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**S. 1135**

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Summary: Human Trafficking

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

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2/6/2012 Senate Referred to Subcommittee: Hutto (ch), Rose, Shoopman

**VERSIONS OF THIS BILL**

[1/24/2012](file:///p:\pprever\2011-12\1135_20120124.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 19 TO CHAPTER 3, TITLE 16 SO AS TO DEFINE NECESSARY TERMS, PROVIDE FOR CERTAIN HUMAN TRAFFICKING OFFENSES AND PROVIDE PENALTIES, TO PROVIDE FOR CRIMINAL LIABILITY OF BUSINESS ENTITIES, TO PROVIDE RESTITUTION FOR VICTIMS OF HUMAN TRAFFICKING OFFENSES, TO ESTABLISH AN INTERAGENCY TASK FORCE TO DEVELOP AND IMPLEMENT A PLAN FOR THE PREVENTION OF TRAFFICKING IN PERSONS, TO ALLOW CIVIL ACTIONS BY VICTIMS OF HUMAN TRAFFICKING, TO PROVIDE CERTAIN PROTECTIONS FOR VICTIMS OF HUMAN TRAFFICKING PURSUANT TO THE VICTIMS’ BILL OF RIGHTS AND OTHER RELEVANT STATUTORY PROVISIONS; AND TO REPEAL SECTION 16‑3‑930 RELATING TO TRAFFICKING IN PERSONS FOR FORCED LABOR OR SERVICES.

Be it enacted by the General Assembly of the State of South Carolina:

Whereas, an estimated twenty‑seven million people are currently enslaved around the world; and

Whereas, the United States State Department estimates that between 14,000 and 17,000 people are trafficked into our borders each year; and

Whereas, crimes of this nature have occurred in Myrtle Beach, Charleston, Columbia, and Greenville, South Carolina; and

Whereas, it is our responsibility to protect our people, combat crime, and promote legislation to address this behavior throughout our State. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 3, Title 16 of the 1976 Code is amended by adding:

“Article 19

Human Trafficking

Section 16‑3‑2010. (A) As used in this article:

(1) ‘Business’ means a corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, or self‑employed individual.

(2) ‘Coercion’ means:

(a) threats of serious harm to or physical restraint against a person;

(b) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against a person; or

(c) the abuse or threatened abuse of the legal process.

(3) ‘Commercial sex act’ means a sex act for which anything of value is given, promised to, or received, directly or indirectly, by another person.

(4) ‘Debt bondage or coercion’ means the status or condition of a debtor arising from a pledge by the debtor of his personal services or those of a person under his control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined or if the principal amount of the debt does not reasonably reflect the value of the items or services for which the debt was incurred.

(5) ‘Forced labor’ means knowingly providing or obtaining the labor or services of a person:

(a) by threats of serious harm to, or physical restraint against, that person or another person; or

(b) by means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform that labor or services, that person or another person would suffer serious harm or physical restraint; or

(c) by means of the abuse or threatened abuse of law or the legal process.

This definition does not apply to labor or services performed or provided by a person in the custody of the Department of Corrections or a local jail, detention center, or correctional facility.

(6) ‘Involuntary servitude’ means a condition of servitude induced through:

(a) any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in this condition, that person or another person would suffer serious harm or physical restraint; or

(b) the abuse or threatened abuse of the legal process.

(7) ‘Labor’ means work of an economic or a financial value.

(8) ‘Labor trafficking’ means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(9) ‘Minor’ means an individual who is under eighteen years of age.

(10) ‘Person’ means an individual, corporation, partnership, association, a government body, municipal corporation, or another legal entity.

(11) ‘Sex act’ means touching of the sexual or other intimate parts of another person for the purpose of gratifying the sexual desire of another person. It includes touching of the person as well as touching by the person, whether directly or through clothing.

(12) ‘Sex trafficking’ means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, in which a commercial sex act is induced by force, fraud, or coercion, or in which the person forced to perform the act is under the age of eighteen years.

(13) ‘Sexual battery’ means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body, except when the intrusion is accomplished for medically recognized treatment or diagnostic purposes.

(14) ‘Sexually explicit performance’ means an act or show intended to arouse, satisfy the sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or private, live, photographed, recorded, or videotaped.

(15) ‘Services’ means an act committed at the behest of, under the supervision of, or for the benefit of another person.

(16) ‘Trafficking in persons’ means

(a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the act has not attained eighteen years of age; or

(b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(17) ‘Victim of trafficking in persons’ or ‘victim’ means a person who has been subjected to the crime of trafficking in persons, sexual servitude, or involuntary servitude.

(B) As used in this article and related to children and sex acts, the term:

(1) ‘Performance’ means any play, motion picture, photograph, dance, or other visual representation that is exhibited or may be exhibited or could be exhibited before an audience.

(2) ‘Sexual conduct’ means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado‑masochistic abuse, or lewd exhibition of the genitals.

(3) ‘Sexual performance’ means any performance or part if a performance that includes sexual conduct by a child younger than eighteen years of age.

Section 16‑3‑2020. (A) A trafficker who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, knowing that the victim will be subjected to sexual servitude or involuntary servitude or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of a felony and, upon conviction, is subject to forfeiture of all assets obtained from the violation of this section and must be imprisoned not more than thirty years.

(B) A trafficker who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a victim, for the purposes of a commercial sex act or sexually explicit performance through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in subsection (A), is guilty of a felony and, upon conviction, is subject to forfeiture of all assets obtained from the violation of this section and must be imprisoned not more than thirty years.

(C) A trafficker who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a minor, knowing that the minor will be subjected to sexual servitude or involuntary servitude or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in this subsection, is guilty of a felony and, upon conviction, is subject to forfeiture of all assets obtained from the violation of this section and must be imprisoned not more than thirty years.

(D) A trafficker who recruits, entices, solicits, isolates, harbors, transports, provides, or obtains, or so attempts, a minor, for the purposes of a commercial sex act or sexually explicit performance through any means or who benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in subsection (A), is guilty of a felony and, upon conviction, is subject to forfeiture of all assets obtained from the violation of this section and must be imprisoned not more than thirty years.

(E) A trafficker who subjects, or attempts to subject, a victim to:

(1) a commercial sex act or sexually explicit performance; or

(2) labor or services through use of any of the following means:

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

(b) physically restraining or threatening to physically restrain another person;

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

(d) knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport or other immigration document, or another actual or purported government identification document, of the victim;

(e) extortion or blackmail;

(f) deception or fraud;

(g) debt coercion;

(h) causing or threatening to cause financial harm to the victim;

(i) facilitating or controlling a victim’s access to a controlled substance; or

(j) using any scheme, plan, or pattern, whether overt or subtle, intended to cause the victim to believe that if the victim did not perform the labor, services, acts or performances, that victim or another person would suffer serious harm or physical restraint, is guilty of a felony and, upon conviction, is subject to forfeiture of all assets obtained from the violation of this section and must be imprisoned not more than thirty years.

(F) A person who aids, abets, or conspires with another person to violate the criminal provisions of this section must be punished in the same manner as provided for the principal offender and is considered a trafficker.

(G) A business owner that participates in a violation of this article, upon conviction, must be imprisoned for not more than ten years in addition to the penalties provided in this section for each violation.

(H) A plea of guilty or the legal equivalent entered pursuant to a provision of this article by an offender entitles the victim of trafficking in persons to all benefits, rights, and compensation granted pursuant to Section 16‑3‑1110.

(I) In a prosecution of a person who is a victim of trafficking in persons, it is an affirmative defense that he was under duress or coerced into committing the offenses for which he is subject to prosecution, if the offenses were committed as a direct result of, or incidental or related to, being trafficked.

(J) Evidence of the following facts or conditions do not constitute a defense in a prosecution for a violation of this article, nor does the evidence preclude a finding of a violation:

(1) the trafficking victim’s sexual history or history of commercial sexual activity, the specific instances of the victim’s sexual conduct, opinion evidence of the victim’s sexual conduct, and reputation evidence of the victim’s sexual conduct;

(2) the trafficking victim’s connection by blood or marriage to a defendant in the case or to anyone involved in the victim’s trafficking;

(3) the implied or express consent of a victim to acts which violate the provisions of this section do not constitute a defense to violations of this section;

(4) age of consent to sex, legal age of marriage, or other discretionary age; and

(5) mistake as to the victim’s age, even if the mistake is reasonable.

Section 16‑3‑2030. (A) A business entity, including a corporation, partnership, association, government body, municipal corporation or another legal entity, that aids or participates in an offense provided in this article is criminally liable for the offense and will be subject to a fine when the proceeds are considered part of the forfeiture proceeds, loss of business license in the State, or both.

(B) If a business entity is convicted of violating a section of this article, the court or Secretary of State, when appropriate, may:

(1) order its dissolution or reorganization;

(2) order the suspension or revocation of any license, permit, or prior approval granted to it by a state or local government agency; or

(3) order the surrender of its charter if it is organized under state law or the revocation of its certificate to conduct business in the State if it is not organized under state law.

Section 16‑3‑2040. (A) An offender convicted of a violation of this article must be ordered to pay mandatory restitution to the victim as provided in subsections (B) through (H).

(B) If the victim of trafficking dies as a result of being trafficked, a surviving spouse of the victim of trafficking is eligible for restitution. If no surviving spouse exists, restitution must be paid to the victim’s issue or their descendants per stirpes. If no surviving spouse or issue or descendants exist, restitution must be paid to the victim’s estate. A person named in this subsection may not receive funds from restitution if he benefited or engaged in conduct described in this article.

(C) If a person is unable at the time of sentencing or at any other time the court may set to pay a restitution charge imposed by the court pursuant to Sections 24‑23‑210 through 24‑23‑230, the restitution charge shall constitute a lien against the offender and against any real or personal property of the offender. A restitution charge does not constitute a lien if it is waived by the director pursuant to Section 24‑23‑210. This lien may be filed by the Attorney General in the respective offices of the clerks of court and registers of deeds of this State in the same manner state tax liens are filed and may be enforced and collected by the Attorney General in the same manner that state tax liens are enforced and collected.

(D) Restitution for this section, pursuant to Section 16‑3‑1270, means payment for all injuries, specific losses, and expenses sustained by a crime victim resulting from an offender’s criminal conduct. It includes, but is not limited to:

(1) medical and psychological counseling expenses;

(2) specific damages and economic losses;

(3) funeral expenses and related costs;

(4) vehicle impoundment fees;

(5) child care costs; and

(6) transportation related to a victim’s participation in the criminal justice process.

(E) Restitution does not include awards for pain and suffering, wrongful death, emotional distress, or loss of consortium.

(F) Restitution orders do not limit civil claims a crime victim may file.

(G) Notwithstanding another provision of law, the applicable statute of limitations for a crime victim, who has a cause of action against an incarcerated offender based upon the incident which made the person a victim, is tolled and does not expire until three years after the offender’s release from the sentence including probation and parole time or three years after release from commitment pursuant to Chapter 48, Title 44, whichever is later. However, this provision does not shorten any other tolling period of the statute of limitations which may exist for the crime victim.

(H) Restitution must be paid to the victim promptly upon the conviction of the defendant. The return of the victim to his home country or other absence of the victim from the jurisdiction does not prevent the victim from receiving restitution.

Section 16‑3‑2050. All offenses pursuant to this article qualify as offenses subject to forfeiture and are subject to the provisions as provided by law.

(1) The following are subject to forfeiture:

(a) all monies used, or intended for use, in violation of this article;

(b) all property constituting the proceeds obtained directly or indirectly, for a violation of this article;

(c) all property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from a violation of this article;

(d) all property used or intended for use, in any manner or part, to commit or facilitate the commission of a violation for pecuniary gain of this article;

(e) all books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or which have been positioned for use, in violation of this article;

(f) all conveyances including, but not limited to, trailers, aircraft, motor vehicles, and watergoing vessels, which are used or intended for use unlawfully to conceal or transport or facilitate a violation of this section. No motor vehicle may be forfeited to the State under this item unless it is used, intended for use, or in any manner facilitates a violation of this article;

(g) all property including, but not limited to, monies, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for any kind of services under this article, and all proceeds including, but not limited to, monies, and real and personal property traceable to any exchange;

(h) overseas assets of persons convicted of trafficking in persons also are subject to forfeiture to the extent they can be retrieved by the government.

(2) Any property subject to forfeiture under this article may be seized by the department having authority upon warrant issued by any court having jurisdiction over the property. Seizure without process may be made if the:

(a) seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(b) property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal injunction or forfeiture proceeding based upon this article;

(c) the department has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) the department has probable cause to believe that the property was used or is intended to be used in violation of this article.

(3) In the event of seizure pursuant to item (2), proceedings under this article regarding forfeiture and disposition must be instituted within a reasonable time.

(4) Any property taken or detained under this section is not subject to replevin but is considered to be in the custody of the department making the seizure subject only to the orders of the court having jurisdiction over the forfeiture proceedings. Property described in item (1) is forfeited and transferred to the government at the moment of illegal use. Seizure and forfeiture proceedings confirm the transfer.

(5) For the purposes of this article, whenever the seizure of property subject to seizure is accomplished as a result of a joint effort by more than one law enforcement agency, the law enforcement agency initiating the investigation is considered to be the agency making the seizure.

(6) Law enforcement agencies seizing property pursuant to this article shall take reasonable steps to maintain the property. Equipment and conveyances seized must be removed to an appropriate place for storage. Monies seized must be deposited in an interest bearing account pending final disposition by the court unless the seizing agency determines the monies to be of an evidential nature and provides for security in another manner.

(7) When property and monies of any value as defined in this article or anything else of any value is seized, the law enforcement agency making the seizure, within ten days or a reasonable period of time after the seizure, shall submit a report to the appropriate prosecution agency.

(a) The report shall provide the following information with respect to the property seized:

(i) description;

(ii) circumstances of seizure;

(iii) present custodian and where the property is being stored or its location;

(iv) name of owner;

(v) name of lienholder;

(vi) seizing agency; and

(vii) the type and quantity of the controlled substance involved.

(b) If the property is a conveyance, the report shall include the:

(i) make, model, serial number, and year of the conveyance;

(ii) person in whose name the conveyance is registered; and

(iii) name of any lienholders.

(c) In addition to the report provided for in subitems (a) and (b), the law enforcement agency shall prepare for dissemination to the public upon request a report providing the following information:

(i) a description of the quantity and nature of the property and money seized;

(ii) the seizing agency;

(iii) the type and quantity of the controlled substance involved;

(iv) the make, model, and year of a conveyance; and

(v) the law enforcement agency responsible for the property or conveyance seized.

(d) Property or conveyances seized by a law enforcement agency or department may not be used by officers for personal purposes.

Section 16‑3‑2060. (A) Forfeiture of property defined in Section 16‑3‑2050 must be accomplished by petition of the Attorney General or his designee or the circuit solicitor or his designee to the court of common pleas for the jurisdiction where the items were seized. The petition must be submitted to the court within a reasonable time period following seizure and shall provide the facts upon which the seizure was made. The petition shall describe the property and include the names of all owners of record and lienholders of record. The petition shall identify any other persons known to the petitioner to have interests in the property. Petitions for the forfeiture of conveyances also shall include the make, model, and year of the conveyance, the person in whose name the conveyance is registered, and the person who holds the title to the conveyance. The petition shall provide the type and quantity of the controlled substance involved. A copy of the petition must be sent to each law enforcement agency which has notified the petitioner of its involvement in effecting the seizure. Notice of hearing or rule to show cause must be directed to all persons with interests in the property listed in the petition, including law enforcement agencies which have notified the petitioner of their involvement in effecting the seizure. Owners of record and lienholders of record may be served by certified mail, to the last known address as appears in the records of the governmental agency which records the title or lien.

(B) The judge shall determine whether the property is subject to forfeiture and order the forfeiture confirmed. If the judge finds a forfeiture, he shall then determine the lienholder’s interest as provided in this article. The judge shall determine whether any property must be returned to a law enforcement agency pursuant to this section.

(C) If there is a dispute as to the division of the proceeds of forfeited property among participating law enforcement agencies, this issue must be determined by the judge. The proceeds from a sale of property, conveyances, and equipment must be disposed of pursuant to this section.

(D) All property, conveyances, and equipment which will not be reduced to proceeds may be transferred to the law enforcement agency or agencies or to the prosecution agency. Upon agreement of the law enforcement agency or agencies and the prosecution agency, conveyances and equipment may be transferred to any other appropriate agency. Property transferred may not be used to supplant operating funds within the current or future budgets. If the property seized and forfeited is an aircraft or watercraft and is transferred to a state law enforcement agency or other state agency pursuant to the provisions of this subsection, its use and retainage by that agency is at the discretion and approval of the State Budget and Control Board.

(E) If a defendant or his attorney sends written notice to the petitioner or the seizing agency of his interest in the subject property, service may be made by mailing a copy of the petition to the address provided and service may not be made by publication. In addition, service by publication may not be used for a person incarcerated in a Department of Corrections facility, a county detention facility, or other facility where inmates are housed for the county where the seizing agency is located. The seizing agency shall check the appropriate institutions after receiving an affidavit of nonservice before attempting service by publication.

(F) Any forfeiture may be effected by consent order approved by the court without filing or serving pleadings or notices provided that all owners and other persons with interests in the property, including participating law enforcement agencies, entitled to notice under this section, except lienholders and agencies, consent to the forfeiture. Disposition of the property may be accomplished by consent of the petitioner and those agencies involved. Persons entitled to notice under this section may consent to some issues and have the judge determine the remaining issues.

(G) Disposition of forfeited property under this section must be accomplished as follows:

(1) Property forfeited under this subsection shall first be applied to payment to the victim. The return of the victim to his home country or other absence of the victim from the jurisdiction shall not prevent the victim from receiving compensation.

(2) The victim and South Carolina Victim’s Compensation Fund shall each receive one‑fourth and law enforcement shall receive one‑half of the value of the forfeited property, unless item (3) applies, then each shall receive equally.

(3) If no victim is named, or reasonable attempts to locate a named victim for forfeiture and forfeiture fails, then all funds shall revert to the South Carolina Victim’s Compensation Fund and law enforcement to be divided equally.

(4) If federal law enforcement becomes involved in the investigation, they shall equitably split the share local law enforcement receives under this article, if they request or pursue any of the forfeiture. The equitable split must be pursuant to 21 U.S.C. Section 881(e)(1)(A) and (e)(3), 18 U.S.C. Section 981(e)(2), and 19 U.S.C. Section 1616a.

Section 16‑3‑2070. (A) It is not necessary for the State to negate any exemption or exception provided in this article in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding pursuant to this article, and the burden of proof of any exemption or exception is upon the person claiming its benefit.

(B) In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this article, he is presumed not to be the holder of the registration or form, and the burden of proof is upon him to rebut this presumption.

Section 16‑3‑2080. (A) An innocent owner, manager, or owner of a licensed rental agency or any common carrier or carrier of goods for hire may apply to the court of common pleas for the return of any item seized pursuant to the provisions of Section 16‑3‑2050. Notice of hearing or rule to show cause accompanied by copy of the application must be directed to all persons and agencies entitled to notice under Section 16‑3‑2060. If the judge denies the application, the hearing may proceed as a forfeiture hearing held pursuant to Section 16‑3‑2060.

(B) The court may return any seized item to the owner if the owner demonstrates to the court by a preponderance of the evidence:

(1) in the case of an innocent owner, that the person or entity was not a consenting party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture; or

(2) in the case of a manager or an owner of a licensed rental agency, a common carrier, or a carrier of goods for hire, that any agent, servant, or employee of the rental agency or of the common carrier or carrier of goods for hire was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

If the licensed rental agency demonstrates to the court that it has rented the seized property in the ordinary course of its business and that the tenant or tenants were not related within the third degree of kinship to the manager or owner, or any agents, servants, or employees of the rental agency, then it is presumed that the licensed rental agency was not a party to, or privy to, or did not have knowledge of, the use of the property which made it subject to seizure and forfeiture.

(C) The lien of an innocent person or other legal entity, recorded in public records, shall continue in force upon transfer of title of any forfeited item, and any transfer of title is subject to the lien, if the lienholder demonstrates to the court by a preponderance of the evidence that he was not a consenting party to, or privy to, or did not have knowledge of, the involvement of the property which made it subject to seizure and forfeiture.

Section 16‑3‑2090. A person who uses property or a conveyance in a manner which would make the property or conveyance subject to forfeiture as provided for in Section 16‑3‑2050 except for innocent owners, rental agencies, lienholders, and the like as provided for in this article, is guilty of a misdemeanor and, upon conviction, must be imprisoned for not less than thirty days nor more than one year, fined not more than five thousand dollars, or both. The penalties prescribed in this section are cumulative and must be construed to be in addition to any other penalty prescribed by another provision of this article.

Section 16‑3‑2100. (A) The Attorney General shall establish an interagency task force to develop and implement a State Plan for the Prevention of Trafficking in Persons. The task force shall meet at least quarterly and should include all aspects of trafficking, including sex trafficking and labor trafficking of both United States citizens and foreign nationals, as defined in Section 16‑3‑2010. The Attorney General also shall collect and publish relevant data to this section on their website.

(B) The task force shall consist of, at a minimum, representatives from:

(1) the Office of the Attorney General, who must be Chair;

(2) the South Carolina Labor, Licensing and Regulation;

(3) the South Carolina Police Chiefs Association;

(4) the South Carolina Sheriffs’ Association;

(5) the State Law Enforcement Division;

(6) the Department of Health and Environmental Control Board;

(7) the United States Department of Labor;

(8) the State Office of Victim Assistance;

(9) the South Carolina Commission on Prosecution Coordination;

(10) the Department of Social Services; and

(11) persons the Attorney General shall appoint from nongovernmental organizations, especially those specializing in trafficking in persons, those representing diverse communities disproportionately affected by trafficking, agencies devoted to child services and runaway services, and academic researchers dedicated to the subject of human trafficking.

(C) The Attorney General shall invite representatives of the United States Attorneys’ offices and of federal law enforcement agencies’ offices within the State, including the Federal Bureau of Investigations and the United States Immigration and Customs Enforcement office, to be members of the task force.

(D) The task force shall carry out the following activities either directly or via one or more of its constituent agencies:

(1) develop the state plan within eighteen months of the effective date of this act;

(2) coordinate the implementation of the state plan; and

(3) starting one year after the formation after the task force, submit an annual report of its findings and recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate on or before December thirty‑first of each calendar year.

(F) The task force shall consider carrying out the following activities either directly or via one or more of its constituent agencies:

(1) coordinate the collection and sharing of trafficking data among government agencies, which data collection must respect the privacy of victims of trafficking in persons;

(2) coordinate the sharing of information between agencies for the purposes of detecting criminal groups engaged in trafficking;

(3) explore the establishment of state policies for time limits for the issuance of Law Enforcement Agency (LEA) endorsements as described in C.F.R. Chapter 8, Section 214.11(f)(1);

(4) establish policies to enable state government to work with nongovernmental organizations and other elements of civil society to prevent trafficking and provide assistance to United States citizens and foreign national victims;

(5) review the existing services and facilities to meet trafficking victims’ needs and recommend a system that would coordinate services including, but not limited to, health services, including mental health, housing, education and job training, English as a second language classes, interpreting services, legal and immigration services, and victim compensation;

(6) evaluate various approaches used by state and local governments to increase public awareness of the trafficking in persons, including United States citizens and foreign national victims of trafficking in persons;

(7) mandatory training for law enforcement agencies, prosecutors, and other relevant officials in addressing trafficking in persons;

(8) collect and periodically publish statistical data on trafficking, that must be posted on the Attorney General’s website;

(9) prepare public awareness programs designed to educate potential victims of trafficking in persons and their families on the risks of victimization. These public awareness programs must include, but are not be limited to:

(a) information about the risks of becoming a victim, including information about common recruitment techniques, use of debt bondage, and other coercive tactics, risk of maltreatment, rape, exposure to HIV or AIDS and other sexually transmitted diseases, and psychological harm related to victimization in trafficking cases;

(b) information about the risks of engaging in commercial sex and possible punishment;

(c) information about victims’ rights in the State;

(d) methods for reporting suspected recruitment activities; and

(e) information on hotlines and available victims’ services; and

(10) prepare and disseminate general public awareness materials to educate the public on the extent of trafficking in persons, both United States citizens and foreign nationals, within the United States and to discourage the demand that fosters the exploitation of persons that leads to trafficking.

(a) The general public awareness materials may include information on the impact of trafficking on individual victims, whether United States citizens or foreign nationals, aggregate information on trafficking worldwide and domestically, and warnings of the criminal consequences of engaging in trafficking. These materials may include pamphlets, brochures, posters, advertisements in mass media, and other appropriate media. All materials must be designed to communicate to the target population.

(b) Materials described in this section may include information on the impact of trafficking on individual victims. However, information on the experiences of individual victims must preserve the privacy of the victim and the victim’s family.

(c) All public awareness programs must be evaluated periodically by the task force to ensure their effectiveness.

Section 16‑3‑2110. (A) A person who is a victim of trafficking may bring a civil action in the court of common pleas. The court may award actual damages, compensatory damages, punitive damages, injunctive relief, and other appropriate relief. A prevailing plaintiff also must be awarded attorney’s fees and costs. Treble damages must be awarded on proof of actual damages when the defendant’s acts were wilful and malicious.

(B) Pursuant to Section 16‑3‑1110, the applicable statute of limitations for a crime victim, who has a cause of action against an incarcerated offender based upon the incident which made the person a victim, is tolled and does not expire until three years after the offender’s release from the sentence including probation and parole time or three years after release from commitment pursuant to Chapter 48, Title 44, whichever is later. However, this provision does not shorten any other tolling period of the statute of limitations which may exist for the crime victim.

(C) A statute of limitation imposed for the filing of a civil suit does not start to run until a minor plaintiff has reached the age of majority.

(D) If a person entitled to sue is under a disability at the time the cause of action accrues, so that it is impossible or impractical for him to bring an action, then the time of the disability is not part of the time limited for the commencement of the action. Disability includes, but is not limited to, insanity, imprisonment, or other incapacity or incompetence.

(E) The running of the statute of limitations may be suspended where a person entitled to sue could not have reasonably discovered the cause of action due to circumstances resulting from the trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(F) A defendant is estopped to assert a defense of the statute of limitations when the expiration of the statute is due to conduct by the defendant inducing the plaintiff to delay the filing of the action or placing the plaintiff under duress.

Section 16‑3‑2120. Investigative, prosecutorial, and other appropriate authorities shall interview all persons arrested on charges of prostitution and take all other steps necessary to identify victims of trafficking in persons, including United States citizens and foreign nationals. Once victims are identified, these authorities shall provide reasonable protection to victims of trafficking in persons, pursuant to Article 15, Chapter 3, Title 16.

Section 16‑3‑2130. (A) Victims of trafficking in persons pursuant to this article are considered victims for purposes of the Victims’ Bill of Rights and are entitled to all appropriate forms of compensation available pursuant to the State Crime Victim’s Compensation Fund in accordance with the provisions of Article 13, Chapter 3, Title 16. Victims of trafficking in persons pursuant to this article also are entitled to the rights provided in Article 15, Chapter 3, Title 16.

(B) In addition to the provisions of subsection (A), in a prosecution for violations of the criminal provisions of this article, the identity of the victim and the victim’s family must be kept confidential by ensuring that names and identifying information of the victim and victim’s family are not released to the public, including by the defendant.

(C) Pursuant to Section 16‑3‑1240, it is unlawful, except for purposes directly connected with the administration of the victim’s compensation program, for any person to solicit, disclose, receive, or make use of or authorize, knowingly permit, participate in or acquiesce in the use of any list, or names of, or information concerning persons applying for or receiving awards without the written consent of the applicant or recipient. The records, papers, files, and communications of the board, its panel and the director and his staff must be regarded as confidential information and privileged and not subject to disclosure under the Freedom of Information Act as contained in Chapter 3, Title 30.

Section 16‑3‑2140. (A) For purposes of this section:

(1) ‘Domestic violence shelter’ means a facility whose purpose is to serve as a shelter to receive and house persons who are victims of criminal domestic violence and that provides services as a shelter.

(2) ‘Trafficking shelter’ means a confidential location which provides emergency housing for victims of human trafficking.

(3) ‘Grounds’ means the real property of the parcel of land upon which a domestic violence or trafficking shelter or a domestic violence or trafficking shelter’s administrative offices are located, whether fenced or unfenced.

(B) A person who maliciously or with criminal negligence publishes, disseminates, or otherwise discloses the location of a trafficking victim, a trafficking shelter, a domestic violence shelter, or another place designated as a trafficking shelter or domestic violence shelter, without the authorization of that trafficking victim, trafficking shelter, or domestic violence shelter, is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years.

(C) It is unlawful for a person who has been charged with or convicted of a violation of Section 16‑3‑2020 to enter or remain upon the grounds or structure of a domestic violence or trafficking shelter in which the victim resides or the domestic violence shelter’s administrative offices or the trafficking shelter’s administrative offices.

(D) The domestic violence shelter and trafficking shelter must post signs at conspicuous places on the grounds of the domestic violence shelter, trafficking shelter, the domestic violence shelter’s administrative offices, and the trafficking shelter’s administrative offices which, at a minimum, must read substantially as follows: ‘NO TRESPASSING‑VIOLATORS WILL BE SUBJECT TO CRIMINAL PENALTIES’.

(E) This section does not apply if the person has legitimate business or any authorization, license, or invitation to enter or remain upon the grounds or structure of the domestic violence or trafficking shelter or the domestic violence or trafficking shelter’s administrative offices.

(F) A person who violates this section is guilty of a misdemeanor and, upon conviction, must be fined not more than three thousand dollars or imprisoned for not more than three years, or both. If the person is in possession of a dangerous weapon at the time of the violation, the person is guilty of a felony and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than five years, or both.”

SECTION 2. Section 16‑3‑930 of the 1976 Code is repealed.

SECTION 3. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. This act takes effect one hundred eighty days after approval by the Governor.

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