.05, 136.10,
136.12,
49 136.13, OR 136.25 OF THIS ARTICLE.
50 BENEFITING FROM TRAFFICKING IS A CLASS D FELONY.
51 S 136.20 PROMOTING SEX TOURISM.
52 A PERSON IS GUILTY OF PROMOTING SEX TOURISM WHEN HE OR SHE
KNOWINGLY
53 SELLS OR OFFERS TO SELL TRAVEL-RELATED SERVICES THAT INCLUDE OR FACILI-
FACILI-
54 TATE IN-STATE OR OUT-OF-STATE TRAVEL FOR THE PURPOSE OF
ENGAGING IN
55 ACTIVITY THAT WOULD CONSTITUTE PATRONIZING A PROSTITUTE IF THE
ACTIVITY
56 OCCURRED IN NEW YORK STATE.

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1 PROMOTING SEX TOURISM IS A CLASS C FELONY.
2 S 136.25 ACCOMPLICE LIABILITY.
3 WHOEVER KNOWINGLY AIDS, ABETS OR CONSPIRES WITH ONE OR MORE
PERSONS TO
4 VIOLATE SECTION 136.05, 136.10, 136.12 OR 136.15 OF THIS ARTICLE
SHALL
5 BE PUNISHABLE IN THE SAME MANNER AS FOR A COMPLETED VIOLATION OF
THAT
6 SECTION.
7 S 136.35 VICTIM PROSECUTION; DEFENSE.
8 IN ANY PROSECUTION FOR A VIOLATION OF SECTION 230.00 OF THIS
CHAPTER
9 IT SHALL BE A DEFENSE THAT THE DEFENDANT IS OR HAS BEEN THE VICTIM
OF
10 TRAFFICKING A PERSON FOR SEXUAL SERVITUDE AS DEFINED IN SECTION
136.10
11 OF THIS ARTICLE OR TRAFFICKING A MINOR FOR SEXUAL SERVITUDE AS
DEFINED
12 IN SECTION 136.12 OF THIS ARTICLE.
13 S 136.40 RESTITUTION.
14 1. RESTITUTION SHALL BE MANDATORY UNDER THIS ARTICLE. FOR
OFFENSES

15 UNDER THIS ARTICLE INVOLVING LABOR SERVITUDE, IN ADDITION TO ANY
16 OTHER

17 LOSS IDENTIFIED, THE COURT SHALL ORDER RESTITUTION INCLUDING THE
18 GREATER

19 OF:

20 (A) THE GROSS INCOME OR VALUE TO THE DEFENDANT OF THE
21 TRAFFICKING

22 VICTIM'S LABOR; OR

23 (B) THE VALUE OF THE TRAFFICKING VICTIM'S LABOR AS GUARANTEED
24 UNDER

25 THE MINIMUM WAGE AND OVERTIME PROVISIONS OF THE FAIR LABOR
26 STANDARDS ACT

27 AND THE STATE'S LABOR LAWS.

28 2. FOR VIOLATIONS OF THIS ARTICLE INVOLVING SEXUAL SERVITUDE, IN
29 ADDI-

30 TION TO ANY OTHER LOSS IDENTIFIED, THE COURT SHALL ORDER
31 RESTITUTION

32 INCLUDING THE INCOME OR VALUE OBTAINED BY THE DEFENDANT FROM THE
33 SEXUAL

34 SERVITUDE OF THE TRAFFICKING VICTIM.

35 3. WHERE NECESSARY, THE COURT MAY IMPUTE INCOME OR VALUE AWARDED
36 UNDER

37 THIS SECTION.

38 4. FOR ALL OFFENSES UNDER THIS ARTICLE, IN ADDITION TO ANY OTHER
39 LOSS

40 IDENTIFIED, THE COURT SHALL ORDER RESTITUTION TO COMPENSATE THE
41 TRAF-

42 FICKING VICTIM FOR THE COST OF:

43 (A) MEDICAL AND PSYCHOLOGICAL TREATMENT;

44 (B) PHYSICAL AND OCCUPATIONAL THERAPY AND REHABILITATION;

45 © NECESSARY TRANSPORTATION, TEMPORARY HOUSING, AND CHILDCARE; AND

46 (D) ATTORNEY'S FEES AND COSTS, INCLUDING EXPERT WITNESS
47 FEES AND

48 EXPENSES.

49 5. THE DOLLAR LIMITS ON RESTITUTION FOUND IN SUBDIVISION
50 FIVE OF

51 SECTION 60.27 OF THIS CHAPTER SHALL NOT APPLY TO OFFENSES
52 COMMITTED

53 UNDER THIS ACT.

54 S 136.45 VICTIM ASSISTANCE.

55 TRAFFICKED VICTIMS SHALL BE PROVIDED WITH INFORMATION ABOUT
56 THEIR

57 RIGHTS AND APPLICABLE SERVICES, INCLUDING:

58 1. THE RIGHT TO PRO BONO AND LOW-COST LEGAL SERVICES;

59 2. IN EVERY CASE CHARGED UNDER THIS ARTICLE BY A LAW ENFORCEMENT
60 OFFI-

61 CER, THE LAW ENFORCEMENT OFFICER SHALL, AS SOON AS POSSIBLE,
62 PROVIDE TO

63 TRAFFICKING VICTIMS WRITTEN REFERRAL INFORMATION FOR LOCAL
64 VICTIM

65 ASSISTANCE ORGANIZATIONS AND, WHERE POSSIBLE, ARRANGE FOR A
66 MEETING

67 BETWEEN TRAFFICKING VICTIMS AND SUCH ORGANIZATIONS;

68 3. THE RIGHT TO ACCESS EXISTING FEDERAL AND STATE BENEFITS
69 AND

70 SERVICES, SUCH AS REGULARIZED IMMIGRATION STATUS, BENEFITS AND
71 SERVICES

51 UNDER THE VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF
2000, AS
52 AMENDED, AND STATE COMPENSATION.
53 S 136.50 ASSESSMENT OF VICTIM PROTECTION NEEDS.
54 1. THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL, NO LATER THAN
ONE
55 YEAR FROM THE EFFECTIVE DATE OF THIS ARTICLE ISSUE A REPORT
OUTLINING
56 HOW EXISTING VICTIM/WITNESS LAWS AND REGULATIONS RESPOND TO THE
NEEDS OF

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1 TRAFFICKING VICTIMS AND SUGGESTING AREAS OF IMPROVEMENT AND
MODIFICA-
2 TION.
3 2. THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE SHALL, NO
LATER
4 THAN ONE YEAR FROM THE EFFECTIVE DATE OF THIS ARTICLE, ISSUE A
REPORT
5 OUTLINING HOW EXISTING SOCIAL SERVICES PROGRAMS RESPOND OR
FAIL TO
6 RESPOND TO THE NEEDS OF TRAFFICKING VICTIMS, THE INTERPLAY OF
SUCH
7 EXISTING PROGRAMS WITH FEDERALLY-FUNDED VICTIM SERVICE PROGRAMS,
AND
8 SUGGESTING AREAS OF IMPROVEMENT AND MODIFICATION.

9 S 2. The second undesignated paragraph of section 230.03 of the
penal
10 law, as added by chapter 627 of the laws of 1978, is amended to
read as
11 follows:

12 Patronizing a prostitute in the fourth degree is a class {B} A
misdemea-
13 meanor.

14 S 3. The second undesignated paragraph of section 230.04 of the
penal
15 law, as added by chapter 627 of the laws of 1978, is amended to
read as
16 follows:

17 Patronizing a prostitute in the third degree is a class {A
misdemea-
18 nor} E FELONY.

19 S 4. Section 230.05 of the penal law, as added by chapter 627 of
the
20 laws of 1978, is amended to read as follows:

21 S 230.05 Patronizing a prostitute in the second degree.

22 A person is guilty of patronizing a prostitute in the second
degree
23 when, being {over} eighteen years {of age} OLD OR MORE, he
patronizes a
24 prostitute and the person patronized is less than {fourteen}
FIFTEEN
25 years {of age} OLD.

26 Patronizing a prostitute in the second degree is a class {E} D
felony.

27 S 5. Section 230.06 of the penal law, as added by chapter 627 of
the

28 laws of 1978, is amended to read as follows:
29 S 230.06 Patronizing a prostitute in the first degree.
30 A person is guilty of patronizing a prostitute in the first
31 degree
32 when:
33 1. he patronizes a prostitute and the person patronized is less
34 than
35 eleven years {of age} OLD; OR
36 2. BEING EIGHTEEN YEARS OLD OR MORE, HE PATRONIZES A
37 PROSTITUTE AND
38 THE PERSON PATRONIZED IS LESS THAN THIRTEEN YEARS OLD.
39 Patronizing a prostitute in the first degree is a class {D} B
40 felony.
41 S 6. The opening paragraph of subdivision 3 of section 125.25 of
42 the
43 penal law, as amended by chapter 264 of the laws of 2003, is
44 amended to
45 read as follows:
46 Acting either alone or with one or more other persons, he
47 commits or
48 attempts to commit robbery, burglary, kidnapping, arson, rape
49 in the
50 first degree, criminal sexual act in the first degree, sexual
51 abuse in
52 the first degree, aggravated sexual abuse, TRAFFICKING A
53 PERSON FOR
54 LABOR SERVITUDE, TRAFFICKING A PERSON FOR SEXUAL SERVITUDE,
55 TRAFFICKING
56 A MINOR FOR SEXUAL SERVITUDE, escape in the first degree, or
57 escape in
58 the second degree, and, in the course of and in furtherance of
59 such
60 crime or of immediate flight therefrom, he, or another
61 participant, if
62 there be any, causes the death of a person other than one of the
63 partic-
64 ipants; except that in any prosecution under this subdivision, in
65 which
66 the defendant was not the only participant in the underlying
67 crime, it
68 is an affirmative defense that the defendant:
69 S 7. Paragraph (a) of subdivision 4-b and subdivision 6 of
70 section
71 1310 of the civil practice law and rules, paragraph (a) of
72 subdivision
73 4-b as added by chapter 655 of the laws of 1990 and subdivision
74 6 as
75 added by chapter 669 of the laws of 1984, are amended to
76 read as
77 follows:

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1 (a) a conviction of a person for a violation of section
2 220.18,
3 220.21, 220.41, or 220.43 of the penal law, or where the
4 accusatory

3 instrument charges one or more of such offenses, conviction upon a
plea
4 of guilty to any of the felonies for which such plea is
otherwise
5 authorized by law or a conviction of a person for conspiracy to
commit a
6 violation of section 220.18, 220.21, 220.41, or 220.43 of the penal
law,
7 where the controlled substances which are the object of the
conspiracy
8 are located in the real property which is the subject of the
forfeiture
9 action, OR A FELONY CONVICTION OF A PERSON FOR A VIOLATION OF
ARTICLE
10 ONE HUNDRED THIRTY-SIX OF THE PENAL LAW; or
11 6. "Pre-conviction forfeiture crime" means only a felony
defined in
12 article two hundred twenty or section 136.05, 136.10, 136.12,
136.13,
13 221.30 or 221.55 of the penal law.
14 S 8. Paragraph (a) of subdivision 1 of section 1311 of the civil
prac-
15 tice law and rules, as added by chapter 669 of the laws of
1984, is
16 amended to read as follows:
17 (a) Actions relating to post-conviction forfeiture crimes. An
action
18 relating to a post-conviction forfeiture crime must be grounded
upon a
19 conviction of a felony defined in subdivision five of section one
thou-
20 sand three hundred ten of this article, or upon criminal activity
aris-
21 ing from a common scheme or plan of which such a conviction is a
part,
22 or upon a count of an indictment or information alleging a felony
which
23 was dismissed at the time of a plea of guilty to a felony in
satisfac-
24 tion of such count. A court may not grant forfeiture until
such
25 conviction has occurred. However, an action may be commenced,
and a
26 court may grant a provisional remedy provided under this article,
prior
27 to such conviction having occurred. An action under this paragraph
must
28 be dismissed at any time after sixty days of the commencement
of the
29 action unless the conviction upon which the action is grounded
has
30 occurred, or an indictment or information upon which the
asserted
31 conviction is to be based is pending in a superior court. An
action
32 under this paragraph shall be stayed during the pendency of a
criminal

33 action which is related to it; provided, however, that such stay
shall
34 not prevent the granting or continuance of any provisional
remedy
35 provided under this article or any other provisions of law. IN NO
EVENT
36 SHALL THE AMOUNT THAT A TRAFFICKING VICTIM IS ELIGIBLE TO RECEIVE
PURSU-
37 ANT TO SECTION 136.40 OF THE PENAL LAW BE DIMINISHED THROUGH THE
APPLI-
38 CATION OF THIS SECTION.
39 S 9. Paragraph (a) of subdivision 1 of section 460.10 of the
penal
40 law, as amended by chapter 489 of the laws of 2000, is amended to
read
41 as follows:
42 (a) Any of the felonies set forth in this chapter: sections
120.05,
43 120.10 and 120.11 relating to assault; sections 125.10 to 125.27
relat-
44 ing to homicide; sections 130.25, 130.30 and 130.35 relating to
rape;
45 sections 135.20 and 135.25 relating to kidnapping; section 135.65
relat-
46 ing to coercion; SECTIONS 136.05, 136.10, 136.12 AND 136.13
RELATING TO
47 THE TRAFFICKING OF PERSONS; sections 140.20, 140.25 and 140.30
relating
48 to burglary; sections 145.05, 145.10 and 145.12 relating to
criminal
49 mischief; article one hundred fifty relating to arson; sections
155.30,
50 155.35, 155.40 and 155.42 relating to grand larceny; article one
hundred
51 sixty relating to robbery; sections 165.45, 165.50, 165.52 and
165.54
52 relating to criminal possession of stolen property; sections
170.10,
53 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to
forgery;
54 sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to
false
55 statements; sections 176.15, 176.20, 176.25 and 176.30
relating to
56 insurance fraud; sections 178.20 and 178.25 relating to criminal
diver-

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1 sion of prescription medications and prescriptions; sections
180.03,
2 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04,
200.10,
3 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 215.00, 215.05
and
4 215.19 relating to bribery; sections 190.40 and 190.42 relating to
crim-

5 inal usury; section 190.65 relating to schemes to defraud;
sections
6 205.60 and 205.65 relating to hindering prosecution; sections
210.10,
7 210.15, and 215.51 relating to perjury and contempt; section
215.40
8 relating to tampering with physical evidence; sections 220.06,
220.09,
9 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43,
220.46,
10 220.55 and 220.60 relating to controlled substances; sections
225.10 and
11 225.20 relating to gambling; sections 230.25, 230.30, and 230.32
relat-
12 ing to promoting prostitution; sections 235.06, 235.07 and 235.21
relat-
13 ing to obscenity; section 263.10 relating to promoting an
obscene
14 performance by a child; sections 265.02, 265.03, 265.04, 265.11,
265.12,
15 265.13 and the provisions of section 265.10 which constitute a
felony
16 relating to firearms and other dangerous weapons; and sections
265.14
17 and 265.16 relating to criminal sale of a firearm; and section
275.10,
18 275.20, 275.30, or 275.40 relating to unauthorized
recordings; and
19 sections 470.05, 470.10, 470.15 and 470.20 relating to money
laundering;
20 or
21 S 10. Paragraph (b) of subdivision 8 of section 700.05 of the
criminal
22 procedure law, as amended by chapter 264 of the laws of 2003, is
amended
23 to read as follows:
24 (b) Any of the following felonies: assault in the second
degree as
25 defined in section 120.05 of the penal law, assault in the first
degree
26 as defined in section 120.10 of the penal law, reckless
endangerment in
27 the first degree as defined in section 120.25 of the penal law,
promot-
28 ing a suicide attempt as defined in section 120.30 of the penal
law,
29 criminally negligent homicide as defined in section 125.10 of the
penal
30 law, manslaughter in the second degree as defined in section
125.15 of
31 the penal law, manslaughter in the first degree as defined in
section
32 125.20 of the penal law, murder in the second degree as
defined in
33 section 125.25 of the penal law, murder in the first degree as
defined

34 in section 125.27 of the penal law, abortion in the second
degree as
35 defined in section 125.40 of the penal law, abortion in the first
degree
36 as defined in section 125.45 of the penal law, rape in the third
degree
37 as defined in section 130.25 of the penal law, rape in the second
degree
38 as defined in section 130.30 of the penal law, rape in the first
degree
39 as defined in section 130.35 of the penal law, criminal sexual
act in
40 the third degree as defined in section 130.40 of the penal law,
criminal
41 sexual act in the second degree as defined in section 130.45 of
the
42 penal law, criminal sexual act in the first degree as defined in
section
43 130.50 of the penal law, sexual abuse in the first degree as
defined in
44 section 130.65 of the penal law, unlawful imprisonment in the
first
45 degree as defined in section 135.10 of the penal law, kidnapping
in the
46 second degree as defined in section 135.20 of the penal law,
kidnapping
47 in the first degree as defined in section 135.25 of the penal
law,
48 custodial interference in the first degree as defined in section
135.50
49 of the penal law, coercion in the first degree as defined in
section
50 135.65 of the penal law, TRAFFICKING A PERSON FOR LABOR
SERVITUDE AS
51 DEFINED IN SECTION 136.05 OF THE PENAL LAW, TRAFFICKING A
PERSON FOR
52 SEXUAL SERVITUDE AS DEFINED IN SECTION 136.10 OF THE PENAL LAW,
TRAF-
53 FICKING A MINOR FOR SEXUAL SERVITUDE AS DEFINED IN SECTION 136.12
OF THE
54 PENAL LAW, AGGRAVATED TRAFFICKING AS DEFINED IN SECTION 136.13
OF THE
55 PENAL LAW, criminal trespass in the first degree as defined in
section
56 140.17 of the penal law, burglary in the third degree as
defined in

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1 section 140.20 of the penal law, burglary in the second degree
as
2 defined in section 140.25 of the penal law, burglary in the first
degree
3 as defined in section 140.30 of the penal law, criminal mischief in
the
4 third degree as defined in section 145.05 of the penal law,
criminal

5 mischief in the second degree as defined in section 145.10 of the
penal
6 law, criminal mischief in the first degree as defined in section
145.12
7 of the penal law, criminal tampering in the first degree as defined
in
8 section 145.20 of the penal law, arson in the fourth degree as
defined
9 in section 150.05 of the penal law, arson in the third degree as
defined
10 in section 150.10 of the penal law, arson in the second
degree as
11 defined in section 150.15 of the penal law, arson in the first
degree as
12 defined in section 150.20 of the penal law, grand larceny in the
fourth
13 degree as defined in section 155.30 of the penal law, grand
larceny in
14 the third degree as defined in section 155.35 of the penal law,
grand
15 larceny in the second degree as defined in section 155.40 of the
penal
16 law, grand larceny in the first degree as defined in section
155.42 of
17 the penal law, robbery in the third degree as defined in section
160.05
18 of the penal law, robbery in the second degree as defined in
section
19 160.10 of the penal law, robbery in the first degree as
defined in
20 section 160.15 of the penal law, unlawful use of secret scientific
mate-
21 rial as defined in section 165.07 of the penal law, criminal
possession
22 of stolen property in the fourth degree as defined in section
165.45 of
23 the penal law, criminal possession of stolen property in the
third
24 degree as defined in section 165.50 of the penal law,
criminal
25 possession of stolen property in the second degree as defined by
section
26 165.52 of the penal law, criminal possession of stolen property
in the
27 first degree as defined by section 165.54 of the penal law,
trademark
28 counterfeiting in the first degree as defined in section 165.73
of the
29 penal law, forgery in the second degree as defined in section
170.10 of
30 the penal law, forgery in the first degree as defined in section
170.15
31 of the penal law, criminal possession of a forged instrument in
the
32 second degree as defined in section 170.25 of the penal law,
criminal

33 possession of a forged instrument in the first degree as
defined in
34 section 170.30 of the penal law, criminal possession of forgery
devices
35 as defined in section 170.40 of the penal law, falsifying
business
36 records in the first degree as defined in section 175.10 of the
penal
37 law, tampering with public records in the first degree as
defined in
38 section 175.25 of the penal law, offering a false instrument for
filing
39 in the first degree as defined in section 175.35 of the penal law,
issu-
40 ing a false certificate as defined in section 175.40 of the penal
law,
41 criminal diversion of prescription medications and prescriptions
in the
42 second degree as defined in section 178.20 of the penal law,
criminal
43 diversion of prescription medications and prescriptions in the
first
44 degree as defined in section 178.25 of the penal law, escape in
the
45 second degree as defined in section 205.10 of the penal law,
escape in
46 the first degree as defined in section 205.15 of the penal law,
abscond-
47 ing from temporary release in the first degree as defined in
section
48 205.17 of the penal law, promoting prison contraband in the first
degree
49 as defined in section 205.25 of the penal law, hindering
prosecution in
50 the second degree as defined in section 205.60 of the penal law,
hinder-
51 ing prosecution in the first degree as defined in section 205.65 of
the
52 penal law, criminal possession of a weapon in the third
degree as
53 defined in subdivisions two, three, four and five of section
265.02 of
54 the penal law, criminal possession of a weapon in the second
degree as
55 defined in section 265.03 of the penal law, criminal possession
of a
56 dangerous weapon in the first degree as defined in section 265.04
of the

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1 penal law, manufacture, transport, disposition and defacement of
weapons
2 and dangerous instruments and appliances defined as felonies in
subdivi-
3 sions one, two, and three of section 265.10 of the penal law,
sections

4 265.11, 265.12 and 265.13 of the penal law, or prohibited use of
weapons
5 as defined in subdivision two of section 265.35 of the penal law,
relat-
6 ing to firearms and other dangerous weapons;
7 S 11. The civil practice law and rules is amended by adding a
new
8 section 1311-b to read as follows:
9 S 1311-B. VICTIM OF TRAFFICKING; CAUSE OF ACTION. 1. A PERSON WHO
HAS
10 BEEN SUBJECT TO TRAFFICKING UNDER ARTICLE ONE HUNDRED THIRTY-SIX
OF THE
11 PENAL LAW MAY BRING A CAUSE OF ACTION AGAINST THE DEFENDANT FOR
ACTUAL
12 DAMAGES, COMPENSATORY DAMAGES, PUNITIVE DAMAGES, INJUNCTIVE
RELIEF, OR
13 ANY COMBINATION THEREOF, OR ANY OTHER APPROPRIATE RELIEF. A
PREVAILING
14 PLAINTIFF SHALL ALSO BE AWARDED ATTORNEY'S FEES AND COSTS.
TREBLE
15 DAMAGES SHALL BE AWARDED ON PROOF OF ACTUAL DAMAGES WHERE
DEFENDANT'S
16 ACTS WERE WILLFUL AND MALICIOUS.
17 2. ANY LEGAL GUARDIAN, FAMILY MEMBER, OR OTHER REPRESENTATIVE
OF THE
18 TRAFFICKED PERSON, OR COURT APPOINTEE, MAY REPRESENT THE
TRAFFICKED
19 PERSON'S RIGHTS, IN THE EVENT THE TRAFFICKED PERSON IS
DECEASED OR
20 OTHERWISE UNABLE TO REPRESENT HIS OR HER OWN INTERESTS IN COURT.
21 S 12. The civil practice law and rules is amended by adding a
new
22 section 213-c to read as follows:
23 S 213-C. ACTION BY VICTIM OF TRAFFICKING. 1. A CAUSE OF ACTION
BY A
24 VICTIM OF A TRAFFICKING OFFENSE UNDER ARTICLE ONE HUNDRED THIRTY-
SIX OF
25 THE PENAL LAW AGAINST A DEFENDANT BROUGHT PURSUANT TO SECTION
THIRTEEN
26 HUNDRED ELEVEN-B OF THIS CHAPTER MAY BE COMMENCED WITHIN SEVEN
YEARS OF
27 THE DATE OF THE CRIME.
28 2. DISABILITY SHALL TOLL THE RUNNING OF THE STATUTE OF
LIMITATION
29 ESTABLISHED PURSUANT TO THIS SECTION. AS USED IN THIS SECTION,
"DISABIL-
30 ITY" MEANS THAT THE PLAINTIFF IS UNDER THE AGE OF EIGHTEEN,
INSANE,
31 IMPRISONED OR UNDER OTHER INCAPACITY OR THAT SUCH PERSON IS
PHYSICALLY
32 OR MENTALLY INJURED TO THE EXTENT THAT IT IS IMPOSSIBLE OR
IMPRACTICAL
33 FOR HIM OR HER TO COMMENCE OR MAINTAIN AN ACTION PURSUANT TO
SECTION
34 THIRTEEN HUNDRED ELEVEN-B OF THIS CHAPTER.
35 3. THE STATUTE OF LIMITATION WILL NOT RUN AGAINST AN
INCOMPETENT OR

36 MINOR IN THE EVENT A GUARDIAN AD LITEM IS APPOINTED. SUCH
APPOINTMENT
37 SHALL NOT PREJUDICE THE PLAINTIFF'S RIGHT TO BRING THE CAUSE OF
ACTION
38 AFTER HIS OR HER DISABILITY CEASES.

39 4. A DEFENDANT IS ESTOPPED FROM ASSERTING A DEFENSE OF THE
STATUTE OF
40 LIMITATIONS WHEN THE EXPIRATION OF THE STATUTE IS DUE TO: CONDUCT
BY THE
41 DEFENDANT INDUCING THE PLAINTIFF TO DELAY THE FILING OF THE
ACTION, OR
42 PREVENTING THE PLAINTIFF FROM FILING THE ACTION; OR THREATS MADE
BY THE
43 DEFENDANT THAT CAUSED DURESS UPON THE PLAINTIFF.

44 5. SUSPENSION OF THE STATUTE OF LIMITATION DUE TO DISABILITY OR
ESTO-
45 PPEL SHALL APPLY TO ALL CLAIMS ARISING FROM THE TRAFFICKING
OFFENSE.

46 S 13. Subdivision 5 of section 621 of the executive law, as
amended by

47 chapter 620 of the laws of 1997, is amended to read as follows:

48 5. "Victim" shall mean (a) a person who suffers personal
physical

49 injury as a direct result of a crime; (b) a person who is the
victim of

50 either the crime of (1) unlawful imprisonment in the first
degree as

51 defined in section 135.10 of the penal law, (2) kidnapping in the
second

52 degree as defined in section 135.20 of the penal law, {or} (3)
kidnap-

53 ping in the first degree as defined in section 135.25 of the penal
law,

54 (4) TRAFFICKING A PERSON FOR LABOR SERVITUDE AS DEFINED IN
SECTION

55 136.05 OF THE PENAL LAW, (5) TRAFFICKING A PERSON FOR SEXUAL
SERVITUDE

56 AS DEFINED IN SECTION 136.10 OF THE PENAL LAW, (6) TRAFFICKING A
MINOR

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1 FOR SEXUAL SERVITUDE AS DEFINED IN SECTION 136.12 OF THE PENAL
LAW, OR

2 (7) AGGRAVATED TRAFFICKING AS DEFINED IN SECTION 136.13 OF THE
PENAL

3 LAW; or a person who has had a frivolous lawsuit filed against them.

4 S 14. The criminal procedure law is amended by adding a new
section

5 60.80 to read as follows:

6 S 60.80 RULES OF EVIDENCE; VICTIM OF HUMAN TRAFFICKING.

7 1. EVIDENCE OF THE FOLLOWING FACTS OR CONDITIONS SHALL BE
INADMISSIBLE

8 IN A PROSECUTION UNDER SECTION 136.05, 136.10, 136.12, OR 136.13 OF
THE

9 PENAL LAW:

10 A TRAFFICKING VICTIM'S SEXUAL HISTORY, OR HISTORY OF CONVICTION
OF ONE

11 OR MORE PROSTITUTION OFFENSES.

12 2. FOR PURPOSES OF THIS SECTION, "TRAFFICKING VICTIM" SHALL
13 HAVE THE
14 MEANING SET FORTH IN SUBDIVISION TWELVE OF SECTION 136.00 OF THE
15 PENAL
16 LAW.

17 S 15. The social services law is amended by adding a new article
18 to
19 read as follows:

20 ARTICLE 12
21 SERVICES FOR TRAFFICKED PERSONS

22 SECTION 490. DEFINITIONS.

23 491. SERVICES FOR TRAFFICKING VICTIMS.

24 492. INTERAGENCY ADVISORY COMMITTEE ON HUMAN TRAFFICKING.

25 493. DATA COLLECTION ON HUMAN TRAFFICKING.

26 494. RESIDENTIAL SERVICES FOR TRAFFICKING VICTIMS.

27 S 490. DEFINITIONS. IN THIS ARTICLE:

28 1. "COORDINATOR OF SERVICES FOR VICTIMS OF HUMAN TRAFFICKING"
29 SHALL

30 MEAN A NOT-FOR-PROFIT CONTRACTOR WITH LINGUISTICALLY AND
31 CULTURALLY

32 APPROPRIATE STAFF TO ASSIST VICTIMS OF HUMAN TRAFFICKING. SUCH
33 ASSIST-

34 ANCE SHALL INCLUDE, BUT NOT BE LIMITED TO, THE SERVICES
35 DESCRIBED IN

36 SUBPARAGRAPH (A) OF SUBDIVISION ONE OF SECTION FOUR HUNDRED
37 NINETY-ONE

38 OF THIS ARTICLE.

39 2. "TRAFFICKING VICTIM" SHALL MEAN A PERSON WHO IS A VICTIM OF A
40 CRIME

41 OF HUMAN TRAFFICKING AS SUCH CRIME MAY BE DEFINED BY STATE OR
42 FEDERAL

43 LAW.

44 S 491. SERVICES FOR TRAFFICKING VICTIMS. 1. COORDINATION OF
45 SERVICES.

46 A. THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE SHALL ENSURE
47 THAT

48 COORDINATORS OF SERVICES FOR VICTIMS OF HUMAN TRAFFICKING ARE
49 REASONABLY

50 AVAILABLE FOR VICTIMS OF HUMAN TRAFFICKING WHO ARE FOUND IN NEW
51 YORK

52 STATE. SERVICES PROVIDED BY SUCH COORDINATORS SHALL INCLUDE, BUT
53 NOT BE

54 LIMITED TO, ASSISTANCE WITH:

55 (I) APPLICATIONS FOR T NON-IMMIGRANT STATUS OR U NON-IMMIGRANT
56 STATUS

57 AVAILABLE UNDER THE FEDERAL VICTIMS OF TRAFFICKING AND
58 VIOLENCE

59 PROTECTION ACT;

60 (II) APPLICATIONS FOR LEGAL PERMANENT RESIDENCE FOR ELIGIBLE
61 RECIPI-

62 ENTS OF T NON-IMMIGRANT STATUS OR U NON-IMMIGRANT STATUS;

63 (III) IDENTIFICATION OF AND APPLICATION FOR AVAILABLE PUBLIC
64 BENEFITS,

65 INCLUDING BUT NOT LIMITED TO, TEMPORARY ASSISTANCE, REFUGEE
66 MATCH

47 GRANTS, REFUGEE CASH ASSISTANCE, FOOD STAMPS, CHILD CARE AND
MEDICAL
48 ASSISTANCE;
49 (IV) ACCESS TO BOTH SHORT TERM AND LONG TERM SAFE AND
APPROPRIATE
50 HOUSING;
51 (V) ACCESS TO NEEDED MEDICAL CARE, DENTAL CARE, AND MENTAL
HEALTH
52 TREATMENT, INCLUDING BUT NOT LIMITED TO, WHERE THE VICTIM HAS
BEEN A
53 VICTIM OF SEXUAL ASSAULT, FREE OPTIONAL TESTING FOR HIV AND OTHER
SEXU-
54 ALLY TRANSMITTED DISEASES AND A COUNSELING SESSION BY A
MEDICALLY
55 TRAINED PROFESSIONAL ON THE ACCURACY OF SUCH TESTS AND THE RISK OF
TRAN-
56 SMISION OF SEXUALLY TRANSMITTED DISEASES;

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1 (VI) ACCESS TO JOB TRAINING AND PLACEMENT, WHERE APPROPRIATE; AND
2 (VII) ACCESS TO ANY OTHER SERVICES NECESSARY TO SAFEGUARD THE
HEALTH
3 AND WELL-BEING OF VICTIMS OF TRAFFICKING.

4 B. COORDINATORS OF SERVICES FOR VICTIMS OF HUMAN TRAFFICKING
SHALL

5 ASSIST VICTIMS OF TRAFFICKING WITH APPLICATION FOR T NON-
IMMIGRANT
6 STATUS OR U NON-IMMIGRANT STATUS BY COMPLETING OR ASSISTING THE
TRAF-

7 FICKING VICTIM IN COMPLETING A WRITTEN REQUEST TO STATE LAW
ENFORCEMENT

8 REQUESTING THAT STATE LAW ENFORCEMENT SUBMIT A WRITTEN REQUEST TO
FEDER-

9 AL AUTHORITIES ASKING THAT THE TRAFFICKING VICTIM BE GRANTED
TEMPORARY

10 IMMIGRATION STATUS KNOWN AS "CONTINUED PRESENCE"; BY
COMPLETING OR

11 ASSISTING THE TRAFFICKING VICTIM IN COMPLETING A WRITTEN
REQUEST TO

12 STATE LAW ENFORCEMENT FOR LAW ENFORCEMENT DOCUMENTS NECESSARY TO
SUPPORT

13 AN APPLICATION FOR T NON-IMMIGRANT STATUS OR U NON-IMMIGRANT STATUS
SUCH

14 AS A DECLARATION OF LAW ENFORCEMENT OFFICER FOR VICTIM OF
TRAFFICKING IN

15 PERSONS; AND BY COMPLETING OR ASSISTING THE TRAFFICKING
VICTIM IN

16 COMPLETING A WRITTEN REQUEST FROM LAW ENFORCEMENT FOR
DOCUMENTATION

17 NECESSARY TO SUPPORT THE TRAFFICKING VICTIM'S REQUEST FOR
BENEFITS AND

18 SERVICES AUTHORIZED BY THE FEDERAL VICTIMS OF TRAFFICKING AND
VIOLENCE

19 PROTECTION ACT.

20 S 492. INTERAGENCY ADVISORY COMMITTEE ON HUMAN TRAFFICKING.

1. THE

21 INTERAGENCY ADVISORY COMMITTEE ON HUMAN TRAFFICKING IS HEREBY
CREATED
22 WITHIN THE EXECUTIVE DEPARTMENT TO HAVE AND EXERCISE THE
FUNCTIONS,
23 POWERS AND DUTIES PROVIDED BY THE PROVISIONS OF THIS SECTION AND
ANY
24 OTHER APPLICABLE PROVISION OF LAW. THE ADVISORY COMMITTEE
SHALL BE
25 COMPRISED OF APPROPRIATE OFFICIALS FROM THE OFFICE OF TEMPORARY
AND
26 DISABILITY ASSISTANCE, THE OFFICE OF CHILDREN AND FAMILY
SERVICES, THE
27 DEPARTMENT OF LAW, THE DEPARTMENT OF HEALTH, THE DEPARTMENT OF
CRIMINAL
28 JUSTICE SERVICES, THE DIVISION OF PAROLE, THE DEPARTMENT OF
LABOR, THE
29 OFFICE OF MENTAL HEALTH AND THE OFFICE OF ALCOHOL AND SUBSTANCE
ABUSE
30 SERVICES. THE ADVISORY COMMITTEE SHALL ALSO BE COMPRISED OF AT
LEAST SIX
31 OTHER INDIVIDUALS FROM NONGOVERNMENTAL ORGANIZATIONS WITH
EXPERTISE IN
32 THE AREAS OF IMMIGRATION LAW AND SERVICES FOR TRAFFICKING
VICTIMS. A
33 REPRESENTATIVE FROM THE OFFICE OF TEMPORARY AND DISABILITY
ASSISTANCE
34 SHALL BE CHAIRPERSON OF THE TASK FORCE AND SHALL APPOINT THE
NONGOVERN-
35 MENTAL MEMBERS OF THE ADVISORY COMMITTEE. THE ADVISORY COMMITTEE
SHALL
36 MEET AS NECESSARY TO CARRY OUT ITS FUNCTIONS, POWERS AND DUTIES,
BUT
37 SUCH MEETINGS SHALL OCCUR AT LEAST ONCE EACH QUARTER.
38 2. THE ADVISORY COMMITTEE SHALL, IN CONSULTATION WITH
GOVERNMENTAL AND
39 NONGOVERNMENTAL ORGANIZATIONS AND IN CONSULTATION WITH
TRAFFICKING
40 VICTIMS, PROVIDE AN INTERAGENCY FORUM FOR THE COLLABORATION OF
VARIOUS
41 STATE AGENCIES AND SERVICE PROVIDERS TO DEVELOP STATE POLICIES TO
MEET
42 THE VARIED NEEDS OF TRAFFICKING VICTIMS FOUND IN NEW YORK STATE.
THE
43 DUTIES OF THE ADVISORY COMMITTEE SHALL INCLUDE, BUT NOT BE LIMITED
TO:
44 A. COORDINATION OF ACTIVITIES NECESSARY TO IMPLEMENT THE
PROVISIONS OF
45 THIS ARTICLE;
46 B. THE DEVELOPMENT OF TRAINING MATERIALS TO EDUCATE INDIVIDUALS
LIKELY
47 TO COME INTO CONTACT WITH TRAFFICKING VICTIMS, INCLUDING BUT NOT
LIMITED
48 TO, HEALTH CARE PROVIDERS, LAW ENFORCEMENT, DOMESTIC VIOLENCE
SERVICE
49 PROVIDERS AND LABOR, HOUSING AND SOCIAL SERVICES OFFICIALS. SUCH
MATERI-

50 ALS SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION ON THE
PHENOMENON
51 OF HUMAN TRAFFICKING, STATE AND FEDERAL LAWS THAT ADDRESS
TRAFFICKING
52 AND THE RIGHTS OF TRAFFICKING VICTIMS, THE NEEDS OF TRAFFICKING
VICTIMS,
53 METHODS FOR ACCURATELY IDENTIFYING TRAFFICKING VICTIMS AND TO
THEN
54 PROVIDE THEM EFFECTIVE SERVICES, ADVISE THEM OF THEIR RIGHTS AND
PROTECT
55 THEIR SAFETY, AND PROCEDURES AND TECHNIQUES FOR ADDRESSING THE
SPECIAL-

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1 IZED NEEDS OF TRAFFICKING VICTIMS THAT MAY ARISE DUE TO CULTURAL
OR

2 LANGUAGE BARRIERS;

3 C. THE DEVELOPMENT OF MEASURES TO EVALUATE STATE PROGRESS IN THE
AREAS

4 OF TRAFFICKING PREVENTION, PROTECTION, AND ASSISTANCE TO
VICTIMS OF

5 TRAFFICKING, AND THE PROSECUTION OF AND ENFORCEMENT AGAINST
PERPETRATORS

6 OF HUMAN TRAFFICKING;

7 D. THE CREATION AND OVERSIGHT OF INTERAGENCY PROCEDURES TO COLLECT
AND

8 ORGANIZE DATA, WHICH WILL RESPECT THE CONFIDENTIALITY OF
TRAFFICKING

9 VICTIMS, RELATING TO TRAFFICKING, INCLUDING BUT NOT LIMITED TO,
SIGNIF-

10 ICANT RESEARCH AND RESOURCE INFORMATION ON DOMESTIC TRAFFICKING;

11 E. THE EVALUATION OF AVAILABLE FUNDING STREAMS, INCLUDING BUT
NOT

12 LIMITED TO, ANY FEDERAL GRANTS THAT MAY BE AVAILABLE TO ASSIST
STATES IN

13 ESTABLISHING OR EXPANDING PROGRAMS FOR TRAFFICKING VICTIMS, TO
PROVIDE

14 SERVICES TO TRAFFICKING VICTIMS AND TO CREATE AND DISSEMINATE
TRAINING

15 AND EDUCATIONAL MATERIALS ON HUMAN TRAFFICKING AND TECHNICAL
ASSISTANCE

16 TO STATE AGENCIES APPLYING FOR ANY SUCH IDENTIFIED FUNDING; AND

17 F. THE COMPLETION OF A COMPREHENSIVE NEEDS ASSESSMENT TO EVALUATE
THE

18 NEEDS OF TRAFFICKING VICTIMS, THE SERVICES THAT CURRENTLY EXIST TO
MEET

19 THOSE NEEDS, THE SERVICES THAT ARE CURRENTLY IN PLACE WHICH COULD
MEET

20 THE NEEDS OF TRAFFICKING VICTIMS WITH SMALL CHANGES, AND A LONG
TERM

21 PLAN TO DEVELOP A SERVICE SYSTEM TO BETTER MEET THE NEEDS OF
TRAFFICKING

22 VICTIMS.

23 3. THE ADVISORY COMMITTEE SHALL PROVIDE A REPORT TO THE GOVERNOR,
THE

24 TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
ASSEMBLY ONE

25 YEAR AFTER THE EFFECTIVE DATE OF THIS ARTICLE AND ANNUALLY
THEREAFTER.
26 SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, INFORMATION
ON THE
27 PROGRESS OF THE STATE IN THE AREAS OF TRAFFICKING PREVENTION,
PROTECTION
28 OF TRAFFICKING VICTIMS, ASSISTANCE AND SERVICES FOR TRAFFICKING
VICTIMS,
29 THE PROSECUTION OF AND ENFORCEMENT AGAINST TRAFFICKERS AND THE
NUMBER OF
30 TRAFFICKING VICTIMS WHO RECEIVED SERVICES FROM COORDINATORS OF
SERVICES
31 FOR VICTIMS OF HUMAN TRAFFICKING AND THE TYPES OF SERVICES
RECEIVED BY
32 THOSE VICTIMS.
33 S 493. DATA COLLECTION ON HUMAN TRAFFICKING. THE OFFICE OF
TEMPORARY
34 AND DISABILITY ASSISTANCE SHALL COLLECT THE FOLLOWING DATA ON
TRAFFICK-
35 ING CASES SERVED BY COORDINATORS OF SERVICES FOR VICTIMS OF HUMAN
TRAF-
36 FICKING IN NEW YORK STATE:
37 1. THE NUMBER OF TRAFFICKED PERSONS WHO RECEIVED THE
FOLLOWING, THE
38 NUMBER OF TRAFFICKED PERSONS WHO WERE REFUSED THE FOLLOWING, AND
THE
39 NUMBER OF TRAFFICKED PERSONS WHOSE APPLICATIONS ARE IN PROCESS FOR:
40 A. CONTINUOUS PHYSICAL PRESENCE STATUS;
41 B. T NON-IMMIGRANT VISAS; AND
42 C. U NON-IMMIGRANT VISAS;
43 2. THE NUMBER OF TRAFFICKING CASES INVESTIGATED BY LAW
ENFORCEMENT;
44 3. THE NUMBER OF PROSECUTIONS, CONVICTIONS AND PLEA BARGAINS FOR
TRAF-
45 FICKING RELATED CRIMES;
46 4. THE AGE, SEX AND NATIONALITY OF THE TRAFFICKING VICTIMS AND
PERPE-
47 TRATORS OF TRAFFICKING IN ALL CASES PROSECUTED; AND
48 5. THE FORM OF TRAFFICKING FOR EACH TRAFFICKING CASE
INVESTIGATED
49 INCLUDING WHETHER THE TRAFFICKING VICTIM WAS SUBJECTED TO SEX
TRAFFICK-
50 ING, COERCION, DEBT BONDAGE, INVOLUNTARY SERVITUDE OR PEONAGE, AS
SUCH
51 ARE DEFINED IN THE FEDERAL VICTIMS OF TRAFFICKING AND
VIOLENCE
52 PROTECTION ACT.
53 S 494. RESIDENTIAL SERVICES FOR TRAFFICKING VICTIMS. THE
OFFICE OF
54 CHILDREN AND FAMILY SERVICES SHALL PREPARE A PLAN TO MEET THE
EMERGENCY
55 SHELTER NEEDS OF TRAFFICKING VICTIMS IN A MANNER THAT ENSURES
SAFETY AND
56 CONFIDENTIALITY FOR TRAFFICKING VICTIMS.

1 S 16. Paragraph (g) of subdivision 1 of section 158 of the
social
2 services law, as added by section 44 of part B of chapter 436 of
the
3 laws of 1997, is amended to read as follows:

4 (g) is a qualified alien who is ineligible to receive
assistance
5 funded under the temporary assistance for needy families block
grant
6 solely because of section four hundred three of the federal
personal
7 responsibility and work opportunity reconciliation act of 1996
(P.L.
8 104-193) {or}, is an alien who is permanently residing under
color of
9 law but is not a qualified alien, OR IS AN ALIEN WHO HAS PROVIDED
CREDI-
10 BLE EVIDENCE THAT HE OR SHE HAS MORE LIKELY THAN NOT BEEN A
VICTIM OF
11 TRAFFICKING AND HAS NOT YET RECEIVED THE TEMPORARY IMMIGRATION
STATUS OF
12 CONTINUED PRESENCE.

13 S 17. Section 63 of the executive law is amended by adding
a new
14 subdivision 16 to read as follows:

15 16. APPOINT AN ASSISTANT TO FUNCTION AS A LIAISON WITH THE
UNITED
16 STATES DEPARTMENT OF JUSTICE IN ORDER TO LINK THE STATE AND
FEDERAL

17 RESPONSE TO HUMAN TRAFFICKING, SUCH ASSISTANT SHALL WORK
DIRECTLY WITH

18 THE FEDERAL GOVERNMENT TO IDENTIFY FEDERAL FUNDING STREAMS FOR
THE STATE

19 TO ASSIST TRAFFICKING VICTIMS AND TO ASSIST COORDINATORS OF
SERVICES FOR

20 VICTIMS OF HUMAN TRAFFICKING IN THEIR WORK TO OBTAIN FEDERAL
DOCUMENTA-

21 TION NEEDED FOR CONTINUOUS PHYSICAL PRESENCE STATUS, T NON-
IMMIGRANT

22 VISAS OR U NON-IMMIGRANT VISAS.

23 S 18. The executive law is amended by adding a new section
214-c to

24 read as follows:

25 S 214-C. HUMAN TRAFFICKING INTERVENTION. IN ORDER TO
ENSURE THAT

26 TRAFFICKING VICTIMS ARE ABLE TO ACCESS ALL AVAILABLE FEDERAL
BENEFITS

27 AND PROGRAMS FOR TRAFFICKED PERSONS, THE STATE POLICE SHALL:

28 (1) KEEP FEDERAL AUTHORITIES INFORMED ABOUT TRAFFICKING CASES
KNOWN TO

29 THE STATE POLICE;

30 (2) WITHIN SEVENTY-TWO HOURS OF A WRITTEN REQUEST FOR
SUBMISSION FROM

31 A PERSON IDENTIFIED BY LOCAL OR STATE AUTHORITIES AS SOMEONE
WHO HAS,

32 MORE LIKELY THAN NOT, BEEN A VICTIM OF TRAFFICKING OR A WRITTEN
REQUEST

33 FROM HIS OR HER AUTHORIZED REPRESENTATIVE, SUBMIT A WRITTEN
REQUEST TO
34 THE APPROPRIATE FEDERAL AUTHORITIES REQUESTING THAT THE
TRAFFICKING
35 VICTIM BE GRANTED THE TEMPORARY IMMIGRATION STATUS OF
CONTINUED PRES-
36 ENCE;
37 (3) WITHIN SEVENTY-TWO HOURS OF A WRITTEN REQUEST FOR
DOCUMENTATION
38 FROM A PERSON IDENTIFIED BY LOCAL OR STATE AUTHORITIES AS
SOMEONE WHO
39 HAS, MORE LIKELY THAN NOT, BEEN A VICTIM OF TRAFFICKING OR A
WRITTEN
40 REQUEST FROM HIS OR HER AUTHORIZED REPRESENTATIVE, PROVIDE
THE PERSON
41 WITH A DECLARATION OF LAW ENFORCEMENT OFFICER FOR VICTIM OF
TRAFFICKING
42 IN PERSONS THAT SATISFIES THE LAW ENFORCEMENT AGENCY
ENDORSEMENT REGU-
43 LATIONS IN SUPPORT OF SUCH PERSON`S APPLICATION FOR THE T NON-
IMMIGRANT
44 STATUS OR THE U NON-IMMIGRANT STATUS AVAILABLE TO TRAFFICKING
VICTIMS;
45 AND
46 (4) WITHIN SEVENTY-TWO HOURS OF A REQUEST FOR DOCUMENTATION
FROM A
47 PERSON IDENTIFIED BY LOCAL OR STATE AUTHORITIES AS SOMEONE WHO
HAS, MORE
48 LIKELY THAN NOT, BEEN A VICTIM OF TRAFFICKING, OR A WRITTEN
REQUEST FROM
49 HIS OR HER AUTHORIZED REPRESENTATIVE, PROVIDE THE PERSON WITH
DOCUMENTA-
50 TION IN SUPPORT OF SUCH PERSON`S REQUEST FOR BENEFITS AND
SERVICES TO BE
51 PROVIDED TO TRAFFICKING VICTIMS BY THE OFFICE OF REFUGEE AND
RESETTLE-
52 MENT IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.
53 S 19. This act shall take effect on the first of
November next
54 succeeding the date on which it shall have become a law.