



**VETO MESSAGE:** No

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** Yes

"Christie signs bill tightening human trafficking laws," NorthJersey.com, 5-6-13

"Human Trafficking Bill Now Law in NJ," NewJersey101.5, 5-6-13

"New Jersey tightens human trafficking laws ahead of Super Bowl," The Express-Times, 5-7-13

LAW/KR

§§1,2 –  
C.52:17B-237 &  
52:17B-238  
§4 - C.2C:13-8.1  
§§5,12,18,19 –  
C.2C:13-9 to  
2C:13-12  
§10 - C.2C:44-1.1  
§11 - C.2C:34-1.2  
§21 - C.45:11-80  
§22 - Note

P.L.2013, CHAPTER 51, *approved May 6, 2013*  
Assembly, No. 3352 (*Fifth Reprint*)

1 AN ACT concerning human trafficking and designated the “Human  
2 Trafficking Prevention, Protection, and Treatment Act,” and  
3 amending and supplementing various parts of the statutory law.  
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:  
7

8 1. (New section) a. (1) There is hereby created, in the  
9 <sup>2</sup>Division of Criminal Justice in the<sup>2</sup> Department of Law and  
10 Public Safety, a commission to be known as the Commission on  
11 Human Trafficking, consisting of 15 members as follows: the  
12 Attorney General, or his designee; the Commissioner of Children  
13 and Families, or his designee; the Commissioner of Human  
14 Services, or his designee; <sup>1</sup>a county prosecutor, appointed by the  
15 Governor based upon the recommendation of the County  
16 Prosecutors Association of the State of New Jersey;<sup>1</sup> one member of  
17 the New Jersey Human Trafficking Task Force established within  
18 the Department of Law and Public Safety, designated by the  
19 Attorney General; two public members appointed by the Governor  
20 based upon the recommendation of the Senate President, one  
21 representing law enforcement and one representing a victim’s  
22 assistance organization; one public member appointed by the  
23 Governor based upon the recommendation of the Senate Minority  
24 Leader representing either a non-profit health care facility or mental  
25 health services; two public members appointed by the Governor  
26 based upon the recommendation of the Speaker of the General  
27 Assembly, one representing law enforcement and one representing a  
28 victim’s assistance organization; one public member appointed by

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AJU committee amendments adopted October 15, 2012.

<sup>2</sup>Assembly AAP committee amendments adopted December 13, 2012.

<sup>3</sup>Assembly floor amendments adopted January 28, 2013.

<sup>4</sup>Senate SBA committee amendments adopted March 4, 2013.

<sup>5</sup>Senate floor amendments adopted March 18, 2013.

1 the Governor based upon the recommendation of the Assembly  
2 Minority Leader representing either a non-profit health care facility  
3 or mental health services; and <sup>1</sup>~~five~~ four public members  
4 appointed by the Governor, one of whom shall be a representative  
5 of <sup>3</sup>~~the National Center for Missing and Exploited Children~~ a  
6 child advocacy organization concerning missing, abducted, or  
7 exploited children, and one of whom shall be a human trafficking  
8 survivor<sup>3</sup>. All public members shall <sup>3</sup>have experience with,<sup>3</sup>  
9 possess a background in, or <sup>3</sup>~~have~~ demonstrate a<sup>3</sup> specialized  
10 knowledge of, the legal, policy, educational, social, or  
11 psychological aspects of human trafficking.

12 b. (1) Of the public members first appointed:

13 (a) the following shall serve for a term of three years: one  
14 member appointed upon the recommendation of the Senate  
15 President; one member appointed upon the recommendation of the  
16 Speaker of the General Assembly; and <sup>1</sup>~~three~~ two<sup>1</sup> members  
17 appointed by the Governor; and

18 (b) the following shall serve for a term of two years: one member  
19 appointed upon the recommendation of the Senate President; one  
20 member appointed upon the recommendation of the Speaker of the  
21 General Assembly; each member appointed <sup>2</sup>~~by~~ upon the  
22 recommendation of<sup>2</sup> the Senate and Assembly Minority Leaders;  
23 and two members appointed by the Governor.

24 (c) Upon the conclusion of the initial terms, each public member  
25 shall be appointed for a term of three years.

26 (2) Each member appointed shall hold office for the term of  
27 appointment and until a successor shall have been appointed and  
28 qualified.

29 (3) Any vacancy in the membership of the commission shall be  
30 filled by appointment in the same manner as the original  
31 appointment was made.

32 c. (1) The commission shall organize upon the appointment of  
33 a majority of its authorized membership. The members shall elect  
34 one of the members to serve as chair and vice-chair, and the chair  
35 may appoint a secretary, who need not be a member of the  
36 commission.

37 (2) The commission shall meet at those times and places within  
38 the State of New Jersey as the commission shall determine. A  
39 majority of the commission's authorized membership shall  
40 constitute a quorum for the transaction of any business, for the  
41 performance of any duty, or for the exercise of any power of the  
42 commission.

43 d. The members of the commission shall serve without  
44 compensation, but shall be eligible for reimbursement for necessary  
45 and reasonable expenses incurred in the performance of their  
46 official duties within the limits of funds appropriated or otherwise  
47 made available to the commission for its purposes.

1 e. The <sup>2</sup>[commission shall be entitled to accept the assistance  
2 and services of the employees of any State, county, or municipal  
3 department, board, bureau, commission, or agency as may be made  
4 available to it and to employ] Division of Criminal Justice in the  
5 Department of Law and Public Safety shall, at the direction of the  
6 Attorney General, provide<sup>2</sup> legal, stenographic, technical, <sup>2</sup>[and]<sup>2</sup>  
7 clerical <sup>2</sup>, and other staff and resource<sup>2</sup> assistance <sup>2</sup>to the  
8 commission,<sup>2</sup> and <sup>2</sup>additionally the commission may<sup>2</sup> incur  
9 expenses as may be necessary in order to perform its duties within  
10 the limits of funds appropriated or otherwise made available to it  
11 for its purposes.

12 f. It shall be the duty of the commission to:

13 (1) Evaluate the existing law concerning human trafficking and  
14 the enforcement thereof, and to make recommendations for  
15 legislation, if appropriate;

16 (2) Review existing victim assistance programs and analyze the  
17 costs, organization, and availability of these services for victims of  
18 human trafficking and to make recommendations for legislation, if  
19 appropriate;

20 (3) Promote a coordinated response by public and private  
21 resources for victims of human trafficking; <sup>2</sup>and<sup>2</sup>

22 (4) Develop mechanisms to promote public awareness of human  
23 trafficking <sup>1</sup>, including <sup>3</sup>[the]<sup>3</sup> promotion of <sup>3</sup>[a] the national,<sup>3</sup>  
24 24-hour toll-free hotline telephone service on human trafficking  
25 <sup>3</sup>[established] described<sup>3</sup> under section <sup>2</sup>[16] 18<sup>2</sup> of P.L. \_\_\_\_\_,  
26 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill)<sup>1</sup> <sup>2</sup>[;], and  
27 the promotion of training courses and other educational materials  
28 for use by persons required under section 19 of P.L. \_\_\_\_\_,  
29 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) to undergo  
30 training on the handling of and response procedures for suspected  
31 human trafficking activities.<sup>2</sup> <sup>1</sup>[and]<sup>1</sup>

32 <sup>2</sup>[(5) <sup>1</sup>Develop, maintain, revise, and distribute, in accordance  
33 with the provisions of section 17 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending  
34 before the Legislature as this bill), training course and other  
35 educational materials for use by persons required to undergo  
36 training on the handling of and response procedures for suspected  
37 human trafficking activities;

38 (6)<sup>1</sup> Administer and make expenditures from the “Human  
39 Trafficking Survivor’s Assistance Fund” established under section 2  
40 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_), for the provision of services to victims of  
41 human trafficking, to promote awareness of human trafficking,  
42 <sup>1</sup>[and]<sup>1</sup> the development, establishment, operation, and  
43 maintenance of the “John School Diversion Program” created  
44 pursuant to section 10 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the  
45 Legislature as this bill) <sup>1</sup>, and the development, maintenance,  
46 revision, and distribution of training course and other educational  
47 materials in accordance with section 17 of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)

1 (pending before the Legislature as this bill)<sup>1</sup>.

2 The commission shall adopt, pursuant to the “Administrative  
3 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
4 regulations necessary to implement the duties and purposes of the  
5 commission provided in this section.]<sup>2</sup>

6 g. The commission shall report annually to the Governor and  
7 to the Legislature, pursuant to section 2 of P.L.1991, c.164  
8 (C.52:14-19.1), its activities, as well as its findings and  
9 recommendations for any needed new services or resources for  
10 victims of human trafficking, and any proposed changes to the  
11 current law concerning human trafficking.

12  
13 2. (New section) <sup>2</sup>a.<sup>2</sup> There is established the “Human  
14 Trafficking Survivor’s Assistance Fund” as a separate, non-lapsing,  
15 dedicated fund in the General Fund, which shall be administered by  
16 the <sup>2</sup>[Commission on Human Trafficking created by section 1 of  
17 P.L. , c. (C. ) (pending before the Legislature as this bill)]  
18 Attorney General<sup>2</sup>. All monies deposited in the fund pursuant  
19 to P.L. , c. (C. ) (pending before the Legislature as this bill),  
20 any other enactment, or as otherwise provided from any public or  
21 private source shall be used for the provision of services to victims  
22 of human trafficking, to promote awareness of human trafficking,  
23 <sup>1</sup>[and]<sup>1</sup> <sup>2</sup>[the development, establishment, operation, and  
24 maintenance of the “John School Diversion Program” created  
25 pursuant to section 10 of P.L. , c. (C. ) (pending before the  
26 Legislature as this bill),]<sup>2</sup> <sup>1</sup>and the development, maintenance,  
27 revision, and distribution of training course and other educational  
28 materials <sup>3</sup>, and the operation of educational or training programs.<sup>3</sup>  
29 in accordance with <sup>2</sup>[section 17] sections 11 and 19<sup>2</sup> of P.L. ,  
30 c. (C. ) (pending before the Legislature as this bill) <sup>2</sup>[<sup>1</sup>]. All  
31 expenditures from the fund shall be made by the Attorney General,  
32 in consultation with the Commission on Human Trafficking  
33 established by section 1 of P.L. , c. (C. ) (pending before  
34 the Legislature as this bill),<sup>2</sup> and done so in accordance with rules  
35 and regulations promulgated by the <sup>2</sup>[commission pursuant to  
36 subsection f. of section 1 of P.L. , c. (C. ) (pending before  
37 the Legislature as this bill)] Attorney General<sup>2</sup> and other applicable  
38 law.

39 <sup>2</sup>b. Receipt of expenditures from the fund <sup>3</sup>by any provider of  
40 services to victims of human trafficking<sup>3</sup> shall not be based or  
41 otherwise conditioned upon the previous, present, or future  
42 cooperation of the recipient regarding any law enforcement  
43 investigation or prosecution, or lack thereof.<sup>2</sup>

44  
45 3. Section 1 of P.L.2005, c.77 (C.2C:13-8) is amended to read  
46 as follows:

- 1       1. Human trafficking. a. A person commits the crime of human  
2 trafficking if he:
- 3       (1) knowingly holds, recruits, lures, entices, harbors, transports,  
4 provides or obtains, by any means, another, to engage in sexual  
5 activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-  
6 1 or to provide labor or services:
- 7       (a) by <sup>3</sup>threats or incidents of causing or threatening to cause<sup>3</sup>  
8 serious bodily harm [or] <sup>3</sup>[.] or<sup>3</sup> physical restraint <sup>3</sup>[.] or  
9 abduction<sup>3</sup> against the person or any other person;
- 10       (b) by means of any scheme, <sup>3</sup>[fraud, deceit or other  
11 deception.]<sup>3</sup> plan, or pattern intended to cause the person to believe  
12 that the person or any other person would suffer serious bodily  
13 harm or physical restraint;
- 14       (c) by committing a violation of N.J.S.2C:13-5 <sup>3</sup>[involving  
15 coercion]<sup>3</sup> against the person; [or]
- 16       (d) by destroying, concealing, removing, confiscating, or  
17 possessing any passport, immigration-related document as defined  
18 in section 1 of P.L.1997, c.1 (C.2C:21-31), or other document  
19 issued by a governmental agency to any person which could be used  
20 as a means of verifying the person's identity or age or any other  
21 personal identifying information; <sup>3</sup>[or]<sup>3</sup>
- 22       (e) by means of the abuse <sup>3</sup>[of power]<sup>3</sup> or threatened abuse  
23 <sup>3</sup>[of power]<sup>3</sup> of the law or legal process; <sup>3</sup>[or]
- 24       (f) by means of fraud, deceit, or misrepresentation against the  
25 person; or
- 26       (g) by facilitating access to a controlled dangerous substance or  
27 controlled substance analog as set forth in chapter 35 of Title 2C of  
28 the New Jersey Statutes; or<sup>3</sup>
- 29       (2) receives anything of value from participation as an  
30 organizer, supervisor, financier or manager in a scheme or course of  
31 conduct which violates paragraph (1) of this subsection; or
- 32       (3) <sup>3</sup>[as a licensed owner or driver of an autocab, limousine,  
33 autobus, or any other passenger automobile as defined in R.S.39:1-1  
34 that is subject to regulation under chapter 16 of Title 48 of the  
35 Revised Statutes, 'negligently] recklessly' participates in the  
36 transportation of another which violates paragraph (1) or (2) of this  
37 subsection; or
- 38       (4) otherwise being a professionally licensed person,  
39 'negligently] recklessly' permits an act of human trafficking  
40 described in paragraph (1) or (2) of this subsection, on, within, or  
41 using the person's property or services. For purposes of this  
42 paragraph, "professionally licensed person" means any person  
43 required by law to obtain, from a governmental department, agency,  
44 board, or commission of the State or any political subdivision of the  
45 State, a license, permit, certificate, approval, registration, charter, or  
46 similar form of business or professional authorization in order to  
47 operate a business or as a professional in this State.

1 <sup>2</sup>With respect to the amendatory provisions set forth in this  
2 subsection by the enactment of P.L. , c. (C. ) (pending  
3 before the Legislature as this bill), in addition to these provisions  
4 only being applicable to criminal acts of human trafficking  
5 occurring on or after the effective date for these amendatory  
6 provisions, consistent with constitutional and statutory principles  
7 governing application of the Criminal Code, the provisions set forth  
8 in this subsection immediately prior to the enactment of P.L. ,  
9 c. (C. ) (pending before the Legislature as this bill), as then  
10 interpreted and applied by law enforcement officers, prosecutors,  
11 and the courts, shall continue to be interpreted and applied by law  
12 enforcement officers, prosecutors, and the courts with respect to  
13 any prosecution for a criminal act of human trafficking that  
14 occurred prior to the enactment of P.L. , c. (C. ) (pending  
15 before the Legislature as this bill), without regard, reference, or  
16 comparison to the amendatory provisions set forth in this  
17 subsection.<sup>2</sup> knowingly holds, recruits, lures, entices, harbors,  
18 transports, provides or obtains, by any means, a child under 18  
19 years of age, to engage in sexual activity as defined in paragraph (2)  
20 of subsection a. of N.J.S.2C:34-1, whether or not the actor  
21 mistakenly believed that the child was 18 years of age or older,  
22 even if that mistaken belief was reasonable.<sup>3</sup>

23 b. An offense under this section constitutes a crime of the first  
24 degree <sup>3</sup>[, except that an offense under paragraph (3) or (4) of  
25 subsection a. of this section concerning criminal <sup>1</sup>[negligence]  
26 recklessness<sup>1</sup> constitutes a crime of the fourth degree]<sup>3</sup>.

27 c. It is an affirmative defense to prosecution for a violation of  
28 this section that, during the time of the alleged commission of the  
29 offense of human trafficking created by this section, the defendant  
30 was a victim of human trafficking.

31 d. <sup>3</sup>[(1)]<sup>3</sup> Notwithstanding the provisions of N.J.S.2C:43-6,  
32 the term of imprisonment imposed for a crime of the first degree  
33 under paragraph (2) <sup>3</sup>or (3)<sup>3</sup> of subsection a. of this section shall be  
34 either a term of 20 years during which the actor shall not be eligible  
35 for parole, or a specific term between 20 years and life  
36 imprisonment, of which the actor shall serve 20 years before being  
37 eligible for parole. Notwithstanding the provisions of N.J.S.2C:43-  
38 3, the <sup>2</sup>sentence for a conviction for a crime of the first degree  
39 under this section shall include a <sup>2</sup>fine <sup>2</sup>[imposed for a crime of the  
40 first degree under this section shall be a fine of at least] in an  
41 amount of not less than<sup>2</sup> \$25,000, which shall be collected as  
42 provided for the collection of fines and restitutions in section 3 of  
43 P.L.1979, c.396 (C.2C:46-4) and forwarded to the Department of  
44 the Treasury to be deposited in the "Human Trafficking Survivor's  
45 Assistance Fund" established by section 2 of P.L. , c. (C. )  
46 (pending before the Legislature as this bill).



1 <sup>3</sup>[(2) Notwithstanding the provisions of N.J.S.2C:43-3, the fine  
 2 imposed for a crime of the fourth degree under paragraph (3) or (4)  
 3 of subsection a. of this section concerning criminal <sup>1</sup>[negligence]  
 4 recklessness<sup>1</sup> shall be a fine of up to \$25,000, which shall be  
 5 collected as provided for the collection of fines and restitutions in  
 6 section 3 of P.L.1979, c.396 (C.2C:46-4) and forwarded to the  
 7 Department of the Treasury to be deposited in the "Human  
 8 Trafficking Survivor's Assistance Fund" established by section 2 of  
 9 P.L. , c. (C. ) (pending before the Legislature as this bill).  
 10 Additionally, upon conviction for this crime, the court shall revoke  
 11 any license, permit, certificate, approval, registration, charter, or  
 12 similar form of business or professional authorization required by  
 13 law concerning the operation of that person's business or  
 14 profession.]<sup>3</sup>

15 e. In addition to any other disposition authorized by law, any  
 16 person who violates the provisions of this section <sup>3</sup>[, other than a  
 17 violation of paragraph (3) or (4) of subsection a. of this section  
 18 concerning criminal <sup>1</sup>[negligence] recklessness<sup>1</sup>.]<sup>3</sup> shall be  
 19 <sup>2</sup>[sentenced] ordered<sup>2</sup> to make restitution to any victim. The court  
 20 shall award to the victim restitution which is the greater of:

21 (1) the gross income or value to the defendant of the victim's  
 22 labor or services; or

23 (2) the value of the victim's labor or services as determined by  
 24 the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-  
 25 56.25 et seq.), the "New Jersey State Wage and Hour Law,"  
 26 P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal Farm Labor  
 27 Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws concerning the  
 28 regulation of child labor in chapter 2 of Title 34 of the Revised  
 29 Statutes, or any other applicable State law, and the "Fair Labor  
 30 Standards Act of 1938," 29 U.S.C. s.201 et seq., or any other  
 31 applicable federal law.

32 (cf: P.L.2005, c.77, s.1)

33

34 4. (New section) a. Any person injured, including <sup>2</sup>injury<sup>2</sup> due  
 35 to the loss of moneys or property, real or personal, <sup>3</sup>[as a result of a  
 36 violation of the ] by an actor and all those acting in concert with that  
 37 actor who committed a<sup>3</sup> human trafficking <sup>3</sup>[provisions set forth]  
 38 offense<sup>3</sup> in <sup>3</sup>violation of<sup>3</sup> section 1 of P.L.2005, c.77 (C.2C:13-8)  
 39 <sup>3</sup>or section 5 of P.L. , c. (C. ) (pending before the  
 40 Legislature as this bill)<sup>3</sup> may bring a civil action in any court of  
 41 competent jurisdiction <sup>3</sup>against the actor and all those acting in  
 42 concern with that actor<sup>3</sup>. A civil action brought under this section  
 43 shall not preclude the application of any other civil, administrative,  
 44 or criminal remedy under any other provision of law.

45 b. (1) The standard of proof in a civil action brought pursuant  
 46 to this section is a preponderance of the evidence, and the fact that a

1 prosecution <sup>3</sup>[for human trafficking under section 1 of P.L.2005,  
2 c.77 (C.2C:13-8)] against the offending actor<sup>3</sup> is not instituted or,  
3 whenever instituted, terminates without a conviction, shall not  
4 preclude a civil action.

5 (2) A final judgment rendered in favor of the State in any  
6 criminal proceeding shall estop the defendant from denying the  
7 same conduct in any civil action brought pursuant to this section.

8 c. In any civil action brought pursuant to this section, the court  
9 shall, in addition to any other appropriate legal or equitable relief,  
10 <sup>2</sup>including damages for pain and suffering, recovery of reasonable  
11 costs for necessary medical, dental, and psychological services and  
12 punitive damages.<sup>2</sup> award damages in an amount that is the greater  
13 of:

14 (1) the gross income or value to the defendant of the injured  
15 party's labor or services; or

16 (2) the value of the injured party's labor or services as  
17 determined by the "New Jersey Prevailing Wage Act," P.L.1963,  
18 c.150 (C.34:11-56.25 et seq.), the "New Jersey State Wage and  
19 Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal  
20 Farm Labor Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws  
21 concerning the regulation of child labor in chapter 2 of Title 34 of  
22 the Revised Statutes, or any other applicable State law, and the  
23 "Fair Labor Standards Act of 1938," 29 U.S.C. s.201 et seq., or any  
24 other applicable federal law.

25 <sup>2</sup>d. In addition to any damages, penalty, injunction, or other  
26 appropriate relief awarded in an action brought pursuant to this  
27 section, the court may award to the injured person bringing suit  
28 reasonable attorney's fees and costs.<sup>2</sup>

29

30 <sup>3</sup>[5. (New section) a. (1) A person who knowingly owns,  
31 controls, manages, supervises, or otherwise keeps, alone or in  
32 association with another, any premises where human trafficking is  
33 regularly carried on is guilty of a crime of the first degree.

34 (2) A person who knowingly leases or otherwise permits any  
35 premises controlled by the actor, alone or in association with others,  
36 to be regularly used for human trafficking, or fails to make a  
37 reasonable effort to abate this use by ejecting the tenant, notifying  
38 law enforcement authorities, or employing other legally available  
39 means, is guilty of a crime of the first degree.

40 (3) As used in this section "premises" includes, but is not limited  
41 to, any residence, apartment, hotel, motel, inn, rooming house,  
42 boarding house, or other establishment for lodging.

43 b. Notwithstanding the provisions of N.J.S.2C:43-3, the fine  
44 imposed for an offense under this section shall be a fine of at least  
45 \$25,000, which shall be collected as provided for the collection of  
46 fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4)  
47 and forwarded to the Department of the Treasury to be deposited in

1 the “Human Trafficking Survivor’s Assistance Fund” established by  
2 section 2 of P.L. , c. (C. ) (pending before the Legislature as  
3 this bill).} ]<sup>3</sup>

4  
5 <sup>3</sup>[<sup>2</sup>6.] <sup>3</sup>5.<sup>3</sup> (New section) a. A person commits a crime of the  
6 second degree if he:

7 (1) provides services, resources, or assistance with the  
8 knowledge that the services, resources, or assistance are intended to  
9 be used in furtherance of the commission of the crime of human  
10 trafficking in violation of section 1 of P.L.2005, c.77 (C.2C:13-8).

11 <sup>3</sup>(a)<sup>3</sup> For purposes of this paragraph, “services, resources, or  
12 assistance” shall include financial support, business services,  
13 lodging, transportation, the provision of false documentation or  
14 identification, equipment, facilities, or any other service or property  
15 with a pecuniary value that exceeds \$200, whether or not a person is  
16 compensated for the services, resources, or assistance, but shall not  
17 include humanitarian or charitable aid or services provided directly  
18 to a victim of human trafficking<sup>3</sup>.

19 (b) For purposes of this paragraph, the requisite knowledge that  
20 services, resources, or assistance are intended to be used in  
21 furtherance of the commission of the crime of human trafficking  
22 may be inferred if the defendant was aware that a person to whom  
23 the defendant was providing services, resources, or assistance: (i)  
24 was subject to or subjected another to restrictions on the person’s  
25 freedom of movement, so that the person could not leave without  
26 accompaniment of another person or was otherwise subjected to  
27 obvious restrictions on mobility; or (ii) did not possess or have  
28 access to any means of communication, including but not limited to  
29 a cellular or other wireless telephone or other electronic  
30 communication device, and was not permitted or was otherwise  
31 unable to communicate with another person without supervision or  
32 permission<sup>3</sup> ; or

33 (2) procures or attempts to procure a person to engage in sexual  
34 activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-  
35 1, or to provide labor or services, whether for himself or another  
36 person, knowing that the person provided or to be provided was a  
37 victim of human trafficking, or under circumstances in which a  
38 reasonable person would conclude that there was a substantial  
39 likelihood that the person was a victim of human trafficking.

40 <sup>3</sup>(a) For purposes of this paragraph, there shall be a rebuttable  
41 presumption that the defendant knew, and that a reasonable person  
42 would conclude there was a substantial likelihood, that a person was  
43 a victim of human trafficking if the person: (i) could not leave the  
44 premises where the person provided labor or services without  
45 accompaniment of another person or was otherwise subjected to  
46 significant restrictions on the person’s freedom of movement; or (ii)  
47 did not possess or have access to any means of communication,

1 including but not limited to a cellular or other wireless telephone or  
2 other electronic communication device, and was not permitted or  
3 was otherwise unable to communicate with another person without  
4 supervision or permission.

5 (b)<sup>3</sup> For the purposes of this paragraph, there shall be a  
6 rebuttable presumption that: <sup>3</sup>[(a)] (i)<sup>3</sup> a person knew that a child  
7 under the age of 18 years of age procured to engage in sexual  
8 activity or for whom attempts were made to procure for that activity  
9 was a victim of human trafficking; and <sup>3</sup>[(b)] (ii)<sup>3</sup> a reasonable  
10 person would conclude that there was a substantial likelihood that a  
11 child under the age of 18 years of age procured to engage in sexual  
12 activity or for whom attempts were made to procure for that activity  
13 was a victim of human trafficking.

14 b. (1) It is an affirmative defense to prosecution for a violation of  
15 this section that, during the time of the alleged commission of the  
16 crime, the defendant was a victim of human trafficking.

17 (2) There shall be a rebuttable presumption that a child under the  
18 age of 18 years of age charged with a violation of this section was a  
19 victim of human trafficking.

20 c. (1) Notwithstanding any provision of law to the contrary, a  
21 person convicted for a violation of this section shall be sentenced to  
22 a term of imprisonment, which shall include a period of parole  
23 ineligibility of one-third to one-half of the term of imprisonment  
24 imposed or three years, whichever is greater. Notwithstanding the  
25 provisions of N.J.S.2C:43-3, the sentence for a conviction under  
26 this section shall include a fine in an amount of not less than  
27 \$15,000, which shall be collected as provided for the collection of  
28 finances and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4)  
29 and forwarded to the Department of the Treasury to be deposited in  
30 the “Human Trafficking Survivor’s Assistance Fund” established by  
31 section 2 of P.L. , c. (C. ) (pending before the Legislature as  
32 this bill).

33 (2) Additionally, upon a finding of guilt or entry of a guilty plea  
34 for a crime described under this section, the court shall direct any  
35 issuing State, county, or municipal governmental agency to revoke  
36 any license, permit, certificate, approval, registration, charter, or  
37 similar form of business or professional authorization required by  
38 law concerning the operation of that person’s business or  
39 profession, if that business or profession was used in the course of  
40 the crime.

41 d. Nothing in this section shall be construed to preclude, or limit  
42 in any way, the prosecution and conviction for any other offense,  
43 including prosecution and conviction pursuant to section 1 of  
44 P.L.2005, c.77 (C.2C:13-8), human trafficking, N.J.S.2C:34-1,  
45 prostitution and related offenses, and N.J.S.2C:2-6, liability for  
46 another’s conduct.<sup>2</sup>

1       <sup>3</sup>6. N.J.S.2C:5-4 is amended to read as follows:

2       2C:5-4. Grading of Criminal Attempt and Conspiracy; Mitigation  
3 in Cases of Lesser Danger. a. Grading. Except as provided in  
4 subsections c. [and] d., and e., an attempt or conspiracy to commit  
5 a crime of the first degree is a crime of the second degree; except  
6 that an attempt or conspiracy to commit murder or terrorism is a  
7 crime of the first degree, provided, however, that if the person  
8 attempted or conspired to murder five or more persons, the person  
9 shall be sentenced by the court to a term of 30 years, during which  
10 the person shall not be eligible for parole, or to a specific term of  
11 years which shall be between 30 years and life imprisonment, of  
12 which the person shall serve not less than 30 years before eligibility  
13 for parole. Otherwise an attempt is a crime of the same degree as  
14 the most serious crime which is attempted, and conspiracy is a  
15 crime of the same degree as the most serious crime which is the  
16 object of the conspiracy; provided that, leader of organized crime is  
17 a crime of the second degree. An attempt or conspiracy to commit  
18 an offense defined by a statute outside the code shall be graded as a  
19 crime of the same degree as the offense is graded pursuant to  
20 N.J.S.2C:1-4 and N.J.S.2C:43-1.

21       b. Mitigation. The court may impose sentence for a crime of a  
22 lower grade or degree if neither the particular conduct charged nor  
23 the defendant presents a public danger warranting the grading  
24 provided for such crime under subsection a. because:

25       (1) The criminal attempt or conspiracy charged is so inherently  
26 unlikely to result or culminate in the commission of a crime; or

27       (2) The conspiracy, as to the particular defendant charged, is so  
28 peripherally related to the main unlawful enterprise.

29       c. Notwithstanding the provisions of subsection a. of this  
30 section, conspiracy to commit a crime set forth in subsection a., b.,  
31 or d. of N.J.S.2C:17-1 where the structure which was the target of  
32 the crime was a church, synagogue, temple or other place of public  
33 worship is a crime of the first degree.

34       d. Notwithstanding the provisions of subsection a. of this  
35 section, conspiracy to commit a crime as set forth in P.L.1994,  
36 c.121 (C.2C:21-23 et seq.) is a crime of the same degree as the most  
37 serious crime that was conspired to be committed.

38       e. Notwithstanding the provisions of subsection a. of this  
39 section, conspiracy to commit a crime of human trafficking as set  
40 forth in section 1 of P.L.2005, c.77 (C.2C:13-8) is a crime of the  
41 first degree.<sup>3</sup>

42 (cf: P.L.2002, c.26, s.9)

43

44       <sup>2</sup>[6.] 7.<sup>2</sup> Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended  
45 to read as follows:

46       2. No lessee or tenant or the assigns, under-tenants or legal  
47 representatives of such lessee or tenant may be removed by the  
48 Superior Court from any house, building, mobile home or land in a

1 mobile home park or tenement leased for residential purposes, other  
2 than (1) owner-occupied premises with not more than two rental  
3 units or a hotel, motel or other guest house or part thereof rented to  
4 a transient guest or seasonal tenant; (2) a dwelling unit which is  
5 held in trust on behalf of a member of the immediate family of the  
6 person or persons establishing the trust, provided that the member  
7 of the immediate family on whose behalf the trust is established  
8 permanently occupies the unit; and (3) a dwelling unit which is  
9 permanently occupied by a member of the immediate family of the  
10 owner of that unit, provided, however, that exception (2) or (3) shall  
11 apply only in cases in which the member of the immediate family  
12 has a developmental disability, except upon establishment of one of  
13 the following grounds as good cause:

14 a. The person fails to pay rent due and owing under the lease  
15 whether the same be oral or written; provided that, for the purposes  
16 of this section, any portion of rent unpaid by a tenant to a landlord  
17 but utilized by the tenant to continue utility service to the rental  
18 premises after receiving notice from an electric, gas, water or sewer  
19 public utility that such service was in danger of discontinuance  
20 based on nonpayment by the landlord, shall not be deemed to be  
21 unpaid rent.

22 b. The person has continued to be, after written notice to cease,  
23 so disorderly as to destroy the peace and quiet of the occupants or  
24 other tenants living in said house or neighborhood.

25 c. The person has willfully or by reason of gross negligence  
26 caused or allowed destruction, damage or injury to the premises.

27 d. The person has continued, after written notice to cease, to  
28 substantially violate or breach any of the landlord's rules and  
29 regulations governing said premises, provided such rules and  
30 regulations are reasonable and have been accepted in writing by the  
31 tenant or made a part of the lease at the beginning of the lease term.

32 e. (1) The person has continued, after written notice to cease,  
33 to substantially violate or breach any of the covenants or  
34 agreements contained in the lease for the premises where a right of  
35 reentry is reserved to the landlord in the lease for a violation of such  
36 covenant or agreement, provided that such covenant or agreement is  
37 reasonable and was contained in the lease at the beginning of the  
38 lease term.

39 (2) In public housing under the control of a public housing  
40 authority or redevelopment agency, the person has substantially  
41 violated or breached any of the covenants or agreements contained  
42 in the lease for the premises pertaining to illegal uses of controlled  
43 dangerous substances, or other illegal activities, whether or not a  
44 right of reentry is reserved to the landlord in the lease for a  
45 violation of such covenant or agreement, provided that such  
46 covenant or agreement conforms to federal guidelines regarding  
47 such lease provisions and was contained in the lease at the  
48 beginning of the lease term.

1 f. The person has failed to pay rent after a valid notice to quit  
2 and notice of increase of said rent, provided the increase in rent is  
3 not unconscionable and complies with any and all other laws or  
4 municipal ordinances governing rent increases.

5 g. The landlord or owner (1) seeks to permanently board up or  
6 demolish the premises because he has been cited by local or State  
7 housing inspectors for substantial violations affecting the health and  
8 safety of tenants and it is economically unfeasible for the owner to  
9 eliminate the violations; (2) seeks to comply with local or State  
10 housing inspectors who have cited him for substantial violations  
11 affecting the health and safety of tenants and it is unfeasible to so  
12 comply without removing the tenant; simultaneously with service of  
13 notice of eviction pursuant to this clause, the landlord shall notify  
14 the Department of Community Affairs of the intention to institute  
15 proceedings and shall provide the department with such other  
16 information as it may require pursuant to rules and regulations. The  
17 department shall inform all parties and the court of its view with  
18 respect to the feasibility of compliance without removal of the  
19 tenant and may in its discretion appear and present evidence; (3)  
20 seeks to correct an illegal occupancy because he has been cited by  
21 local or State housing inspectors or zoning officers and it is  
22 unfeasible to correct such illegal occupancy without removing the  
23 tenant; or (4) is a governmental agency which seeks to permanently  
24 retire the premises from the rental market pursuant to a  
25 redevelopment or land clearance plan in a blighted area. In those  
26 cases where the tenant is being removed for any reason specified in  
27 this subsection, no warrant for possession shall be issued until  
28 P.L.1967, c.79 (C.52:31B-1 et seq.) and P.L.1971, c.362 (C.20:4-1  
29 et seq.) have been complied with.

30 h. The owner seeks to retire permanently the residential  
31 building or the mobile home park from residential use or use as a  
32 mobile home park, provided this subsection shall not apply to  
33 circumstances covered under subsection g. of this section.

34 i. The landlord or owner proposes, at the termination of a  
35 lease, reasonable changes of substance in the terms and conditions  
36 of the lease, including specifically any change in the term thereof,  
37 which the tenant, after written notice, refuses to accept; provided  
38 that in cases where a tenant has received a notice of termination  
39 pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-  
40 61.2), or has a protected tenancy status pursuant to [section 9 of]  
41 the "Senior Citizens and Disabled Protected Tenancy Act,"  
42 P.L.1981, c.226 [(C.2A:18-61.30)] (C.2A:18-61.22 <sup>2</sup>et al.<sup>2</sup> ), or  
43 pursuant to the "Tenant Protection Act of 1992," P.L.1991, c.509  
44 (C.2A:18-61.40 et al.), the landlord or owner shall have the burden  
45 of proving that any change in the terms and conditions of the lease,  
46 rental or regulations both is reasonable and does not substantially  
47 reduce the rights and privileges to which the tenant was entitled  
48 prior to the conversion.

- 1       j. The person, after written notice to cease, has habitually and  
2 without legal justification failed to pay rent which is due and owing.
- 3       k. The landlord or owner of the building or mobile home park  
4 is converting from the rental market to a condominium, cooperative  
5 or fee simple ownership of two or more dwelling units or park sites,  
6 except as hereinafter provided in subsection l. of this section.  
7 Where the tenant is being removed pursuant to this subsection, no  
8 warrant for possession shall be issued until this act has been  
9 complied with. No action for possession shall be brought pursuant  
10 to this subsection against a senior citizen tenant or disabled tenant  
11 with protected tenancy status pursuant to the "Senior Citizens and  
12 Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22  
13 et al.), or against a qualified tenant under the "Tenant Protection  
14 Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), as long as the  
15 agency has not terminated the protected tenancy status or the  
16 protected tenancy period has not expired.
- 17       l. (1) The owner of a building or mobile home park, which is  
18 constructed as or being converted to a condominium, cooperative or  
19 fee simple ownership, seeks to evict a tenant or sublessee whose  
20 initial tenancy began after the master deed, agreement establishing  
21 the cooperative or subdivision plat was recorded, because the owner  
22 has contracted to sell the unit to a buyer who seeks to personally  
23 occupy it and the contract for sale calls for the unit to be vacant at  
24 the time of closing. However, no action shall be brought against a  
25 tenant under paragraph (1) of this subsection unless the tenant was  
26 given a statement in accordance with section 6 of P.L.1975, c.311  
27 (C.2A:18-61.9);
- 28       (2) The owner of three or less condominium or cooperative units  
29 seeks to evict a tenant whose initial tenancy began by rental from an  
30 owner of three or less units after the master deed or agreement  
31 establishing the cooperative was recorded, because the owner seeks  
32 to personally occupy the unit, or has contracted to sell the unit to a  
33 buyer who seeks to personally occupy it and the contract for sale  
34 calls for the unit to be vacant at the time of closing;
- 35       (3) The owner of a building of three residential units or less  
36 seeks to personally occupy a unit, or has contracted to sell the  
37 residential unit to a buyer who wishes to personally occupy it and  
38 the contract for sale calls for the unit to be vacant at the time of  
39 closing.
- 40       m. The landlord or owner conditioned the tenancy upon and in  
41 consideration for the tenant's employment by the landlord or owner  
42 as superintendent, janitor or in some other capacity and such  
43 employment is being terminated.
- 44       n. The person has been convicted of or pleaded guilty to, or if a  
45 juvenile, has been adjudicated delinquent on the basis of an act  
46 which if committed by an adult would constitute an offense under  
47 the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et  
48 al., involving the use, possession, manufacture, dispensing or



1 distribution of a controlled dangerous substance, controlled  
2 dangerous substance analog or drug paraphernalia within the  
3 meaning of that act within or upon the leased premises or the  
4 building or complex of buildings and land appurtenant thereto, or  
5 the mobile home park, in which those premises are located, and has  
6 not in connection with his sentence for that offense either (1)  
7 successfully completed or (2) been admitted to and continued upon  
8 probation while completing, a drug rehabilitation program pursuant  
9 to N.J.S.2C:35-14; or, being the tenant or lessee of such leased  
10 premises, knowingly harbors or harbored therein a person who has  
11 been so convicted or has so pleaded, or otherwise permits or  
12 permitted such a person to occupy those premises for residential  
13 purposes, whether continuously or intermittently, except that this  
14 subsection shall not apply to a person harboring or permitting a  
15 juvenile to occupy the premises if the juvenile has been adjudicated  
16 delinquent upon the basis of an act which if committed by an adult  
17 would constitute the offense of use or possession under the said act.  
18 No action for removal may be brought pursuant to this subsection  
19 more than two years after the date of the adjudication or conviction  
20 or more than two years after the person's release from incarceration  
21 whichever is the later.

22 o. The person has been convicted of or pleaded guilty to, or if a  
23 juvenile, has been adjudicated delinquent on the basis of an act  
24 which if committed by an adult would constitute an offense under  
25 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic  
26 threats against the landlord, a member of the landlord's family or an  
27 employee of the landlord; or, being the tenant or lessee of such  
28 leased premises, knowingly harbors or harbored therein a person  
29 who has been so convicted or has so pleaded, or otherwise permits  
30 or permitted such a person to occupy those premises for residential  
31 purposes, whether continuously or intermittently. No action for  
32 removal may be brought pursuant to this subsection more than two  
33 years after the adjudication or conviction or more than two years  
34 after the person's release from incarceration whichever is the later.

35 p. The person has been found, by a preponderance of the  
36 evidence, liable in a civil action for removal commenced under this  
37 act for an offense under N.J.S.2C:20-1 et al. involving theft of  
38 property located on the leased premises from the landlord, the  
39 leased premises or other tenants residing in the leased premises, or  
40 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terroristic  
41 threats against the landlord, a member of the landlord's family or an  
42 employee of the landlord, or under the "Comprehensive Drug  
43 Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,  
44 possession, manufacture, dispensing or distribution of a controlled  
45 dangerous substance, controlled dangerous substance analog or drug  
46 paraphernalia within the meaning of that act within or upon the  
47 leased premises or the building or complex of buildings and land  
48 appurtenant thereto, or the mobile home park, in which those

1 premises are located, and has not in connection with his sentence  
2 for that offense either (1) successfully completed or (2) been  
3 admitted to and continued upon probation while completing a drug  
4 rehabilitation program pursuant to N.J.S.2C:35-14; or, being the  
5 tenant or lessee of such leased premises, knowingly harbors or  
6 harbored therein a person who committed such an offense, or  
7 otherwise permits or permitted such a person to occupy those  
8 premises for residential purposes, whether continuously or  
9 intermittently, except that this subsection shall not apply to a person  
10 who harbors or permits a juvenile to occupy the premises if the  
11 juvenile has been adjudicated delinquent upon the basis of an act  
12 which if committed by an adult would constitute the offense of use  
13 or possession under the said "Comprehensive Drug Reform Act of  
14 1987."

15 q. The person has been convicted of or pleaded guilty to, or if a  
16 juvenile, has been adjudicated delinquent on the basis of an act  
17 which if committed by an adult would constitute an offense under  
18 N.J.S.2C:20-1 et al. involving theft of property from the landlord,  
19 the leased premises or other tenants residing in the same building or  
20 complex; or, being the tenant or lessee of such leased premises,  
21 knowingly harbors therein a person who has been so convicted or  
22 has so pleaded, or otherwise permits such a person to occupy those  
23 premises for residential purposes, whether continuously or  
24 intermittently.

25 r. The person <sup>2</sup>[has been convicted of or pleaded guilty to, or  
26 if a juvenile, has been adjudicated delinquent on the basis of an act  
27 which if] is found in a civil action, by a preponderance of the  
28 evidence, to have<sup>2</sup> committed <sup>2</sup>[by an adult would constitute the  
29 crime] a violation<sup>2</sup> of <sup>2</sup>the<sup>2</sup> human trafficking <sup>2</sup>[under] provisions  
30 set forth in<sup>2</sup> section 1 of P.L.2005, c.77 (C.2C:13-8) within or upon  
31 the leased premises or the building or complex of buildings and  
32 land appurtenant thereto, or the mobile home park, in which those  
33 premises are located; or, being the tenant or lessee of such leased  
34 premises, knowingly harbors or harbored therein a person who has  
35 been <sup>2</sup>[so convicted or has so pleaded] engaged in human  
36 trafficking<sup>2</sup> , or otherwise permits or permitted such a person to  
37 occupy those premises for residential purposes, whether  
38 continuously or intermittently. No action for removal may be  
39 brought pursuant to this subsection more than two years after <sup>2</sup>[the  
40 date of the adjudication or conviction or more than two years after  
41 the person's release from incarceration whichever is the later.] the  
42 alleged violation has terminated. A criminal conviction or a guilty  
43 plea to a crime of human trafficking under section 1 of P.L.2005,  
44 c.77 (C.2C:13-8) shall be considered prima facie evidence of civil  
45 liability under this subsection<sup>2</sup> .

46 For purposes of this section, (1) "developmental disability"  
47 means any disability which is defined as such pursuant to section 3

1 of P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate  
2 family" means a person's spouse, parent, child or sibling, or a  
3 spouse, parent, child or sibling of any of them; and (3)  
4 "permanently" occupies or occupied means that the occupant  
5 maintains no other domicile at which the occupant votes, pays rent  
6 or property taxes or at which rent or property taxes are paid on the  
7 occupant's behalf.

8 (cf: P.L.2000, c.113, s.3)

9

10 <sup>2</sup>[7.] 8.<sup>2</sup> Section 3 of P.L.1974, c.49 (C.2A:18-61.2) is amended  
11 to read as follows:

12 3. No judgment of possession shall be entered for any premises  
13 covered by section 2 of this act, except in the nonpayment of rent  
14 under subsection a. or f. of section 2, unless the landlord has made  
15 written demand and given written notice for delivery of possession  
16 of the premises. The following notice shall be required:

17 a. For an action alleging disorderly conduct under subsection b.  
18 of section 2, or injury to the premises under subsection c. of section  
19 2, or any grounds under subsection m., n., o. **[or]** , p. , q., or r. of  
20 section 2, three days' notice prior to the institution of the action for  
21 possession;

22 b. For an action alleging continued violation of rules and  
23 regulations under subsection d. of section 2, or substantial breach of  
24 covenant under subsection e. of section 2, or habitual failure to pay  
25 rent, one month's notice prior to the institution of the action for  
26 possession;

27 c. For an action alleging any grounds under subsection g. of  
28 section 2, three months' notice prior to the institution of the action;

29 d. For an action alleging permanent retirement under  
30 subsection h. of section 2, 18 months' notice prior to the institution  
31 of the action and, provided that, where there is a lease in effect, no  
32 action may be instituted until the lease expires;

33 e. For an action alleging refusal of acceptance of reasonable  
34 lease changes under subsection i. of section 2, one month's notice  
35 prior to institution of action;

36 f. For an action alleging any grounds under subsection l. of  
37 section 2, two months' notice prior to the institution of the action  
38 and, provided that where there is a written lease in effect no action  
39 shall be instituted until the lease expires;

40 g. For an action alleging any grounds under subsection k. of  
41 section 2, three years' notice prior to the institution of action, and  
42 provided that where there is a written lease in effect, no action shall  
43 be instituted until the lease expires;

44 h. In public housing under the control of a public housing  
45 authority or redevelopment agency, for an action alleging  
46 substantial breach of contract under paragraph (2) of subsection e.  
47 of section 2, the period of notice required prior to the institution of

1 an action for possession shall be in accordance with federal  
2 regulations pertaining to public housing leases.

3 The notice in each of the foregoing instances shall specify in  
4 detail the cause of the termination of the tenancy and shall be  
5 served either personally upon the tenant or lessee or such person in  
6 possession by giving him a copy thereof, or by leaving a copy  
7 thereof at his usual place of abode with some member of his family  
8 above the age of 14 years, or by certified mail; if the certified letter  
9 is not claimed, notice shall be sent by regular mail.  
10 (cf: P.L.1997, c.228, s.2)

11

12 <sup>2</sup>[8.] 9.<sup>2</sup> N.J.S.2C:34-1 is amended to read as follows:

13 2C:34-1. Prostitution and Related Offenses.

14 a. As used in this section:

15 (1) "Prostitution" is sexual activity with another person in  
16 exchange for something of economic value, or the offer or  
17 acceptance of an offer to engage in sexual activity in exchange for  
18 something of economic value.

19 (2) "Sexual activity" includes, but is not limited to, sexual  
20 intercourse, including genital-genital, oral-genital, anal-genital, and  
21 oral-anal contact, whether between persons of the same or opposite  
22 sex; masturbation; touching of the genitals, buttocks, or female  
23 breasts; sadistic or masochistic abuse and other deviate sexual  
24 relations.

25 (3) "House of prostitution" is any place where prostitution or  
26 promotion of prostitution is regularly carried on by one person  
27 under the control, management or supervision of another.

28 (4) "Promoting prostitution" is:

29 (a) Owning, controlling, managing, supervising or otherwise  
30 keeping, alone or in association with another, a house of  
31 prostitution or a prostitution business;

32 (b) Procuring an inmate for a house of prostitution or place in a  
33 house of prostitution for one who would be an inmate;

34 (c) Encouraging, inducing, or otherwise purposely causing  
35 another to become or remain a prostitute;

36 (d) Soliciting a person to patronize a prostitute;

37 (e) Procuring a prostitute for a patron;

38 (f) Transporting a person into or within this State with purpose  
39 to promote that person's engaging in prostitution, or procuring or  
40 paying for transportation with that purpose; or

41 (g) Knowingly leasing or otherwise permitting a place  
42 controlled by the actor, alone or in association with others, to be  
43 regularly used for prostitution or promotion of prostitution, or  
44 failure to make a reasonable effort to abate such use by ejecting the  
45 tenant, notifying law enforcement authorities, or other legally  
46 available means.

47 b. A person commits an offense if:

48 (1) The actor engages in prostitution <sup>2</sup>as a patron<sup>2</sup>;

1 (2) The actor promotes prostitution;

2 (3) The actor knowingly promotes prostitution of a child under  
3 18 whether or not the actor mistakenly believed that the child was  
4 18 years of age or older, even if such mistaken belief was  
5 reasonable;

6 (4) The actor knowingly promotes prostitution of the actor's  
7 child, ward, or any other person for whose care the actor is  
8 responsible;

9 (5) The actor compels another to engage in or promote  
10 prostitution;

11 (6) The actor promotes prostitution of the actor's spouse; <sup>2</sup>[or]<sup>2</sup>

12 (7) The actor knowingly engages in prostitution with a person  
13 under the age of 18, or if the actor enters into or remains in a house  
14 of prostitution for the purpose of engaging in sexual activity with a  
15 child under the age of 18, or if the actor solicits or requests a child  
16 under the age of 18 to engage in sexual activity. It shall be no  
17 defense to a prosecution under this paragraph that the actor  
18 mistakenly believed that the child was 18 years of age or older,  
19 even if such mistaken belief was reasonable <sup>2</sup>; or

20 (8) The actor engages in prostitution by personally offering  
21 sexual activity in exchange for something of economic value<sup>2</sup>.

22 c. Grading of offenses under subsection b.

23 (1) An offense under subsection b. constitutes a crime of the  
24 <sup>2</sup>[second] first<sup>2</sup> degree if the offense falls within paragraph (3) or  
25 (4) of that subsection.

26 (2) An offense under subsection b. constitutes a crime of the  
27 <sup>2</sup>[third] second<sup>2</sup> degree if the offense falls within paragraph <sup>2</sup>[(5),  
28 (6) or ]<sup>2</sup> (7) of that subsection.

29 (3) <sup>2</sup>An offense under subsection b. constitutes a crime of the  
30 third degree if the offense falls within paragraph (5) or (6) of that  
31 subsection.

32 (4)<sup>2</sup> An offense under paragraph (2) of subsection b. constitutes a  
33 crime of the third degree if the conduct falls within subparagraph  
34 (a), (b), [or] (c), (f), or (g) of paragraph (4) of subsection a.  
35 Otherwise the offense is a crime of the fourth degree.

36 <sup>2</sup>[(4)] (5)<sup>2</sup> An offense under subsection b. constitutes a  
37 disorderly persons offense if the offense falls within paragraph (1)  
38 of that subsection except that a second or <sup>2</sup>[subsequent] third<sup>2</sup>  
39 conviction for such an offense constitutes a crime of the fourth  
40 degree <sup>2</sup>, and a fourth or subsequent conviction for such an offense  
41 constitutes a crime of the third degree<sup>2</sup>. In addition, where a motor  
42 vehicle was used in the commission of any offense under paragraph  
43 (1) of subsection b. the court shall suspend for six months the  
44 driving privilege of any such offender who has a valid driver's  
45 license issued by this State. Upon conviction, the court shall  
46 immediately collect the offender's driver's license and shall forward  
47 it, along with a report stating the first and last day of the suspension

1 imposed pursuant to this paragraph, to the New Jersey Motor  
2 Vehicle Commission.

3 <sup>2</sup>(6) An offense under subsection b. constitutes a disorderly  
4 persons offense if the offense falls within paragraph (8) of that  
5 subsection, except that a second or subsequent conviction for such  
6 an offense constitutes a crime of the fourth degree.<sup>2</sup>

7 d. Presumption from living off prostitutes. A person, other  
8 than the prostitute or the prostitute's minor child or other legal  
9 dependent incapable of self-support, who is supported in whole or  
10 substantial part by the proceeds of prostitution is presumed to be  
11 knowingly promoting prostitution.

12 e. It is an affirmative defense to prosecution for a violation of  
13 this section that, during the time of the alleged commission of the  
14 offense, the defendant was a victim of human trafficking pursuant  
15 to section 1 of P.L.2005, c.77 (C.2C:13-8) or **the defendant was**  
16 **under the** compelled by another to engage in sexual activity,  
17 regardless of the defendant's age [of 18].

18 <sup>2</sup>f. <sup>3</sup>(1) Any fine set forth in N.J.S.2C:43-3 that is imposed upon  
19 a person by a municipal court for a conviction of a disorderly  
20 persons offense under this section shall be collected,  
21 notwithstanding the procedures for the collection of fines and  
22 restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4), by the  
23 municipal court administrator and paid into the municipal treasury  
24 of the municipality in which the offense was committed.

25 (2)<sup>3</sup> In addition to any fine, fee, assessment, or penalty  
26 authorized under the provisions of Title 2C of the New Jersey  
27 Statutes, a person convicted of an offense of prostitution or related  
28 offense under paragraph (2), (3), (4), (5), (6), or (7) of subsection b.  
29 shall be assessed a penalty of at least \$10,000 but not more than  
30 \$50,000, except if the offense involved promotion of the  
31 prostitution of a child under the age of 18, the penalty shall be at  
32 least \$25,000. All penalties provided for in this subsection,  
33 collected as provided for the collection of fines and restitutions in  
34 section 3 of P.L.1979, c.396 (C.2C:46-4), shall be forwarded to the  
35 Department of the Treasury to be deposited in the "Human  
36 Trafficking Survivor's Assistance Fund" established by section 2 of  
37 P.L. , c. (C. ) (pending before the Legislature as this bill).<sup>2</sup>  
38 (cf: P.L.2011, c.195, s.6)

39  
40 <sup>2</sup>[9.(New section) a. Any person who, on or after the effective  
41 date of this section, is convicted and serving a sentence as provided  
42 for by Title 2C of the New Jersey Statutes for engaging in  
43 prostitution under paragraph (1) of subsection b. of N.J.S.2C:34-1  
44 may move to have the sentence reviewed by the court on the  
45 grounds that the defendant was a victim of human trafficking  
46 pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8).

1       b. (1) If the court finds that the sentence under review does not  
2 serve the interests of justice, the court may vacate the conviction,  
3 resentence the defendant, or place the defendant on probation.

4       (2) In determining whether the sentence under review serves the  
5 interests of justice, the court shall consider all relevant  
6 circumstances, including whether the defendant's victimization  
7 constituted a significant contributing factor to the defendant's  
8 criminal behavior, regardless of whether the defendant raised this  
9 factor as a defense at trial in accordance with subsection e. of  
10 N.J.S.2C:34-1.]<sup>2</sup>

11  
12       <sup>2</sup>10. (New section) a. (1) A person convicted of N.J.S.2C:34-1,  
13 prostitution and related offenses, or section 3 of P.L.1997, c.93  
14 (C.2C:34-1.1), loitering for the purpose of engaging in prostitution,  
15 or a similar local ordinance, may file an application with the  
16 Superior Court in accordance with the Rules of Court to have the  
17 conviction vacated at any time following entry of a judgment of  
18 conviction, when the person's participation in the offense was a  
19 result of having been a victim of human trafficking pursuant to  
20 section 1 of P.L.2005, c.77 (C.2C:13-8) or as defined in paragraph  
21 (14) of 22 U.S.C. s.7102.

22       (2) Notwithstanding any law to the contrary, the person may also  
23 in the same application seek an order for the expungement of any  
24 reference to the person's arrest, conviction, and any proceeding for  
25 prostitution in any records in the custody of a court, or law  
26 enforcement or correctional agency entitled to be served with the  
27 application pursuant to subsection b. of this section.

28       b. (1) An application made under this section, together with a  
29 copy of all supporting documents, shall be served pursuant to the  
30 Rules of Court upon: the Attorney General; the county prosecutor of  
31 the county wherein the court is located; the Superintendent of State  
32 Police; the chief of police or other executive head of the police  
33 department of the municipality wherein the offense was committed;  
34 the chief law enforcement officer of any other law enforcement  
35 agency of this State that participated in the arrest of the person; the  
36 superintendent or warden of any institution in which the person was  
37 confined; and, if a disposition was made in municipal court, upon  
38 the judge of that court. Any of the noticed parties herein may make  
39 an appearance or file a submission responding to the person's  
40 application.

41       (2) The application shall be made and heard within a reasonable  
42 time after the person has ceased to be a victim of human trafficking  
43 or has sought services for being a victim of human trafficking,  
44 whichever occurs later, subject to reasonable concerns for the safety  
45 of the person, family members of the person, or other victims of  
46 human trafficking that may be jeopardized by the bringing of the  
47 application, or for other reasons consistent with the purposes of this  
48 paragraph.

1       c. (1) The court may vacate a conviction pursuant to this section  
2 if it finds by a preponderance of the evidence that the person was a  
3 victim of human trafficking pursuant to section 1 of P.L.2005, c.77  
4 (C.2C:13-8) or as defined in paragraph (14) of 22 U.S.C. s.7102 at  
5 the time of the offense, and that the violation was a result of the  
6 person having been a victim of human trafficking.

7       (2) In making a determination:

8       (a) evidence documenting the person's status as a victim of  
9 human trafficking at the time of the offense from a federal, state, or  
10 local governmental agency shall create a rebuttable presumption  
11 that the person's participation in the offense was a result of having  
12 been a victim, but shall not be required to vacate a conviction under  
13 this section; and

14       (b) the court may additionally consider other evidence it deems  
15 appropriate in determining whether the person was a victim of  
16 human trafficking, including, but not limited to:

17       (i) certified records of federal or State court proceedings which  
18 demonstrate that the defendant was a victim of a trafficker charged  
19 with a human trafficking offense under section 1 of P.L.2005, c.77  
20 (C.2C:13-8) or chapter 77 of Title 18 of the United States Code;

21       (ii) certified records of approval notices or law enforcement  
22 certifications generated from a federal immigration proceeding  
23 available to victims of human trafficking; and

24       (iii) testimony or a sworn statement from a trained professional  
25 staff member of a victim services organization, an attorney, a  
26 member of the clergy or a health care or other professional from  
27 whom the person has sought assistance in addressing the trauma  
28 associated with being a victim of human trafficking.

29       d. If the court finds, pursuant to subsection c. of this section, that  
30 the person was a victim of human trafficking, it shall enter an order  
31 vacating the conviction and directing that all court records be  
32 revised accordingly. When the person's application also seeks an  
33 order for expungement, the court order shall require that any court,  
34 law enforcement and correctional agencies, and other noticed  
35 parties pursuant to subsection b. of this section expunge all  
36 references to the person's arrest, conviction, and related  
37 proceedings for the violation of N.J.S.2C:34-1, prostitution and  
38 related offenses, or section 3 of P.L.1997, c.93 (C.2C:34-1.1),  
39 loitering for the purpose of engaging in prostitution, or a similar  
40 local ordinance from all records in their custody that relate to the  
41 vacated conviction. An expungement ordered pursuant to this  
42 section shall have the same force as an expungement ordered  
43 pursuant to N.J.S.2C:52-1 et seq.<sup>2</sup>

44  
45       <sup>2</sup>[10.] 11.<sup>2</sup> (New section) a. In addition to any other disposition  
46 authorized by law, the court shall order any person convicted of <sup>2</sup>a  
47 disorderly persons offense for<sup>2</sup> engaging <sup>2</sup>[a prostitute] in



1 prostitution as a patron<sup>2</sup> pursuant to paragraph (1) of subsection b.  
 2 of N.J.S.2C:34-1 to participate in the “<sup>5</sup>**[John School <sup>2</sup>**[Diversion]****  
 3 **Rehabilitative<sup>2</sup>]** Prostitution Offender<sup>5</sup> Program” established  
 4 pursuant to subsection d. of this section <sup>3</sup>, unless the prosecutor, by  
 5 motion, requests that the mandatory participation be waived, in  
 6 which case the court may waive the program participation required  
 7 by this section<sup>3</sup>.

8 b. In addition to any fine, fee, assessment, or penalty authorized  
 9 under the provisions of Title 2C of the New Jersey Statutes, a  
 10 person convicted of an offense of engaging <sup>2</sup>**[a prostitute under]** in  
 11 prostitution as a patron pursuant to<sup>2</sup> paragraph (1) of subsection b.  
 12 of N.J.S.2C:34-1 shall be assessed <sup>3</sup>, if ordered to participate in the  
 13 “<sup>5</sup>**[John School Rehabilitative]** **Prostitution Offender<sup>5</sup> Program,**”<sup>3</sup>  
 14 a <sup>3</sup>**[penalty] fee<sup>3</sup> of <sup>2</sup>**[\$1,000] \$500<sup>2</sup>.****

15 c. <sup>3</sup>**[All penalties provided for in]** Each \$500 fee assessed as  
 16 required by<sup>3</sup> this section <sup>3</sup>**[**, collected as provided for the collection  
 17 of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-  
 18 4),<sup>3</sup> shall be <sup>3</sup>collected by the court, and<sup>3</sup> forwarded to the  
 19 Department of the Treasury to be deposited in the “Human  
 20 Trafficking Survivor’s Assistance Fund” established by section 2 of  
 21 P.L. , c. (C. ) (pending before the Legislature as this bill).  
 22 <sup>2</sup>**[These monies, and other monies in the fund designated by the**  
 23 **Commission on Human Trafficking pursuant to section 2 of P.L. ,**  
 24 **c. (C. ), shall be dedicated to the development, establishment,**  
 25 **operation, and maintenance of the "John School Diversion**  
 26 **Program" created pursuant to subsection d. of this section.]<sup>2</sup> <sup>3</sup>From  
 27 this fee, \$200 shall be retained in the fund, and the remaining \$300  
 28 shall be distributed as follows: \$200 to the approved provider of the  
 29 “<sup>5</sup>**[John School Rehabilitative]** **Prostitution Offender<sup>5</sup> Program,**”  
 30 as established under subsection d. of this section, attended by the  
 31 person; and \$100 to the law enforcement agency that arrested the  
 32 person resulting in that person’s conviction.<sup>3</sup>**

33 d. <sup>2</sup>**(1)<sup>2</sup>** There is hereby established an education program to be  
 34 known as the “<sup>5</sup>**[John School <sup>2</sup>**[Diversion]** **Rehabilitative<sup>2</sup>]****  
 35 **Prostitution Offender<sup>5</sup> Program,**” which shall <sup>2</sup>**[be administered by**  
 36 **the Administrative Office of the Courts]** consist of an instructional  
 37 program on prostitution and human trafficking schemes offered in  
 38 one or more locations throughout the State <sup>3</sup>as follows:

39 (a)<sup>3</sup> by a county or local governmental entity, <sup>3</sup>**[or]** if that  
 40 county or local governmental entity demonstrates an interest in  
 41 establishing a program, submits information pertaining to the  
 42 proposed operation of an instructional program by the county or  
 43 local governmental entity, or alternatively, by<sup>3</sup> a nonprofit or other  
 44 private provider <sup>3</sup>**[**. The instructional program and each provider  
 45 thereof shall be approved by the Attorney General, in consultation

1 with the Commission on Human Trafficking created by section 1 of  
 2 P.L. , c. (C. ) (pending before the Legislature as this bill)<sup>2</sup>]  
 3 on behalf of the county or local governmental entity, and the  
 4 Attorney General, in consultation with the Commission on Human  
 5 Trafficking created by section 1 of P.L. , c. (C. ) (pending  
 6 before the Legislature as this bill), approves the program and the  
 7 provider thereof, if the proposed provider is a nonprofit or other  
 8 private entity. If a county or local governmental entity establishes  
 9 and operates an instructional program, then all courts operating  
 10 within the jurisdiction of that county or local governmental entity  
 11 shall order a person <sup>4</sup>convicted of an eligible offense under  
 12 subsection a. of this section<sup>4</sup> to attend that county or local  
 13 governmental entity's program; <sup>4</sup>provided, a court shall not be  
 14 required to order a person to attend that program until the first day  
 15 of the month next following the date on which the Attorney General  
 16 notifies the Administrative Office of the Courts that the program  
 17 has been established and approved by the Attorney General;<sup>4</sup> and

18 (b) by the State, to be established within six months of the  
 19 effective date of this section, based upon the Attorney General, in  
 20 consultation with the Commission on Human Trafficking created by  
 21 section 1 of P.L. , c. (C. ) (pending before the Legislature as  
 22 this bill), approving an instructional program to be provided by one  
 23 or more approved nonprofit or other private providers in multiple  
 24 locations throughout the State. Any court in a jurisdiction that does  
 25 not have an approved county or local governmental entity  
 26 instructional program as established under subparagraph (a) of this  
 27 paragraph shall order a person <sup>4</sup>convicted of an eligible offense  
 28 under subsection a. of this section<sup>4</sup> to attend <sup>4</sup>[an] the<sup>4</sup> approved  
 29 State program established under this subparagraph, unless there is  
 30 an extra-jurisdictional county or local governmental entity  
 31 instructional program within 25 miles of the court, and the court has  
 32 been notified <sup>4</sup>in accordance with this subparagraph, or  
 33 subparagraph (a) of this paragraph,<sup>4</sup> of the availability of that  
 34 program to accept participants from the court, in which case the  
 35 court may instead order a person to attend the county or local  
 36 governmental entity's instructional program<sup>3</sup> <sup>4</sup>; regarding any  
 37 program notice under this subparagraph, a court shall not be  
 38 required to order a person to attend a program until the first day of  
 39 the month next following the date on which the Attorney General  
 40 notifies the Administrative Office of the Courts that the program  
 41 has been established and approved by the Attorney General<sup>4</sup> .

42 <sup>2</sup>(2)<sup>2</sup> The program shall <sup>2</sup>[educate defendants who have been  
 43 convicted of engaging a prostitute pursuant to paragraph (1) of  
 44 subsection b. of N.J.S.2C:34-1 about the risks involved in their  
 45 unlawful activity. The program shall inform the defendants of]  
 46 include information intended to increase the person's awareness of:

- 1        (a) the causes of prostitution and its relationship to human  
2 trafficking;
- 3        (b)<sup>2</sup> the health risks connected with <sup>2</sup>[the crime of]<sup>2</sup> prostitution,  
4 including the risk of transmittable diseases <sup>2</sup>[, the legal  
5 ramifications for defendants of their unlawful activity, the terms of  
6 imprisonment for subsequent offenses, and the correlation between  
7 prostitution and] ;
- 8        (c) the consequences of convictions for prostitution or<sup>2</sup> human  
9 trafficking <sup>2</sup>, including penalties for subsequent convictions; and
- 10        (d) the pervasiveness of human trafficking and the effects of  
11 human trafficking on its victims.
- 12        (3) Pursuant to section 2 of P.L. , c. (C. ) (pending before  
13 the Legislature as this bill), the Attorney General, in consultation  
14 with the Commission on Human Trafficking, may provide for the  
15 expenditures of monies from the “Human Trafficking Survivor’s  
16 Assistance Fund” to assist with the development, maintenance,  
17 revision, and distribution of instructional program <sup>3</sup>[and  
18 counseling]<sup>3</sup> materials for the “ <sup>5</sup>[John School Rehabilitative]  
19 Prostitution Offender<sup>5</sup> Program<sup>2</sup> <sup>3</sup>,” and the operation of this  
20 instructional program<sup>3</sup> .
- 21
- 22        <sup>2</sup>[11.] 12.<sup>2</sup> (New section) a. The Legislature finds and declares  
23 that:
- 24        (1) There reportedly are more than 12 million victims of human  
25 trafficking and it is estimated that this figure could actually be as  
26 high as 27 million;
- 27        (2) According to the National Center for Missing and Exploited  
28 Children, at least 100,000 human trafficking victims are American  
29 children who are an average age of 13 years old;
- 30        (3) Advertisements for selling the services of girls as escorts on  
31 Internet websites falsely claim that these girls are 18 years of age or  
32 older, when the girls actually are minors;
- 33        (4) The advertising of these escort services includes minors who  
34 are being sold for sex, which constitutes sex trafficking and  
35 commercial sexual abuse of minors;
- 36        (5) Responding to political and public outcry, the Internet  
37 website craigslist.com removed its escort section, but another  
38 website with an escort section, backpage.com, has to date refused to  
39 do so;
- 40        (6) The states of Washington and Connecticut recently enacted  
41 laws to require Internet websites, such as backpage.com, and the  
42 patrons who advertise on websites, to maintain documentation that  
43 they have proved the age of the escorts presented in the  
44 advertisements;
- 45        (7) The State of New Jersey criminalized human trafficking in  
46 2005; and

- 1 (8) Sex trafficking of minors should be eliminated in conformity  
2 with federal laws prohibiting the sexual exploitation of children.
- 3 b. A person commits the offense of advertising commercial  
4 sexual abuse of a minor if:
- 5 (1) the person knowingly publishes, disseminates, or displays, or  
6 causes directly or indirectly, to be published, disseminated, or  
7 displayed, any advertisement for a commercial sex act, which is to  
8 take place in this State and which includes the depiction of a minor;  
9 or
- 10 (2) the person knowingly purchases advertising in this State for a  
11 commercial sex act which includes the depiction of a minor.
- 12 c. A person who commits the offense of advertising  
13 commercial sexual abuse of a minor as established in subsection b.  
14 of this section is guilty of a crime of the first degree.  
15 Notwithstanding the provisions of N.J.S.2C:43-3, the fine imposed  
16 for an offense under this section <sup>1</sup>**[concerning criminal  
17 negligence]**<sup>1</sup> shall be a fine of at least \$25,000, which shall be  
18 collected as provided for the collection of fines and restitutions in  
19 section 3 of P.L.1979, c.396 (C.2C:46-4) and forwarded to the  
20 Department of the Treasury to be deposited in the "Human  
21 Trafficking Survivor's Assistance Fund" established by section 2 of  
22 P.L. , c. (C. ) (pending before the Legislature as this bill).
- 23 d. Nothing in this section shall preclude an indictment and  
24 conviction for any other offense defined by the laws of this State.
- 25 e. For the purposes of this section:
- 26 "Advertisement for a commercial sex act" means any  
27 advertisement or offer in electronic or print media, including the  
28 Internet, which includes either an explicit or implicit offer for a  
29 commercial sex act to occur in this State.
- 30 "Commercial sex act" means any act of sexual contact or sexual  
31 penetration, as defined in N.J.S.2C:14-1, or any prohibited sexual  
32 act, as defined in N.J.S.2C:24-4, for which something of value is  
33 given or received by any person.
- 34 "Depiction" means any photograph or <sup>2</sup>**[visual or printed matter]  
35 material containing a photograph or reproduction of a photograph**<sup>2</sup>.
- 36 "Minor" means a person who is under 18 years of age.
- 37 "Photograph" means a print, negative, slide, digital image,  
38 motion picture, or videotape, and includes anything tangible or  
39 intangible produced by photographing.
- 40 <sup>2</sup>**["Visual or printed matter" means any photograph or other  
41 material that contains a reproduction of a photograph.]**<sup>2</sup>
- 42 f. It shall not be a defense to a violation of this section that the  
43 defendant <sup>1</sup>;  
44 (1)<sup>1</sup> did not know the age of the minor depicted in the  
45 advertisement <sup>1</sup>; or

1       (2) claims to know the age of the person depicted, unless there is  
2 appropriate proof of age obtained and produced in accordance with  
3 subsections g. and h. of this section<sup>1</sup>.

4       g. It shall be a defense to a violation of this section that the  
5 defendant made a reasonable, bona fide attempt to ascertain the true  
6 age of the minor depicted in the advertisement by requiring, prior to  
7 publication, dissemination, or display of the advertisement,  
8 production of a driver's license, marriage license, birth certificate,  
9 or other governmental or educational identification card or paper of  
10 the minor depicted in the advertisement and did not rely solely on  
11 oral or written representations of the minor's age, or the apparent  
12 age of the minor as depicted. The defendant shall prove the defense  
13 established <sup>1</sup>in<sup>1</sup> this subsection by a preponderance of the evidence.

14       h. The defendant shall maintain and, upon request, produce a  
15 record of the identification used to verify the age of the person  
16 depicted in the advertisement.

17

18       <sup>2</sup>[12. Section 2 of P.L.1994, c.133 (C.2C:7-2) is amended to read  
19 as follows:

20       2. a. (1) A person who has been convicted, adjudicated  
21 delinquent or found not guilty by reason of insanity for commission  
22 of a sex offense as defined in subsection b. of this section shall  
23 register as provided in subsections c. and d. of this section.

24       (2) A person who in another jurisdiction is required to register  
25 as a sex offender and (a) is enrolled on a full-time or part-time basis  
26 in any public or private educational institution in this State,  
27 including any secondary school, trade or professional institution,  
28 institution of higher education or other post-secondary school, or  
29 (b) is employed or carries on a vocation in this State, on either a  
30 full-time or a part-time basis, with or without compensation, for  
31 more than 14 consecutive days or for an aggregate period exceeding  
32 30 days in a calendar year, shall register in this State as provided in  
33 subsections c. and d. of this section.

34       (3) A person who fails to register as required under this act shall  
35 be guilty of a crime of the third degree.

36       b. For the purposes of this act a sex offense shall include the  
37 following:

38       (1) Aggravated sexual assault, sexual assault, aggravated  
39 criminal sexual contact, kidnapping pursuant to paragraph (2) of  
40 subsection c. of N.J.S.2C:13-1 or an attempt to commit any of these  
41 crimes if the court found that the offender's conduct was  
42 characterized by a pattern of repetitive, compulsive behavior,  
43 regardless of the date of the commission of the offense or the date  
44 of conviction;

45       (2) A conviction, adjudication of delinquency, or acquittal by  
46 reason of insanity for aggravated sexual assault; sexual assault;  
47 aggravated criminal sexual contact; kidnapping pursuant to  
48 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the

1 welfare of a child by engaging in sexual conduct which would  
2 impair or debauch the morals of the child pursuant to subsection a.  
3 of N.J.S.2C:24-4; endangering the welfare of a child pursuant to  
4 paragraph (3) or (4) or subparagraph (a) of paragraph (5) of  
5 subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to  
6 section 1 of P.L.1993, c.291 (C.2C:13-6); criminal sexual contact  
7 pursuant to N.J.S.2C:14-3b. if the victim is a minor; kidnapping  
8 pursuant to N.J.S.2C:13-1, criminal restraint pursuant to  
9 N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3 if  
10 the victim is a minor and the offender is not the parent of the  
11 victim; knowingly promoting prostitution of a child pursuant to  
12 paragraph (3) or paragraph (4) of subsection b. of N.J.S.2C:34-1;  
13 advertising commercial sexual abuse of a minor pursuant to section  
14 11 of P.L. , c. (C. ) (pending before the Legislature as this  
15 bill); or an attempt to commit any of these enumerated offenses if  
16 the conviction, adjudication of delinquency or acquittal by reason of  
17 insanity is entered on or after the effective date of this act or the  
18 offender is serving a sentence of incarceration, probation, parole or  
19 other form of community supervision as a result of the offense or is  
20 confined following acquittal by reason of insanity or as a result of  
21 civil commitment on the effective date of this act;

22 (3) A conviction, adjudication of delinquency or acquittal by  
23 reason of insanity for an offense similar to any offense enumerated  
24 in paragraph (2) or a sentence on the basis of criteria similar to the  
25 criteria set forth in paragraph (1) of this subsection entered or  
26 imposed under the laws of the United States, this State or another  
27 state.

28 c. A person required to register under the provisions of this act  
29 shall do so on forms to be provided by the designated registering  
30 agency as follows:

31 (1) A person who is required to register and who is under  
32 supervision in the community on probation, parole, furlough, work  
33 release, or a similar program, shall register at the time the person is  
34 placed under supervision or no later than 120 days after the  
35 effective date of this act, whichever is later, in accordance with  
36 procedures established by the Department of Corrections, the  
37 Department of Human Services, the Juvenile Justice Commission  
38 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-  
39 170), or the Administrative Office of the Courts, whichever is  
40 responsible for supervision;

41 (2) A person confined in a correctional or juvenile facility or  
42 involuntarily committed who is required to register shall register  
43 prior to release in accordance with procedures established by the  
44 Department of Corrections, the Department of Human Services or  
45 the Juvenile Justice Commission and, within 48 hours of release,  
46 shall also register with the chief law enforcement officer of the  
47 municipality in which the person resides or, if the municipality does  
48 not have a local police force, the Superintendent of State Police;

1 (3) A person moving to or returning to this State from another  
2 jurisdiction shall register with the chief law enforcement officer of  
3 the municipality in which the person will reside or, if the  
4 municipality does not have a local police force, the Superintendent  
5 of State Police within 120 days of the effective date of this act or 10  
6 days of first residing in or returning to a municipality in this State,  
7 whichever is later;

8 (4) A person required to register on the basis of a conviction  
9 prior to the effective date who is not confined or under supervision  
10 on the effective date of this act shall register within 120 days of the  
11 effective date of this act with the chief law enforcement officer of  
12 the municipality in which the person will reside or, if the  
13 municipality does not have a local police force, the Superintendent  
14 of State Police;

15 (5) A person who in another jurisdiction is required to register  
16 as a sex offender and who is enrolled on a full-time or part-time  
17 basis in any public or private educational institution in this State,  
18 including any secondary school, trade or professional institution,  
19 institution of higher education or other post-secondary school shall,  
20 within ten days of commencing attendance at such educational  
21 institution, register with the chief law enforcement officer of the  
22 municipality in which the educational institution is located or, if the  
23 municipality does not have a local police force, the Superintendent  
24 of State Police;

25 (6) A person who in another jurisdiction is required to register  
26 as a sex offender and who is employed or carries on a vocation in  
27 this State, on either a full-time or a part-time basis, with or without  
28 compensation, for more than 14 consecutive days or for an  
29 aggregate period exceeding 30 days in a calendar year, shall, within  
30 ten days after commencing such employment or vocation, register  
31 with the chief law enforcement officer of the municipality in which  
32 the employer is located or where the vocation is carried on, as the  
33 case may be, or, if the municipality does not have a local police  
34 force, the Superintendent of State Police;

35 (7) In addition to any other registration requirements set forth in  
36 this section, a person required to register under this act who is  
37 enrolled at, employed by or carries on a vocation at an institution of  
38 higher education or other post-secondary school in this State shall,  
39 within ten days after commencing such attendance, employment or  
40 vocation, register with the law enforcement unit of the educational  
41 institution, if the institution has such a unit.

42 d. (1) Upon a change of address, a person shall notify the law  
43 enforcement agency with which the person is registered and shall  
44 re-register with the appropriate law enforcement agency no less  
45 than 10 days before he intends to first reside at his new address.  
46 Upon a change of employment or school enrollment status, a person  
47 shall notify the appropriate law enforcement agency no later than  
48 five days after any such change. A person who fails to notify the

1 appropriate law enforcement agency of a change of address or status  
2 in accordance with this subsection is guilty of a crime of the fourth  
3 degree.

4 (2) A person required to register under this act shall provide the  
5 appropriate law enforcement agency with information as to whether  
6 the person has routine access to or use of a computer or any other  
7 device with Internet capability. A person who fails to notify the  
8 appropriate law enforcement agency of such information or of a  
9 change in the person's access to or use of a computer or other  
10 device with Internet capability or who provides false information  
11 concerning the person's access to or use of a computer or any other  
12 device with Internet capability is guilty of a crime of the fourth  
13 degree.

14 e. A person required to register under paragraph (1) of  
15 subsection b. of this section or under paragraph (3) of subsection b.  
16 due to a sentence imposed on the basis of criteria similar to the  
17 criteria set forth in paragraph (1) of subsection b. shall verify his  
18 address with the appropriate law enforcement agency every 90 days  
19 in a manner prescribed by the Attorney General. A person required  
20 to register under paragraph (2) of subsection b. of this section or  
21 under paragraph (3) of subsection b. on the basis of a conviction for  
22 an offense similar to an offense enumerated in paragraph (2) of  
23 subsection b. shall verify his address annually in a manner  
24 prescribed by the Attorney General. One year after the effective  
25 date of this act, the Attorney General shall review, evaluate and, if  
26 warranted, modify pursuant to the "Administrative Procedure Act,"  
27 P.L.1968, c.410 (C.52:14B-1 et seq.) the verification requirement.  
28 Any person who knowingly provides false information concerning  
29 his place of residence or who fails to verify his address with the  
30 appropriate law enforcement agency or other entity, as prescribed  
31 by the Attorney General in accordance with this subsection, is  
32 guilty of a crime of the fourth degree.

33 f. Except as provided in subsection g. of this section, a person  
34 required to register under this act may make application to the  
35 Superior Court of this State to terminate the obligation upon proof  
36 that the person has not committed an offense within 15 years  
37 following conviction or release from a correctional facility for any  
38 term of imprisonment imposed, whichever is later, and is not likely  
39 to pose a threat to the safety of others.

40 g. A person required to register under this section who has  
41 been convicted of, adjudicated delinquent, or acquitted by reason of  
42 insanity for more than one sex offense as defined in subsection b. of  
43 this section or who has been convicted of, adjudicated delinquent,  
44 or acquitted by reason of insanity for aggravated sexual assault  
45 pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault  
46 pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not  
47 eligible under subsection f. of this section to make application to



1 the Superior Court of this State to terminate the registration  
2 obligation.

3 (cf: P.L.2007, c.219, s.2)]<sup>2</sup>

4

5 13. N.J.S.2C:24-4 is amended to read as follows:

6 2C:24-4. Endangering Welfare of Children.

7 a. Any person having a legal duty for the care of a child or who  
8 has assumed responsibility for the care of a child who engages in  
9 sexual conduct which would impair or debauch the morals of the  
10 child, or who causes the child harm that would make the child an  
11 abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and  
12 section 1 of P.L.1974, c.119 [, s.1] (C.9:6-8.21) is guilty of a crime  
13 of the second degree. Any other person who engages in conduct or  
14 who causes harm as described in this subsection to a child under the  
15 age of <sup>2</sup>[16] 18<sup>2</sup> is guilty of a crime of the third degree.

16 b. (1) As used in this subsection:

17 "Child" means any person under <sup>2</sup>[16] 18<sup>2</sup> years of age.

18 "Internet" means the international computer network of both  
19 federal and non-federal interoperable packet switched data  
20 networks.

21 "Prohibited sexual act" means

22 (a) Sexual intercourse; or

23 (b) Anal intercourse; or

24 (c) Masturbation; or

25 (d) Bestiality; or

26 (e) Sadism; or

27 (f) Masochism; or

28 (g) Fellatio; or

29 (h) Cunnilingus; or

30 (i) Nudity, if depicted for the purpose of sexual stimulation or  
31 gratification of any person who may view such depiction; or

32 (j) Any act of sexual penetration or sexual contact as defined in  
33 N.J.S.2C:14-1.

34 "Reproduction" means, but is not limited to, computer generated  
35 images.

36 (2) (Deleted by amendment, P.L.2001, c.291).

37 (3) A person commits a crime of the second degree if he causes  
38 or permits a child to engage in a prohibited sexual act or in the  
39 simulation of such an act if the person knows, has reason to know  
40 or intends that the prohibited act may be photographed, filmed,  
41 reproduced, or reconstructed in any manner, including on the  
42 Internet, or may be part of an exhibition or performance. If the  
43 person is a parent, guardian or other person legally charged with the  
44 care or custody of the child, the person shall be guilty of a crime of  
45 the first degree.

46 (4) Any person who photographs or films a child in a prohibited  
47 sexual act or in the simulation of such an act or who uses any  
48 device, including a computer, to reproduce or reconstruct the image

1 of a child in a prohibited sexual act or in the simulation of such an  
2 act is guilty of a crime of the second degree.

3 (5) (a) Any person who knowingly receives for the purpose of  
4 selling or who knowingly sells, procures, manufactures, gives,  
5 provides, lends, trades, mails, delivers, transfers, publishes,  
6 distributes, circulates, disseminates, presents, exhibits, advertises,  
7 offers or agrees to offer, through any means, including the Internet,  
8 any photograph, film, videotape, computer program or file, video  
9 game or any other reproduction or reconstruction which depicts a  
10 child engaging in a prohibited sexual act or in the simulation of  
11 such an act, is guilty of a crime of the second degree.

12 (b) Any person who knowingly possesses or knowingly views  
13 any photograph, film, videotape, computer program or file, video  
14 game or any other reproduction or reconstruction which depicts a  
15 child engaging in a prohibited sexual act or in the simulation of  
16 such an act, including on the Internet, is guilty of a crime of the  
17 **fourth** third degree.

18 (6) For purposes of this subsection, a person who is depicted as  
19 or presents the appearance of being under the age of <sup>2</sup>**[16]** 18<sup>2</sup> in  
20 any photograph, film, videotape, computer program or file, video  
21 game or any other reproduction or reconstruction shall be rebuttably  
22 presumed to be under the age of <sup>2</sup>**[16]** 18<sup>2</sup>. If the child who is  
23 depicted as engaging in, or who is caused to engage in, a prohibited  
24 sexual act or simulation of a prohibited sexual act is under the age  
25 of <sup>2</sup>**[16]** 18<sup>2</sup>, the actor shall be strictly liable and it shall not be a  
26 defense that the actor did not know that the child was under the age  
27 of <sup>2</sup>**[16]** 18<sup>2</sup>, nor shall it be a defense that the actor believed that  
28 the child was <sup>2</sup>**[16]** 18<sup>2</sup> years of age or older, even if such a  
29 mistaken belief was reasonable.

30 (cf: P.L.2001, c.291, s.1)

31

32 <sup>2</sup>14. Section 8 of P.L.1968, c.409 (C.2A:156A-8) is amended to  
33 read as follows:

34 8. The Attorney General, county prosecutor or a person  
35 designated to act for such an official and to perform his duties in  
36 and during his actual absence or disability, may authorize, in  
37 writing, an ex parte application to a judge designated to receive the  
38 same for an order authorizing the interception of a wire, or  
39 electronic or oral communication by the investigative or law  
40 enforcement officers or agency having responsibility for an  
41 investigation when such interception may provide evidence of the  
42 commission of the offense of murder, kidnapping, gambling,  
43 robbery, bribery, a violation of paragraph (1) or (2) of subsection b.  
44 of N.J.S.2C:12-1, a violation of section 3 of P.L.1997, c.353  
45 (C.2C:21-4.3), a violation of N.J.S.2C:21-19 punishable by  
46 imprisonment for more than one year, a violation of P.L.1994, c.121  
47 (C.2C:21-23 et seq.), a violation of sections 1 through 5 of

1 P.L.2002, c.26 (C.2C:38-1 through C.2C:38-5), a violation of  
 2 N.J.S.2C:33-3, a violation of N.J.S.2C:17-2, a violation of sections  
 3 1 through 3 of P.L.1983, c.480 (C.2C:17-7 through 2C:17-9), a  
 4 violation of N.J.S.2C:12-3 (terroristic threats), violations of  
 5 N.J.S.2C:35-3, N.J.S.2C:35-4 and N.J.S.2C:35-5, violations of  
 6 sections 112 through 116, inclusive, of the "Casino Control Act,"  
 7 P.L.1977, c.110 (C.5:12-112 through 5:12-116), a violation of  
 8 section 1 of P.L.2005, c.77 (C.2C:13-8), a violation of N.J.S.2C:34-  
 9 1 punishable by imprisonment for more than one year, arson,  
 10 burglary, theft and related offenses punishable by imprisonment for  
 11 more than one year, endangering the welfare of a child pursuant to  
 12 N.J.S.2C:24-4, escape, forgery and fraudulent practices punishable  
 13 by imprisonment for more than one year, alteration of motor vehicle  
 14 identification numbers, unlawful manufacture, purchase, use, or  
 15 transfer of firearms, unlawful possession or use of destructive  
 16 devices or explosives, weapons training for illegal activities  
 17 pursuant to section 1 of P.L.1983, c.229 (C.2C:39-14), racketeering  
 18 or a violation of subsection g. of N.J.S.2C:5-2, leader of organized  
 19 crime, organized criminal activity directed toward the unlawful  
 20 transportation, storage, disposal, discharge, release, abandonment or  
 21 disposition of any harmful, hazardous, toxic, destructive, or  
 22 polluting substance, or any conspiracy to commit any of the  
 23 foregoing offenses or which may provide evidence aiding in the  
 24 apprehension of the perpetrator or perpetrators of any of the  
 25 foregoing offenses.<sup>2</sup>

26 (cf: P.L.2002, c.26, s.6)

27

28 <sup>2</sup>15. Section 1 of P.L.1994, c.144 (C.2A:162-12) is amended to  
 29 read as follows:

30 1. a. As used in this section:

31 "Crime with bail restrictions" means a crime of the first or  
 32 second degree charged under any of the following sections:

- |    |  |                                   |
|----|--|-----------------------------------|
| 33 | (1) Murder                                       | 2C:11-3.                          |
| 34 | (2) Manslaughter                                 | 2C:11-4.                          |
| 35 | (3) Kidnapping                                   | 2C:13-1.                          |
| 36 | (4) Sexual Assault                               | 2C:14-2.                          |
| 37 | (5) Robbery                                      | 2C:15-1.                          |
| 38 | (6) Carjacking                                   | P.L.1993, c.221, s.1 (C.2C:15-2). |
| 39 | (7) Arson and Related Offenses                   | 2C:17-1.                          |
| 40 | (8) Causing or Risking Widespread                |                                   |
| 41 | Injury or Damage                                 | 2C:17-2.                          |
| 42 | (9) Burglary                                     | 2C:18-2.                          |
| 43 | (10) Theft by Extortion                          | 2C:20-5.                          |
| 44 | (11) Endangering the Welfare of Children         | 2C:24-4.                          |
| 45 | (12) Resisting Arrest; Eluding Officer           | 2C:29-2.                          |
| 46 | (13) Escape                                      | 2C:29-5.                          |
| 47 | (14) Corrupting or Influencing a Jury            | 2C:29-8.                          |
| 48 | (15) Possession of Weapons for Unlawful Purposes | 2C:39-4.                          |

1 (16) Weapons Training for Illegal Activities  
2 P.L.1983, c.229, s.1 (C.2C:39-14).

3 (17) Soliciting or Recruiting Gang Members  
4 P.L.1999, c.160, s.1 (C.2C:33-28).

5 (18) Human Trafficking P.L.2005, c.77, s.1 (C.2C:13-8).

6 "Crime with bail restrictions" also includes any first or second  
7 degree drug-related crimes under chapter 35 of Title 2C of the New  
8 Jersey Statutes and any first or second degree racketeering crimes  
9 under chapter 41 of Title 2C of the New Jersey Statutes.

10 "Crime with bail restrictions" also includes any crime or offense  
11 involving domestic violence, as defined in subsection a. of section 3  
12 of P.L.1991, c.261 (C.2C:25-19), where the defendant was subject  
13 to a temporary or permanent restraining order issued pursuant to the  
14 provisions of the "Prevention of Domestic Violence Act of 1991,"  
15 P.L.1991, c.261 (C.2C:25-17 et al.) and is charged with a crime  
16 committed against a person protected under the order or where the  
17 defendant is charged with contempt pursuant to N.J.S.2C:29-9.

18 b. Subject to the provisions of subsection c. of this section, a  
19 person charged with a crime with bail restrictions may post the  
20 required amount of bail only in the form of:

21 (1) Full cash;

22 (2) A surety bond executed by a corporation authorized under  
23 chapter 31 of Title 17 of the Revised Statutes; or

24 (3) A bail bond secured by real property situated in this State  
25 with an unencumbered equity equal to the amount of bail  
26 undertaken plus \$20,000.

27 c. There shall be a presumption in favor of the court  
28 designating the posting of full United States currency cash bail to  
29 the exclusion of other forms of bail when a defendant is charged  
30 with an offense as set forth in subsection a. of this section and:

31 (1) has two other indictable cases pending at the time of the  
32 arrest; or

33 (2) has two prior convictions for a first or second degree crime  
34 or for a violation of section 1 of P.L.1987, c.101 (C.2C:35-7) or any  
35 combination thereof; or

36 (3) has one prior conviction for murder, aggravated  
37 manslaughter, aggravated sexual assault, kidnapping or bail  
38 jumping; or

39 (4) was on parole at the time of the arrest; or

40 (5) was subject to a temporary or permanent restraining order  
41 issued pursuant to the provisions of the "Prevention of Domestic  
42 Violence Act of 1991," P.L.1991, c.261 (C.2C:25-17 et al.), was  
43 charged with a crime committed against a person protected under  
44 that order, including a charge of contempt pursuant to N.J.S.2C:29-  
45 9, and either: (a) is charged with commission of a domestic violence  
46 crime that resulted in serious bodily injury to the victim; or (b) has  
47 at least one prior conviction for a crime or offense involving

1 domestic violence against the same victim or has previously  
2 violated a final restraining order protecting the same victim,  
3 unless the court finds on the record that another form of bail  
4 authorized in subsection b. of this section will ensure the  
5 defendant's presence in court when required.

6 d. When bail is posted in the form of a bail bond secured by  
7 real property, the owner of the real property, whether the person is  
8 admitted to bail or a surety, shall also file an affidavit containing:

9 (1) A legal description of the real property;

10 (2) A description of each encumbrance on the real property;

11 (3) The market value of the unencumbered equity owned by the  
12 affiant as determined in a full appraisal conducted by an appraiser  
13 licensed by the State of New Jersey; and

14 (4) A statement that the affiant is the sole owner of the  
15 unencumbered equity.

16 e. Nothing herein is intended to preclude a court from releasing  
17 a person on the person's own recognizance when the court  
18 determines that such person is deserving.<sup>2</sup>

19 (cf: P.L.2011, c.138, s.1)

20

21 <sup>2</sup>[14.] 16.<sup>2</sup> Section 1 of P.L.1985, c.126 (C.2A:84A-32.4) is  
22 amended to read as follows:

23 1. a. In prosecutions for aggravated sexual assault, sexual  
24 assault, aggravated criminal sexual contact, criminal sexual contact,  
25 **[or] human trafficking involving sexual activity**, child abuse, or in  
26 any action alleging an abused or neglected child under P.L.1974,  
27 c.119 (C.9:6-8.21 et seq.), the court may, on motion and after  
28 conducting a hearing in camera, order the taking of the testimony of  
29 a witness on closed circuit television at the trial, out of the view of  
30 the jury, defendant, or spectators upon making findings as provided  
31 in subsection b. of this section.

32 b. An order under this section may be made only if the court  
33 finds that the witness is 16 years of age or younger and that there is  
34 a substantial likelihood that the witness would suffer severe  
35 emotional or mental distress if required to testify in open court.  
36 The order shall be specific as to whether the witness will testify  
37 outside the presence of spectators, the defendant, the jury, or all of  
38 them and shall be based on specific findings relating to the impact  
39 of the presence of each.

40 c. A motion seeking closed circuit testimony under subsection  
41 a. of this section may be filed by:

42 (1) The victim or witness or the victim's or witness's attorney,  
43 parent or legal guardian;

44 (2) The prosecutor;

45 (3) The defendant or the defendant's counsel; or

46 (4) The trial judge on the judge's own motion.

47 d. The defendant's counsel shall be present at the taking of  
48 testimony in camera. If the defendant is not present, he and his

1 attorney shall be able to confer privately with each other during the  
2 testimony by a separate audio system.

3 e. If testimony is taken on closed circuit television pursuant to  
4 the provisions of this act, a stenographic recording of that testimony  
5 shall also be required. A typewritten transcript of that testimony  
6 shall be included in the record on appeal. The closed circuit  
7 testimony itself shall not constitute part of the record on appeal  
8 except on motion for good cause shown.

9 (cf: P.L.1985, c.126, s.1)

10

11 <sup>2</sup>[15.] 17.<sup>2</sup> N.J.S.2C:14-7 is amended to read as follows:

12 2C:14-7. a. In prosecutions for aggravated sexual assault, sexual  
13 assault, aggravated criminal sexual contact, criminal sexual contact,  
14 human trafficking involving sexual activity, endangering the  
15 welfare of a child in violation of N.J.S.2C:24-4<sub>2</sub>, or the fourth degree  
16 crime of lewdness in violation of subsection b. of N.J.S.2C:14-4,  
17 evidence of the victim's previous sexual conduct shall not be  
18 admitted nor reference made to it in the presence of the jury except  
19 as provided in this section. When the defendant seeks to admit such  
20 evidence for any purpose, the defendant must apply for an order of  
21 the court before the trial or preliminary hearing, except that the  
22 court may allow the motion to be made during trial if the court  
23 determines that the evidence is newly discovered and could not  
24 have been obtained earlier through the exercise of due diligence.  
25 After the application is made, the court shall conduct a hearing in  
26 camera to determine the admissibility of the evidence. If the court  
27 finds that evidence offered by the defendant regarding the sexual  
28 conduct of the victim is relevant and highly material and meets the  
29 requirements of subsections c. and d. of this section and that the  
30 probative value of the evidence offered substantially outweighs its  
31 collateral nature or the probability that its admission will create  
32 undue prejudice, confusion of the issues, or unwarranted invasion of  
33 the privacy of the victim, the court shall enter an order setting forth  
34 with specificity what evidence may be introduced and the nature of  
35 the questions which shall be permitted, and the reasons why the  
36 court finds that such evidence satisfies the standards contained in  
37 this section. The defendant may then offer evidence under the order  
38 of the court.

39 b. In the absence of clear and convincing proof to the contrary,  
40 evidence of the victim's sexual conduct occurring more than one  
41 year before the date of the offense charged is presumed to be  
42 inadmissible under this section.

43 c. Evidence of previous sexual conduct with persons other than  
44 the defendant which is offered by any lay or expert witness shall not  
45 be considered relevant unless it is material to proving the source of  
46 semen, pregnancy or disease.

47 d. Evidence of the victim's previous sexual conduct with the  
48 defendant shall be considered relevant if it is probative of whether a

1 reasonable person, knowing what the defendant knew at the time of  
2 the alleged offense, would have believed that the alleged victim  
3 freely and affirmatively permitted the sexual behavior complained  
4 of.

5 e. Evidence of the manner in which the victim was dressed at  
6 the time an offense was committed shall not be admitted unless  
7 such evidence is determined by the court to be relevant and  
8 admissible in the interest of justice, after an offer of proof by the  
9 proponent of such evidence outside the hearing of the jury or at  
10 such hearing as the court may require, and a statement by the court  
11 of its findings of fact essential to its determination. A statement by  
12 the court of its findings shall also be included in the record.

13 f. For the purposes of this section, "sexual conduct" shall mean  
14 any conduct or behavior relating to sexual activities of the victim,  
15 including but not limited to previous or subsequent experience of  
16 sexual penetration or sexual contact, use of contraceptives, sexual  
17 activities reflected in gynecological records, living arrangement and  
18 life style.

19 (cf: P.L.1995, c.237, s.1)

20

21 <sup>2</sup>[16.] 18.<sup>2</sup> (New section) <sup>3</sup>[a.]<sup>3</sup> The Attorney General shall, in  
22 consultation with the Commission on Human Trafficking  
23 established by section 1 of P.L. , c. (C. ) (pending before the  
24 Legislature as this bill), <sup>3</sup>[establish and maintain] coordinate<sup>3</sup> the  
25 <sup>3</sup>[participation of the State <sup>1</sup>[with either an existing] in] State's  
26 involvement with<sup>3</sup> the<sup>1</sup> national, 24-hour toll-free hotline telephone  
27 service on human trafficking that is operating <sup>1</sup>[on or after the  
28 effective date of this section or any federally required hotline  
29 telephone service] pursuant to the National Human Trafficking  
30 Hotline, Training, and Technical Assistance Program authorized by  
31 22 U.S.C. ss.7104(b) and 7105(b)(1)(B), 8 U.S.C. s.1522(c)(1)(A),  
32 or any successor federal law<sup>1</sup> <sup>3</sup>[, and shall take appropriate action  
33 to publicize the service]<sup>3</sup>.

34 <sup>3</sup>[b. <sup>1</sup>[Unless otherwise established by a federally required  
35 hotline telephone service under federal law, the hotline selected by  
36 the] The<sup>1</sup> Attorney General, in consultation with the commission,  
37 <sup>1</sup>[shall be capable of receiving information from members of the  
38 public who have knowledge of or who believe that an act of human  
39 trafficking in violation of section 1 of P.L.2005, c.77 (C.2C:13-8) is  
40 being or has been committed. The hotline service]<sup>1</sup> shall also <sup>1</sup>[be  
41 capable of] require that any State hotline telephone number  
42 established before, on, or after the effective date of this section for<sup>1</sup>  
43 receiving <sup>1</sup>[and] information from members of the public who have  
44 knowledge of or who believe that an act of human trafficking in  
45 violation of section 1 of P.L.2005, c.77 (C.2C:13-8) is being or has  
46 been committed or for<sup>1</sup> responding to requests for information from

1 members of the public concerning human trafficking <sup>1</sup>be directly  
 2 linked to the national, 24-hour toll-free hotline telephone service  
 3 described in subsection a. of this section, so that any telephone call  
 4 to the State number is immediately and directly forwarded to that  
 5 national telephone service<sup>1</sup>.

6 c. The Attorney General shall <sup>1</sup>, in consultation with the  
 7 commission, and<sup>1</sup> pursuant to any funds appropriated or otherwise  
 8 made available, establish an educational and public information  
 9 program concerning the crime of human trafficking set out in  
 10 section 1 of P.L.2005, c.77 (C.2C:13-8).]<sup>3</sup>

11  
 12 <sup>2</sup>[17.] 19.<sup>2</sup> (New section) a. <sup>2</sup>[(1)]<sup>2</sup> The <sup>2</sup>Police Training  
 13 Commission, in consultation with the<sup>2</sup> Attorney General and the  
 14 Director of the Division of Criminal Justice in the Department of  
 15 Law and Public Safety <sup>2,2</sup> shall develop and approve <sup>2</sup>[a training  
 16 course and curriculum] , as part of the police training courses  
 17 required pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), courses  
 18 of study<sup>2</sup> on the handling, response procedures, investigation, and  
 19 prosecution of human trafficking cases <sup>2</sup>[for law enforcement  
 20 agencies]<sup>2</sup>. <sup>2</sup>[This training course] These courses<sup>2</sup> shall be  
 21 reviewed at least every two years and modified <sup>2</sup>[by the Attorney  
 22 General and Director of the Division of Criminal Justice]<sup>2</sup> from  
 23 time to time as need may require.

24 <sup>2</sup>[(2) The Attorney General shall be responsible for ensuring that  
 25 all law enforcement officers attend initial training within 90 days of  
 26 appointment or transfer and annual inservice training of at least four  
 27 hours as described in this section.

28 (3) The Division of Criminal Justice shall distribute the training  
 29 materials and curriculum to all State, county, and local law  
 30 enforcement agencies.]<sup>2</sup>

31 b. (1) The <sup>2</sup>[Division of Criminal Justice] Department of  
 32 Community Affairs<sup>2</sup>, in consultation with the <sup>1</sup>Commission on  
 33 Human Trafficking established by section 1 of P.L. , c. (C. )  
 34 (pending before the Legislature as this bill) <sup>2</sup>[and the<sup>1</sup> Department  
 35 of Community Affairs]<sup>2</sup>, shall develop <sup>2</sup>[and] <sup>2</sup>, approve <sup>2</sup>, and  
 36 provide for<sup>2</sup> a <sup>1</sup>one-time<sup>1</sup> training course on the handling and  
 37 response procedures of suspected human trafficking activities for  
 38 owners, operators, and staff of hotels and motels as defined in the  
 39 "Hotel and Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et  
 40 seq.) <sup>2</sup>; or alternatively, the department, in consultation with the  
 41 commission, shall approve <sup>5</sup>[for use]<sup>5</sup> a substantially similar one-  
 42 time training course <sup>5</sup>[provided by a recognized Statewide  
 43 nonprofit hotel or other multiple dwelling trade association with  
 44 demonstrated experience] for use by hotels and motels<sup>5</sup> in  
 45 providing <sup>5</sup>[course offerings] training<sup>5</sup> to owners, operators, and



1 staff <sup>5</sup>[on similar workplace matters<sup>2</sup>]<sup>5</sup>. <sup>1</sup>The <sup>2</sup>[Division of  
 2 Criminal Justice] department<sup>2</sup> , in consultation with the  
 3 commission <sup>5</sup>[<sup>2</sup>and the approved nonprofit course provider, if  
 4 any<sup>2</sup>]<sup>5</sup> , shall define by regulation which staff positions are  
 5 required, as a condition of employment, to attend the one-time  
 6 training course.<sup>1</sup> <sup>2</sup>[This] Verifiable completion of the training  
 7 course by required staff shall be a condition of issuance,  
 8 maintenance, or renewal of any license, permit, certificate, or  
 9 approval required, permitted to be granted, or issued to owners or  
 10 operators under the provisions of the "Hotel and Multiple Dwelling  
 11 Law," P.L.1967, c.76 (C.55:13A-1 et seq.). The<sup>2</sup> training course  
 12 shall be reviewed at least every two years and modified by the  
 13 <sup>2</sup>[Division of Criminal Justice] department<sup>2</sup>, in consultation with  
 14 the <sup>1</sup>commission <sup>5</sup>[and the<sup>1</sup> <sup>2</sup>[Department of Community Affairs]  
 15 approved nonprofit course provider, if any<sup>2</sup>]<sup>5</sup>, from time to time as  
 16 need may require.

17 (2) The Department of Community Affairs <sup>2</sup>, through its  
 18 oversight and enforcement authority provided under the "Hotel and  
 19 Multiple Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.),<sup>2</sup>  
 20 shall be responsible for ensuring that all hotel and motel owners,  
 21 operators, and <sup>1</sup>required<sup>1</sup> staff attend <sup>1</sup>[initial] the one-time<sup>1</sup>  
 22 training <sup>1</sup>course<sup>1</sup> within <sup>1</sup>[90 days] one year<sup>1</sup> of <sup>1</sup>the<sup>1</sup> enactment of  
 23 this section <sup>1</sup>[, and annual inservice training of at least four hours  
 24 as described in this section] in the case of all current owners,  
 25 operators, and required staff engaging in their respective profession  
 26 on the effective date of this section, and within six months of the  
 27 first day of ownership, operation, or employment for all new  
 28 owners, operators, and required staff who initially engage in their  
 29 respective profession on a date that follows the effective date<sup>1</sup>.  
 30 <sup>5</sup>[<sup>2</sup>If an approved nonprofit course provider is involved in  
 31 providing the one-time training course to new owners, operators,  
 32 and staff who initially engage in their respective profession on a  
 33 date that follows the effective date of this section, then the  
 34 nonprofit course provider shall provide the training course at least  
 35 once every six months in order for these persons to meet the six-  
 36 month training deadline established by this paragraph.<sup>2</sup>]<sup>5</sup>

37 (3) The <sup>2</sup>[<sup>1</sup>commission, in coordination with the<sup>1</sup>]<sup>2</sup> Department  
 38 of Community Affairs <sup>2</sup>[<sup>1</sup>,<sup>1</sup>]<sup>2</sup> shall <sup>1</sup>make available <sup>2</sup>[and<sup>1</sup>  
 39 distribute]<sup>2</sup> the training materials <sup>1</sup>[and curriculum] for the one-  
 40 time training course<sup>1</sup> to <sup>1</sup>[all hotels and motels in the State] hotel  
 41 and motel owners, operators, and required staff <sup>5</sup>[<sup>2</sup>, or to the  
 42 approved nonprofit course provider, if any,<sup>2</sup>]<sup>5</sup> in order for <sup>2</sup>[these  
 43 persons] the owners, operators, and required staff<sup>2</sup> to fulfill the  
 44 one-time training requirement set forth in this subsection<sup>1</sup>.

1 c. (1) The <sup>2</sup>[Division of Criminal Justice] Department of  
2 Health<sup>2</sup>, in consultation with the <sup>1</sup>Commission on Human  
3 Trafficking established by section 1 of P.L. , c. (C. )  
4 (pending before the Legislature as this bill) <sup>2</sup>[and the<sup>1</sup> Department  
5 of Human Services]<sup>2</sup>, shall develop <sup>2</sup>[and] <sup>2</sup> approve <sup>2</sup>, and  
6 provide for<sup>2</sup> a <sup>1</sup>one-time<sup>1</sup> training course on the handling and  
7 response procedures of suspected human trafficking activities for  
8 employees of every licensed health care facility as defined in  
9 section 2 of P.L.1971, c.136 (C.26:2H-2), including those  
10 professionals whose professional practice is regulated pursuant to  
11 Title 45 of the Revised Statutes <sup>2</sup>; or alternatively, the department,  
12 in consultation with the commission, shall approve for use a  
13 substantially similar one-time training course provided by a  
14 recognized Statewide nonprofit healthcare trade association with  
15 demonstrated experience in providing course offerings to health  
16 care facility employees on similar workplace matters<sup>2</sup>. <sup>1</sup>The  
17 <sup>2</sup>[Division of Criminal Justice] department<sup>2</sup>, in consultation with  
18 the commission <sup>2</sup>and the approved nonprofit course provider, if  
19 any<sup>2</sup>, shall define by regulation which employees are required, as a  
20 condition of their employment, to attend the one-time training  
21 course.<sup>1</sup> <sup>2</sup>[This] Verifiable completion of the training course by  
22 required employees shall be a condition of issuance, maintenance,  
23 or renewal of any license, permit, certificate, or approval required,  
24 permitted to be granted, or issued to licensed health care facilities  
25 under the provisions of P.L.1971, c.136 (C.26:2H-1 et al.). <sup>2</sup>The  
26 training course shall be reviewed at least every two years and  
27 modified by the <sup>2</sup>[Division of Criminal Justice] department<sup>2</sup>, in  
28 consultation with the <sup>1</sup>commission and the<sup>1</sup> <sup>2</sup>[Department of  
29 Human Services] approved nonprofit course provider, if any<sup>2</sup> <sup>1</sup>,  
30 from time to time as need may require<sup>1</sup>.

31 (2) The Department of <sup>2</sup>[Human Services] Health, through its  
32 oversight and enforcement authority provided under P.L.1971,  
33 c.136 (C.26:2H-1 et al.),<sup>2</sup> shall be responsible for ensuring that all  
34 <sup>1</sup>required<sup>1</sup> employees of licensed health care facilities attend  
35 <sup>1</sup>[initial] the one-time<sup>1</sup> training course<sup>1</sup> within <sup>1</sup>[90 days] one  
36 year<sup>1</sup> of <sup>1</sup>the<sup>1</sup> enactment of this section <sup>1</sup>[, and annual inservice  
37 training of at least four hours as described in this section] in the  
38 case of all current employees engaging in their respective  
39 profession on the effective date of this section, and within six  
40 months of the first day of employment for all new employees who  
41 initially engage in their respective profession on a date that follows  
42 the effective date<sup>1</sup>. <sup>2</sup>If an approved nonprofit course provider is  
43 involved in providing the one-time training course to new  
44 employees who initially engage in their respective profession on a  
45 date that follows the effective date of this section, then the  
46 nonprofit course provider shall provide the training course at least

1 once every six months in order for these employees to meet the six-  
2 month training deadline established by this paragraph.<sup>2</sup>

3 (3) The <sup>2</sup>[<sup>1</sup>commission, in coordination with the]<sup>2</sup> Department  
4 of <sup>2</sup>[Human Services] Health<sup>2</sup> <sup>2</sup>[<sup>1</sup>, <sup>1</sup>]<sup>2</sup> shall make available <sup>2</sup>[and<sup>1</sup>  
5 distribute]<sup>2</sup> the training materials <sup>1</sup>[and curriculum] for the one-  
6 time training course<sup>1</sup> to <sup>1</sup>[all licensed health care facilities in the  
7 State] required employees <sup>2</sup>, or to the approved nonprofit course  
8 provider, if any,<sup>2</sup> in order for <sup>2</sup>[these persons] the required  
9 employees<sup>2</sup> to fulfill the one-time training requirement set forth in  
10 this subsection<sup>1</sup>.

11 d. (1) The Administrative Office of the Courts shall develop and  
12 approve a training course and a curriculum <sup>2</sup>[on the handling,  
13 investigation, and response procedures and prosecution of human  
14 trafficking cases for all] to raise awareness of<sup>2</sup> judges and <sup>2</sup>[all]<sup>2</sup>  
15 judicial personnel <sup>2</sup>[on the seriousness of the crime of human  
16 trafficking, its impact on human rights and the need to adequately  
17 implement anti-trafficking laws, including not only the prosecution  
18 and sentencing of defendants charged with human trafficking, but  
19 the need to respect and restore rights and needs of victims of human  
20 trafficking]<sup>2</sup>. This training course shall be reviewed at least every  
21 two years and modified by the Administrative Office of the Courts  
22 from time to time as need may require.

23 (2) The Administrative Office of the Courts shall <sup>2</sup>[be  
24 responsible for ensuring that all] make the training course,  
25 curriculum, and supporting materials available to appropriate<sup>2</sup>  
26 judges and judicial personnel <sup>2</sup>[attend initial training within 90  
27 days of appointment or transfer and annual in-service training of at  
28 least four hours as described in this section] who may be involved  
29 with the court-related aspects of human trafficking prosecutions  
30 through annual in-service judicial training programs or other  
31 means]<sup>2</sup>.

32 e. <sup>2</sup>[The Division of Criminal Justice, the Department of  
33 Community Affairs, the Department of Human Services, and the  
34 Administrative Office of the Courts shall provide that all training on  
35 the handling of human trafficking cases shall include information  
36 concerning the impact of human trafficking on society, the statutory  
37 and case law concerning human trafficking, policies and procedures  
38 as promulgated or ordered by the Attorney General, the Department  
39 of Community Affairs, the Department of Human Services, or the  
40 Supreme Court, or the federal government and the use of available  
41 community resources, support services, sanctions, and treatment  
42 options for victims of human trafficking] Pursuant to section 2 of  
43 P.L. , c. (C. ) (pending before the Legislature as this bill),  
44 the Attorney General, in consultation with the Commission on  
45 Human Trafficking established by section 1 of P.L. , c. (C. )  
46 (pending before the Legislature as this bill), may provide for the

1 expenditures of monies from the “Human Trafficking Survivor’s  
2 Assistance Fund” to assist with the development, maintenance,  
3 revision, and distribution of training course materials for the  
4 courses developed in accordance with this section<sup>2 3</sup>, and the  
5 operation of these training courses<sup>3</sup>.  
6

7 <sup>2</sup>[18.] 20.<sup>2</sup> Section 9 of P.L.1985, c.404 (C.52:4B-47) is  
8 amended to read as follows:

9 9. a. The curriculum for police training courses required  
10 pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.) shall include  
11 training on responding to the needs of crime victims, and specific  
12 training on responding to the needs of victims of human trafficking  
13 as defined in section 1 of P.L.2005, c.77 (C.2C:13-8), and on  
14 services available to provide assistance, including information on  
15 federal, State, and local hotlines available to receive reports of and  
16 provide assistance to victims of human trafficking.

17 b. In-service training shall be made available for police  
18 officers, assistant prosecutors, county detectives and investigators  
19 on specialized needs of crime victims and available services.  
20 (cf: P.L.1985, c.404, s.9)

21  
22 <sup>2</sup>[19.] 21.<sup>2</sup> (New section) <sup>2</sup>[a.]<sup>2</sup> An applicant for licensure as a  
23 massage and bodywork therapist or registration as an employer  
24 offering massage and bodywork therapies under P.L.1999, c.19  
25 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et seq.)  
26 <sup>2</sup>[shall not be eligible for licensure or registration, as the case may  
27 be]<sup>2</sup>, and any holder of a license or registration under P.L.1999,  
28 c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et seq.)  
29 shall <sup>2</sup>[have his license or registration revoked if the New Jersey  
30 Board of Massage and Bodywork Therapy determines]<sup>2</sup>, consistent  
31 with <sup>2</sup>[subsection f. of]<sup>2</sup> section 8 of P.L.1978, c.73 (C.45:1-21)  
32 <sup>2</sup>and supporting regulations by the New Jersey Board of Massage  
33 and Bodywork Therapy<sup>2</sup>, <sup>2</sup>[that] be subject to a<sup>2</sup> criminal history  
34 record <sup>2</sup>[information exists on file in the Federal Bureau of  
35 Investigation, Identification Division, or in the State Bureau of  
36 Identification in the Division of State Police, which may disqualify  
37 that individual from being licensed or registered] background  
38 check, which may, consistent with that applicable law, result in a  
39 refusal to issue a license or certificate, or suspension or revocation  
40 of an existing license or certificate<sup>2</sup>.

41 <sup>2</sup>[b. An applicant and holder of a license or registration who is  
42 required to undergo a criminal history record background check  
43 pursuant to subsection a. of this section shall submit to the board his  
44 name, address, and fingerprints taken on standard fingerprint cards  
45 by a State or municipal law enforcement agency or by a private  
46 entity under contract with the State. The board is authorized to

1 exchange fingerprint data with and receive criminal history record  
2 information from the Federal Bureau of Investigation and the  
3 Division of State Police for use in making the determinations  
4 required pursuant to this section.

5 c. Upon receipt of the criminal history record information for a  
6 person from the Federal Bureau of Investigation or the Division of  
7 State Police, the board shall notify the applicant, licensee, or  
8 registered individual, as applicable, in writing, of the person's  
9 qualification or disqualification for licensure or registration under  
10 this section.

11 d. If an applicant, licensee, or registered individual refuses to  
12 consent to, or cooperate in, the securing of a criminal history record  
13 background check, the board shall not issue a license or registration,  
14 as the case may be, or other authorization to the applicant, licensee,  
15 or registered individual.

16 e. All costs associated with performing the criminal history  
17 record background check required by this section shall be borne by  
18 the applicant for licensure or registration or the holder of any  
19 license or registration.

20 f. The New Jersey Board of Massage and Bodywork Therapy,  
21 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
22 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
23 the purposes of this section.]<sup>2</sup>  
24

25 <sup>2</sup>[20.] 22.<sup>2</sup> Sections 1 and 2 of this act shall take effect  
26 immediately, and the remaining sections shall take effect on the  
27 first day of the second month next following the date of enactment,  
28 but the Attorney General, Commissioner of Community Affairs,  
29 Commissioner of <sup>2</sup>[Human Services] Health<sup>2</sup>, the Director of the  
30 Administrative Office of the Courts, and the New Jersey Board of  
31 Massage and Bodywork Therapy may take any anticipatory  
32 administrative action in advance thereof as shall be necessary for  
33 the implementation of this act.  
34  
35  
36

37  
38 The "Human Trafficking Prevention, Protection, and Treatment  
39 Act."

# ASSEMBLY, No. 3352

## STATE OF NEW JERSEY

### 215th LEGISLATURE

INTRODUCED OCTOBER 11, 2012

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman ALISON LITTELL MCHOSE**

**District 24 (Morris, Sussex and Warren)**

**Assemblyman PETER J. BARNES, III**

**District 18 (Middlesex)**

**Assemblywoman CLEOPATRA G. TUCKER**

**District 28 (Essex)**

**Assemblyman ANGEL FUENTES**

**District 5 (Camden and Gloucester)**

**Assemblywoman LINDA STENDER**

**District 22 (Middlesex, Somerset and Union)**

**Assemblywoman SHAVONDA E. SUMTER**

**District 35 (Bergen and Passaic)**

**Assemblyman RONALD S. DANCER**

**District 12 (Burlington, Middlesex, Monmouth and Ocean)**

**Co-Sponsored by:**

**Assemblywoman Wagner, Assemblymen Caputo, McKeon,**

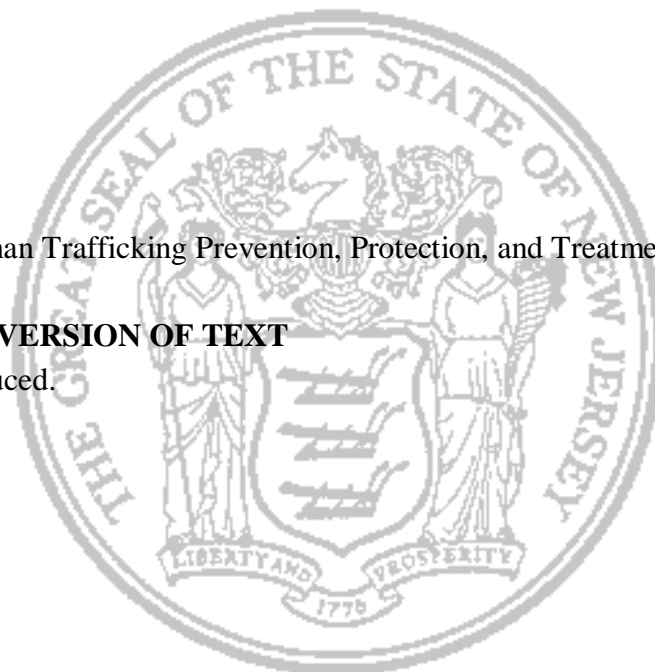
**Assemblywoman Quijano and Assemblyman Gusciora**

**SYNOPSIS**

The "Human Trafficking Prevention, Protection, and Treatment Act."

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 10/16/2012)

A3352 VAINIERI HUTTLE, MCHOSE

2

1 AN ACT concerning human trafficking and designated the “Human  
2 Trafficking Prevention, Protection, and Treatment Act,” and  
3 amending and supplementing various parts of the statutory law.  
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*  
7

8 1. (New section) a. (1) There is hereby created, in the  
9 Department of Law and Public Safety, a commission to be known  
10 as the Commission on Human Trafficking, consisting of 15  
11 members as follows: the Attorney General, or his designee; the  
12 Commissioner of Children and Families, or his designee; the  
13 Commissioner of Human Services, or his designee; one member of  
14 the New Jersey Human Trafficking Task Force established within  
15 the Department of Law and Public Safety, designated by the  
16 Attorney General; two public members appointed by the Governor  
17 based upon the recommendation of the Senate President, one  
18 representing law enforcement and one representing a victim’s  
19 assistance organization; one public member appointed by the  
20 Governor based upon the recommendation of the Senate Minority  
21 Leader representing either a non-profit health care facility or mental  
22 health services; two public members appointed by the Governor  
23 based upon the recommendation of the Speaker of the General  
24 Assembly, one representing law enforcement and one representing a  
25 victim’s assistance organization; one public member appointed by  
26 the Governor based upon the recommendation of the Assembly  
27 Minority Leader representing either a non-profit health care facility  
28 or mental health services; and five public members appointed by the  
29 Governor, one of whom shall be a representative of the National  
30 Center for Missing and Exploited Children. All public members  
31 shall possess a background in, or have specialized knowledge of,  
32 the legal, policy, educational, social, or psychological aspects of  
33 human trafficking.

34 b. (1) Of the public members first appointed:

35 (a) the following shall serve for a term of three years: one  
36 member appointed upon the recommendation of the Senate  
37 President; one member appointed upon the recommendation of the  
38 Speaker of the General Assembly; and three members appointed by  
39 the Governor; and

40 (b) the following shall serve for a term of two years: one member  
41 appointed upon the recommendation of the Senate President; one  
42 member appointed upon the recommendation of the Speaker of the  
43 General Assembly; each member appointed by the Senate and  
44 Assembly Minority Leaders; and two members appointed by the  
45 Governor.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (c) Upon the conclusion of the initial terms, each public member  
2 shall be appointed for a term of three years.

3 (2) Each member appointed shall hold office for the term of  
4 appointment and until a successor shall have been appointed and  
5 qualified.

6 (3) Any vacancy in the membership of the commission shall be  
7 filled by appointment in the same manner as the original  
8 appointment was made.

9 c. (1) The commission shall organize upon the appointment of  
10 a majority of its authorized membership. The members shall elect  
11 one of the members to serve as chair and vice-chair, and the chair  
12 may appoint a secretary, who need not be a member of the  
13 commission.

14 (2) The commission shall meet at those times and places within  
15 the State of New Jersey as the commission shall determine. A  
16 majority of the commission's authorized membership shall  
17 constitute a quorum for the transaction of any business, for the  
18 performance of any duty, or for the exercise of any power of the  
19 commission.

20 d. The members of the commission shall serve without  
21 compensation, but shall be eligible for reimbursement for necessary  
22 and reasonable expenses incurred in the performance of their  
23 official duties within the limits of funds appropriated or otherwise  
24 made available to the commission for its purposes.

25 e. The commission shall be entitled to accept the assistance and  
26 services of the employees of any State, county, or municipal  
27 department, board, bureau, commission, or agency as may be made  
28 available to it and to employ legal, stenographic, technical, and  
29 clerical assistance and incur expenses as may be necessary in order  
30 to perform its duties within the limits of funds appropriated or  
31 otherwise made available to it for its purposes.

32 f. It shall be the duty of the commission to:

33 (1) Evaluate the existing law concerning human trafficking and  
34 the enforcement thereof, and to make recommendations for  
35 legislation, if appropriate;

36 (2) Review existing victim assistance programs and analyze the  
37 costs, organization, and availability of these services for victims of  
38 human trafficking and to make recommendations for legislation, if  
39 appropriate;

40 (3) Promote a coordinated response by public and private  
41 resources for victims of human trafficking;

42 (4) Develop mechanisms to promote public awareness of human  
43 trafficking; and

44 (5) Administer and make expenditures from the "Human  
45 Trafficking Survivor's Assistance Fund" established under section 2  
46 of P.L. , c. (C. ), for the provision of services to victims of  
47 human trafficking, to promote awareness of human trafficking, and  
48 the development, establishment, operation, and maintenance of the



1 "John School Diversion Program" created pursuant to section 10 of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill).

3 The commission shall adopt, pursuant to the "Administrative  
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
5 regulations necessary to implement the duties and purposes of the  
6 commission provided in this section.

7 g. The commission shall report annually to the Governor and to  
8 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
9 19.1), its activities, as well as its findings and recommendations for  
10 any needed new services or resources for victims of human  
11 trafficking, and any proposed changes to the current law concerning  
12 human trafficking.

13

14 2. (New section) There is established the "Human Trafficking  
15 Survivor's Assistance Fund" as a separate, non-lapsing, dedicated  
16 fund in the General Fund, which shall be administered by the  
17 Commission on Human Trafficking created by section 1 of P.L. ,  
18 c. (C. ) (pending before the Legislature as this bill). All  
19 monies deposited in the fund pursuant to P.L. , c. (C. )  
20 (pending before the Legislature as this bill), any other enactment, or  
21 as otherwise provided from any public or private source shall be  
22 used for the provision of services to victims of human trafficking, to  
23 promote awareness of human trafficking, and the development,  
24 establishment, operation, and maintenance of the "John School  
25 Diversion Program" created pursuant to section 10 of P.L. , c.  
26 (C. ) (pending before the Legislature as this bill), and done so  
27 in accordance with rules and regulations promulgated by the  
28 commission pursuant to subsection f. of section 1 of P.L. , c.  
29 (C. ) (pending before the Legislature as this bill) and other  
30 applicable law.

31

32 3. Section 1 of P.L.2005, c.77 (C.2C:13-8) is amended to read  
33 as follows:

34 1. Human trafficking. a. A person commits the crime of human  
35 trafficking if he:

36 (1) knowingly holds, recruits, lures, entices, harbors, transports,  
37 provides or obtains, by any means, another, to engage in sexual  
38 activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-  
39 1 or to provide labor or services:

40 (a) by threats or incidents of serious bodily harm **[or]**, physical  
41 restraint, or abduction against the person or any other person;

42 (b) by means of any scheme, fraud, deceit or other deception,  
43 plan, or pattern intended to cause the person to believe that the  
44 person or any other person would suffer serious bodily harm or  
45 physical restraint;

46 (c) by committing a violation of N.J.S.2C:13-5 involving  
47 coercion against the person; **[or]**

1 (d) by destroying, concealing, removing, confiscating, or  
2 possessing any passport, immigration-related document as defined  
3 in section 1 of P.L.1997, c.1 (C.2C:21-31), or other document  
4 issued by a governmental agency to any person which could be used  
5 as a means of verifying the person's identity or age or any other  
6 personal identifying information; or

7 (e) by means of the abuse of power or threatened abuse of  
8 power of the law or legal process; or

9 (2) receives anything of value from participation as an  
10 organizer, supervisor, financier or manager in a scheme or course of  
11 conduct which violates paragraph (1) of this subsection; or

12 (3) as a licensed owner or driver of an autocab, limousine,  
13 autobus, or any other passenger automobile as defined in R.S.39:1-1  
14 that is subject to regulation under chapter 16 of Title 48 of the  
15 Revised Statutes, negligently participates in the transportation of  
16 another which violates paragraph (1) or (2) of this subsection; or

17 (4) otherwise being a professionally licensed person, negligently  
18 permits an act of human trafficking described in paragraph (1) or  
19 (2) of this subsection, on, within, or using the person's property or  
20 services. For purposes of this paragraph, "professionally licensed  
21 person" means any person required by law to obtain, from a  
22 governmental department, agency, board, or commission of the  
23 State or any political subdivision of the State, a license, permit,  
24 certificate, approval, registration, charter, or similar form of  
25 business or professional authorization in order to operate a business  
26 or as a professional in this State.

27 b. An offense under this section constitutes a crime of the first  
28 degree, except that an offense under paragraph (3) or (4) of  
29 subsection a. of this section concerning criminal negligence  
30 constitutes a crime of the fourth degree.

31 c. It is an affirmative defense to prosecution for a violation of  
32 this section that, during the time of the alleged commission of the  
33 offense of human trafficking created by this section, the defendant  
34 was a victim of human trafficking.

35 d. (1) Notwithstanding the provisions of N.J.S.2C:43-6, the  
36 term of imprisonment imposed for a crime of the first degree under  
37 paragraph (2) of subsection a. of this section shall be either a term  
38 of 20 years during which the actor shall not be eligible for parole,  
39 or a specific term between 20 years and life imprisonment, of which  
40 the actor shall serve 20 years before being eligible for parole.  
41 Notwithstanding the provisions of N.J.S.2C:43-3, the fine imposed  
42 for a crime of the first degree under this section shall be a fine of at  
43 least \$25,000, which shall be collected as provided for the  
44 collection of fines and restitutions in section 3 of P.L.1979, c.396  
45 (C.2C:46-4) and forwarded to the Department of the Treasury to be  
46 deposited in the "Human Trafficking Survivor's Assistance Fund"  
47 established by section 2 of P.L. , c. (C. ) (pending before the  
48 Legislature as this bill).

1        (2) Notwithstanding the provisions of N.J.S.2C:43-3, the fine  
2 imposed for a crime of the fourth degree under paragraph (3) or (4)  
3 of subsection a. of this section concerning criminal negligence shall  
4 be a fine of up to \$25,000, which shall be collected as provided for  
5 the collection of fines and restitutions in section 3 of P.L.1979,  
6 c.396 (C.2C:46-4) and forwarded to the Department of the Treasury  
7 to be deposited in the "Human Trafficking Survivor's Assistance  
8 Fund" established by section 2 of P.L. , c. (C. ) (pending  
9 before the Legislature as this bill). Additionally, upon conviction  
10 for this crime, the court shall revoke any license, permit, certificate,  
11 approval, registration, charter, or similar form of business or  
12 professional authorization required by law concerning the operation  
13 of that person's business or profession.

14        e. In addition to any other disposition authorized by law, any  
15 person who violates the provisions of this section, other than a  
16 violation of paragraph (3) or (4) of subsection a. of this section  
17 concerning criminal negligence, shall be sentenced to make  
18 restitution to any victim. The court shall award to the victim  
19 restitution which is the greater of:

20        (1) the gross income or value to the defendant of the victim's  
21 labor or services; or

22        (2) the value of the victim's labor or services as determined by  
23 the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-  
24 56.25 et seq.), the "New Jersey State Wage and Hour Law,"  
25 P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal Farm Labor  
26 Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws concerning the  
27 regulation of child labor in chapter 2 of Title 34 of the Revised  
28 Statutes, or any other applicable State law, and the "Fair Labor  
29 Standards Act of 1938," 29 U.S.C. s.201 et seq., or any other  
30 applicable federal law.

31 (cf: P.L.2005, c.77, s.1)

32

33        4. (New section) a. Any person injured, including due to the  
34 loss of moneys or property, real or personal, as a result of a  
35 violation of the human trafficking provisions set forth in section 1  
36 of P.L.2005, c.77 (C.2C:13-8) may bring a civil action in any court  
37 of competent jurisdiction. A civil action brought under this section  
38 shall not preclude the application of any other civil, administrative,  
39 or criminal remedy under any other provision of law.

40        b. (1) The standard of proof in a civil action brought pursuant  
41 to this section is a preponderance of the evidence, and the fact that a  
42 prosecution for human trafficking under section 1 of P.L.2005, c.77  
43 (C.2C:13-8) is not instituted or, whenever instituted, terminates  
44 without a conviction, shall not preclude a civil action.

45        (2) A final judgment rendered in favor of the State in any  
46 criminal proceeding shall estop the defendant from denying the  
47 same conduct in any civil action brought pursuant to this section.

1 c. In any civil action brought pursuant to this section, the court  
2 shall, in addition to any other appropriate legal or equitable relief,  
3 award damages in an amount that is the greater of:

4 (1) the gross income or value to the defendant of the injured  
5 party's labor or services; or

6 (2) the value of the injured party's labor or services as  
7 determined by the "New Jersey Prevailing Wage Act," P.L.1963,  
8 c.150 (C.34:11-56.25 et seq.), the "New Jersey State Wage and  
9 Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal  
10 Farm Labor Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws  
11 concerning the regulation of child labor in chapter 2 of Title 34 of  
12 the Revised Statutes, or any other applicable State law, and the  
13 "Fair Labor Standards Act of 1938," 29 U.S.C. s.201 et seq., or any  
14 other applicable federal law.  
15

16 5. (New section) a. (1) A person who knowingly owns,  
17 controls, manages, supervises, or otherwise keeps, alone or in  
18 association with another, any premises where human trafficking is  
19 regularly carried on is guilty of a crime of the first degree.

20 (2) A person who knowingly leases or otherwise permits any  
21 premises controlled by the actor, alone or in association with others,  
22 to be regularly used for human trafficking, or fails to make a  
23 reasonable effort to abate this use by ejecting the tenant, notifying  
24 law enforcement authorities, or employing other legally available  
25 means, is guilty of a crime of the first degree.

26 (3) As used in this section "premises" includes, but is not limited  
27 to, any residence, apartment, hotel, motel, inn, rooming house,  
28 boarding house, or other establishment for lodging.

29 b. Notwithstanding the provisions of N.J.S.2C:43-3, the fine  
30 imposed for an offense under this section shall be a fine of at least  
31 \$25,000, which shall be collected as provided for the collection of  
32 fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4)  
33 and forwarded to the Department of the Treasury to be deposited in  
34 the "Human Trafficking Survivor's Assistance Fund" established by  
35 section 2 of P.L. , c. (C. ) (pending before the Legislature as  
36 this bill).  
37

38 6. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to  
39 read as follows:

40 2. No lessee or tenant or the assigns, under-tenants or legal  
41 representatives of such lessee or tenant may be removed by the  
42 Superior Court from any house, building, mobile home or land in a  
43 mobile home park or tenement leased for residential purposes, other  
44 than (1) owner-occupied premises with not more than two rental  
45 units or a hotel, motel or other guest house or part thereof rented to  
46 a transient guest or seasonal tenant; (2) a dwelling unit which is  
47 held in trust on behalf of a member of the immediate family of the  
48 person or persons establishing the trust, provided that the member

1 of the immediate family on whose behalf the trust is established  
2 permanently occupies the unit; and (3) a dwelling unit which is  
3 permanently occupied by a member of the immediate family of the  
4 owner of that unit, provided, however, that exception (2) or (3) shall  
5 apply only in cases in which the member of the immediate family  
6 has a developmental disability, except upon establishment of one of  
7 the following grounds as good cause:

8 a. The person fails to pay rent due and owing under the lease  
9 whether the same be oral or written; provided that, for the purposes  
10 of this section, any portion of rent unpaid by a tenant to a landlord  
11 but utilized by the tenant to continue utility service to the rental  
12 premises after receiving notice from an electric, gas, water or sewer  
13 public utility that such service was in danger of discontinuance  
14 based on nonpayment by the landlord, shall not be deemed to be  
15 unpaid rent.

16 b. The person has continued to be, after written notice to cease,  
17 so disorderly as to destroy the peace and quiet of the occupants or  
18 other tenants living in said house or neighborhood.

19 c. The person has willfully or by reason of gross negligence  
20 caused or allowed destruction, damage or injury to the premises.

21 d. The person has continued, after written notice to cease, to  
22 substantially violate or breach any of the landlord's rules and  
23 regulations governing said premises, provided such rules and  
24 regulations are reasonable and have been accepted in writing by the  
25 tenant or made a part of the lease at the beginning of the lease term.

26 e. (1) The person has continued, after written notice to cease,  
27 to substantially violate or breach any of the covenants or  
28 agreements contained in the lease for the premises where a right of  
29 reentry is reserved to the landlord in the lease for a violation of such  
30 covenant or agreement, provided that such covenant or agreement is  
31 reasonable and was contained in the lease at the beginning of the  
32 lease term.

33 (2) In public housing under the control of a public housing  
34 authority or redevelopment agency, the person has substantially  
35 violated or breached any of the covenants or agreements contained  
36 in the lease for the premises pertaining to illegal uses of controlled  
37 dangerous substances, or other illegal activities, whether or not a  
38 right of reentry is reserved to the landlord in the lease for a  
39 violation of such covenant or agreement, provided that such  
40 covenant or agreement conforms to federal guidelines regarding  
41 such lease provisions and was contained in the lease at the  
42 beginning of the lease term.

43 f. The person has failed to pay rent after a valid notice to quit  
44 and notice of increase of said rent, provided the increase in rent is  
45 not unconscionable and complies with any and all other laws or  
46 municipal ordinances governing rent increases.

47 g. The landlord or owner (1) seeks to permanently board up or  
48 demolish the premises because he has been cited by local or State

1 housing inspectors for substantial violations affecting the health and  
2 safety of tenants and it is economically unfeasible for the owner to  
3 eliminate the violations; (2) seeks to comply with local or State  
4 housing inspectors who have cited him for substantial violations  
5 affecting the health and safety of tenants and it is unfeasible to so  
6 comply without removing the tenant; simultaneously with service of  
7 notice of eviction pursuant to this clause, the landlord shall notify  
8 the Department of Community Affairs of the intention to institute  
9 proceedings and shall provide the department with such other  
10 information as it may require pursuant to rules and regulations. The  
11 department shall inform all parties and the court of its view with  
12 respect to the feasibility of compliance without removal of the  
13 tenant and may in its discretion appear and present evidence; (3)  
14 seeks to correct an illegal occupancy because he has been cited by  
15 local or State housing inspectors or zoning officers and it is  
16 unfeasible to correct such illegal occupancy without removing the  
17 tenant; or (4) is a governmental agency which seeks to permanently  
18 retire the premises from the rental market pursuant to a  
19 redevelopment or land clearance plan in a blighted area. In those  
20 cases where the tenant is being removed for any reason specified in  
21 this subsection, no warrant for possession shall be issued until  
22 P.L.1967, c.79 (C.52:31B-1 et seq.) and P.L.1971, c.362 (C.20:4-1  
23 et seq.) have been complied with.

24 h. The owner seeks to retire permanently the residential  
25 building or the mobile home park from residential use or use as a  
26 mobile home park, provided this subsection shall not apply to  
27 circumstances covered under subsection g. of this section.

28 i. The landlord or owner proposes, at the termination of a  
29 lease, reasonable changes of substance in the terms and conditions  
30 of the lease, including specifically any change in the term thereof,  
31 which the tenant, after written notice, refuses to accept; provided  
32 that in cases where a tenant has received a notice of termination  
33 pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-  
34 61.2), or has a protected tenancy status pursuant to [section 9 of]  
35 the "Senior Citizens and Disabled Protected Tenancy Act,"  
36 P.L.1981, c.226 [(C.2A:18-61.30)] (C.2A:18-61.22), or pursuant to  
37 the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-  
38 61.40 et al.), the landlord or owner shall have the burden of proving  
39 that any change in the terms and conditions of the lease, rental or  
40 regulations both is reasonable and does not substantially reduce the  
41 rights and privileges to which the tenant was entitled prior to the  
42 conversion.

43 j. The person, after written notice to cease, has habitually and  
44 without legal justification failed to pay rent which is due and owing.

45 k. The landlord or owner of the building or mobile home park  
46 is converting from the rental market to a condominium, cooperative  
47 or fee simple ownership of two or more dwelling units or park sites,  
48 except as hereinafter provided in subsection l. of this section.

1 Where the tenant is being removed pursuant to this subsection, no  
2 warrant for possession shall be issued until this act has been  
3 complied with. No action for possession shall be brought pursuant  
4 to this subsection against a senior citizen tenant or disabled tenant  
5 with protected tenancy status pursuant to the "Senior Citizens and  
6 Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22  
7 et al.), or against a qualified tenant under the "Tenant Protection  
8 Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), as long as the  
9 agency has not terminated the protected tenancy status or the  
10 protected tenancy period has not expired.

11 l. (1) The owner of a building or mobile home park, which is  
12 constructed as or being converted to a condominium, cooperative or  
13 fee simple ownership, seeks to evict a tenant or sublessee whose  
14 initial tenancy began after the master deed, agreement establishing  
15 the cooperative or subdivision plat was recorded, because the owner  
16 has contracted to sell the unit to a buyer who seeks to personally  
17 occupy it and the contract for sale calls for the unit to be vacant at  
18 the time of closing. However, no action shall be brought against a  
19 tenant under paragraph (1) of this subsection unless the tenant was  
20 given a statement in accordance with section 6 of P.L.1975, c.311  
21 (C.2A:18-61.9);

22 (2) The owner of three or less condominium or cooperative units  
23 seeks to evict a tenant whose initial tenancy began by rental from an  
24 owner of three or less units after the master deed or agreement  
25 establishing the cooperative was recorded, because the owner seeks  
26 to personally occupy the unit, or has contracted to sell the unit to a  
27 buyer who seeks to personally occupy it and the contract for sale  
28 calls for the unit to be vacant at the time of closing;

29 (3) The owner of a building of three residential units or less  
30 seeks to personally occupy a unit, or has contracted to sell the  
31 residential unit to a buyer who wishes to personally occupy it and  
32 the contract for sale calls for the unit to be vacant at the time of  
33 closing.

34 m. The landlord or owner conditioned the tenancy upon and in  
35 consideration for the tenant's employment by the landlord or owner  
36 as superintendent, janitor or in some other capacity and such  
37 employment is being terminated.

38 n. The person has been convicted of or pleaded guilty to, or if a  
39 juvenile, has been adjudicated delinquent on the basis of an act  
40 which if committed by an adult would constitute an offense under  
41 the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et  
42 al., involving the use, possession, manufacture, dispensing or  
43 distribution of a controlled dangerous substance, controlled  
44 dangerous substance analog or drug paraphernalia within the  
45 meaning of that act within or upon the leased premises or the  
46 building or complex of buildings and land appurtenant thereto, or  
47 the mobile home park, in which those premises are located, and has  
48 not in connection with his sentence for that offense either (1)

1 successfully completed or (2) been admitted to and continued upon  
2 probation while completing, a drug rehabilitation program pursuant  
3 to N.J.S.2C:35-14; or, being the tenant or lessee of such leased  
4 premises, knowingly harbors or harbored therein a person who has  
5 been so convicted or has so pleaded, or otherwise permits or  
6 permitted such a person to occupy those premises for residential  
7 purposes, whether continuously or intermittently, except that this  
8 subsection shall not apply to a person harboring or permitting a  
9 juvenile to occupy the premises if the juvenile has been adjudicated  
10 delinquent upon the basis of an act which if committed by an adult  
11 would constitute the offense of use or possession under the said act.  
12 No action for removal may be brought pursuant to this subsection  
13 more than two years after the date of the adjudication or conviction  
14 or more than two years after the person's release from incarceration  
15 whichever is the later.

16 o. The person has been convicted of or pleaded guilty to, or if a  
17 juvenile, has been adjudicated delinquent on the basis of an act  
18 which if committed by an adult would constitute an offense under  
19 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic  
20 threats against the landlord, a member of the landlord's family or an  
21 employee of the landlord; or, being the tenant or lessee of such  
22 leased premises, knowingly harbors or harbored therein a person  
23 who has been so convicted or has so pleaded, or otherwise permits  
24 or permitted such a person to occupy those premises for residential  
25 purposes, whether continuously or intermittently. No action for  
26 removal may be brought pursuant to this subsection more than two  
27 years after the adjudication or conviction or more than two years  
28 after the person's release from incarceration whichever is the later.

29 p. The person has been found, by a preponderance of the  
30 evidence, liable in a civil action for removal commenced under this  
31 act for an offense under N.J.S.2C:20-1 et al. involving theft of  
32 property located on the leased premises from the landlord, the  
33 leased premises or other tenants residing in the leased premises, or  
34 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terroristic  
35 threats against the landlord, a member of the landlord's family or an  
36 employee of the landlord, or under the "Comprehensive Drug  
37 Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,  
38 possession, manufacture, dispensing or distribution of a controlled  
39 dangerous substance, controlled dangerous substance analog or drug  
40 paraphernalia within the meaning of that act within or upon the  
41 leased premises or the building or complex of buildings and land  
42 appurtenant thereto, or the mobile home park, in which those  
43 premises are located, and has not in connection with his sentence  
44 for that offense either (1) successfully completed or (2) been  
45 admitted to and continued upon probation while completing a drug  
46 rehabilitation program pursuant to N.J.S.2C:35-14; or, being the  
47 tenant or lessee of such leased premises, knowingly harbors or  
48 harbored therein a person who committed such an offense, or



1 otherwise permits or permitted such a person to occupy those  
2 premises for residential purposes, whether continuously or  
3 intermittently, except that this subsection shall not apply to a person  
4 who harbors or permits a juvenile to occupy the premises if the  
5 juvenile has been adjudicated delinquent upon the basis of an act  
6 which if committed by an adult would constitute the offense of use  
7 or possession under the said "Comprehensive Drug Reform Act of  
8 1987."

9 q. The person has been convicted of or pleaded guilty to, or if a  
10 juvenile, has been adjudicated delinquent on the basis of an act  
11 which if committed by an adult would constitute an offense under  
12 N.J.S.2C:20-1 et al. involving theft of property from the landlord,  
13 the leased premises or other tenants residing in the same building or  
14 complex; or, being the tenant or lessee of such leased premises,  
15 knowingly harbors therein a person who has been so convicted or  
16 has so pleaded, or otherwise permits such a person to occupy those  
17 premises for residential purposes, whether continuously or  
18 intermittently.

19 r. The person has been convicted of or pleaded guilty to, or if a  
20 juvenile, has been adjudicated delinquent on the basis of an act  
21 which if committed by an adult would constitute the crime of  
22 human trafficking under section 1 of P.L.2005, c.77 (C.2C:13-8)  
23 within or upon the leased premises or the building or complex of  
24 buildings and land appurtenant thereto, or the mobile home park, in  
25 which those premises are located; or, being the tenant or lessee of  
26 such leased premises, knowingly harbors or harbored therein a  
27 person who has been so convicted or has so pleaded, or otherwise  
28 permits or permitted such a person to occupy those premises for  
29 residential purposes, whether continuously or intermittently. No  
30 action for removal may be brought pursuant to this subsection more  
31 than two years after the date of the adjudication or conviction or  
32 more than two years after the person's release from incarceration  
33 whichever is the later.

34 For purposes of this section, (1) "developmental disability"  
35 means any disability which is defined as such pursuant to section 3  
36 of P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate  
37 family" means a person's spouse, parent, child or sibling, or a  
38 spouse, parent, child or sibling of any of them; and (3)  
39 "permanently" occupies or occupied means that the occupant  
40 maintains no other domicile at which the occupant votes, pays rent  
41 or property taxes or at which rent or property taxes are paid on the  
42 occupant's behalf.

43 (cf: P.L.2000, c.113, s.3)

44

45 7. Section 3 of P.L.1974, c.49 (C.2A:18-61.2) is amended to  
46 read as follows:

47 3. No judgment of possession shall be entered for any premises  
48 covered by section 2 of this act, except in the nonpayment of rent

1 under subsection a. or f. of section 2, unless the landlord has made  
2 written demand and given written notice for delivery of possession  
3 of the premises. The following notice shall be required:

4 a. For an action alleging disorderly conduct under subsection b.  
5 of section 2, or injury to the premises under subsection c. of section  
6 2, or any grounds under subsection m., n., o. **[or]** , p. , q., or r. of  
7 section 2, three days' notice prior to the institution of the action for  
8 possession;

9 b. For an action alleging continued violation of rules and  
10 regulations under subsection d. of section 2, or substantial breach of  
11 covenant under subsection e. of section 2, or habitual failure to pay  
12 rent, one month's notice prior to the institution of the action for  
13 possession;

14 c. For an action alleging any grounds under subsection g. of  
15 section 2, three months' notice prior to the institution of the action;

16 d. For an action alleging permanent retirement under  
17 subsection h. of section 2, 18 months' notice prior to the institution  
18 of the action and, provided that, where there is a lease in effect, no  
19 action may be instituted until the lease expires;

20 e. For an action alleging refusal of acceptance of reasonable  
21 lease changes under subsection i. of section 2, one month's notice  
22 prior to institution of action;

23 f. For an action alleging any grounds under subsection l. of  
24 section 2, two months' notice prior to the institution of the action  
25 and, provided that where there is a written lease in effect no action  
26 shall be instituted until the lease expires;

27 g. For an action alleging any grounds under subsection k. of  
28 section 2, three years' notice prior to the institution of action, and  
29 provided that where there is a written lease in effect, no action shall  
30 be instituted until the lease expires;

31 h. In public housing under the control of a public housing  
32 authority or redevelopment agency, for an action alleging  
33 substantial breach of contract under paragraph (2) of subsection e.  
34 of section 2, the period of notice required prior to the institution of  
35 an action for possession shall be in accordance with federal  
36 regulations pertaining to public housing leases.

37 The notice in each of the foregoing instances shall specify in  
38 detail the cause of the termination of the tenancy and shall be  
39 served either personally upon the tenant or lessee or such person in  
40 possession by giving him a copy thereof, or by leaving a copy  
41 thereof at his usual place of abode with some member of his family  
42 above the age of 14 years, or by certified mail; if the certified letter  
43 is not claimed, notice shall be sent by regular mail.

44 (cf: P.L.1997, c.228, s.2)

45

46 8. N.J.S.2C:34-1 is amended to read as follows:

47 2C:34-1. Prostitution and Related Offenses.

48 a. As used in this section:

1 (1) "Prostitution" is sexual activity with another person in  
2 exchange for something of economic value, or the offer or  
3 acceptance of an offer to engage in sexual activity in exchange for  
4 something of economic value.

5 (2) "Sexual activity" includes, but is not limited to, sexual  
6 intercourse, including genital-genital, oral-genital, anal-genital, and  
7 oral-anal contact, whether between persons of the same or opposite  
8 sex; masturbation; touching of the genitals, buttocks, or female  
9 breasts; sadistic or masochistic abuse and other deviate sexual  
10 relations.

11 (3) "House of prostitution" is any place where prostitution or  
12 promotion of prostitution is regularly carried on by one person  
13 under the control, management or supervision of another.

14 (4) "Promoting prostitution" is:

15 (a) Owning, controlling, managing, supervising or otherwise  
16 keeping, alone or in association with another, a house of  
17 prostitution or a prostitution business;

18 (b) Procuring an inmate for a house of prostitution or place in a  
19 house of prostitution for one who would be an inmate;

20 (c) Encouraging, inducing, or otherwise purposely causing  
21 another to become or remain a prostitute;

22 (d) Soliciting a person to patronize a prostitute;

23 (e) Procuring a prostitute for a patron;

24 (f) Transporting a person into or within this State with purpose  
25 to promote that person's engaging in prostitution, or procuring or  
26 paying for transportation with that purpose; or

27 (g) Knowingly leasing or otherwise permitting a place  
28 controlled by the actor, alone or in association with others, to be  
29 regularly used for prostitution or promotion of prostitution, or  
30 failure to make a reasonable effort to abate such use by ejecting the  
31 tenant, notifying law enforcement authorities, or other legally  
32 available means.

33 b. A person commits an offense if:

34 (1) The actor engages in prostitution;

35 (2) The actor promotes prostitution;

36 (3) The actor knowingly promotes prostitution of a child under  
37 18 whether or not the actor mistakenly believed that the child was  
38 18 years of age or older, even if such mistaken belief was  
39 reasonable;

40 (4) The actor knowingly promotes prostitution of the actor's  
41 child, ward, or any other person for whose care the actor is  
42 responsible;

43 (5) The actor compels another to engage in or promote  
44 prostitution;

45 (6) The actor promotes prostitution of the actor's spouse; or

46 (7) The actor knowingly engages in prostitution with a person  
47 under the age of 18, or if the actor enters into or remains in a house  
48 of prostitution for the purpose of engaging in sexual activity with a

1 child under the age of 18, or if the actor solicits or requests a child  
2 under the age of 18 to engage in sexual activity. It shall be no  
3 defense to a prosecution under this paragraph that the actor  
4 mistakenly believed that the child was 18 years of age or older,  
5 even if such mistaken belief was reasonable.

6 c. Grading of offenses under subsection b.

7 (1) An offense under subsection b. constitutes a crime of the  
8 second degree if the offense falls within paragraph (3) or (4) of that  
9 subsection.

10 (2) An offense under subsection b. constitutes a crime of the  
11 third degree if the offense falls within paragraph (5), (6) or (7) of  
12 that subsection.

13 (3) An offense under paragraph (2) of subsection b. constitutes a  
14 crime of the third degree if the conduct falls within subparagraph  
15 (a), (b), **[or]** (c), (f), or (g) of paragraph (4) of subsection a.  
16 Otherwise the offense is a crime of the fourth degree.

17 (4) An offense under subsection b. constitutes a disorderly  
18 persons offense if the offense falls within paragraph (1) of that  
19 subsection except that a second or subsequent conviction for such  
20 an offense constitutes a crime of the fourth degree. In addition,  
21 where a motor vehicle was used in the commission of any offense  
22 under paragraph (1) of subsection b. the court shall suspend for six  
23 months the driving privilege of any such offender who has a valid  
24 driver's license issued by this State. Upon conviction, the court  
25 shall immediately collect the offender's driver's license and shall  
26 forward it, along with a report stating the first and last day of the  
27 suspension imposed pursuant to this paragraph, to the New Jersey  
28 Motor Vehicle Commission.

29 d. Presumption from living off prostitutes. A person, other  
30 than the prostitute or the prostitute's minor child or other legal  
31 dependent incapable of self-support, who is supported in whole or  
32 substantial part by the proceeds of prostitution is presumed to be  
33 knowingly promoting prostitution.

34 e. It is an affirmative defense to prosecution for a violation of  
35 this section that, during the time of the alleged commission of the  
36 offense, the defendant was a victim of human trafficking pursuant  
37 to section 1 of P.L.2005, c.77 (C.2C:13-8) or **[the defendant was**  
38 **under the]** compelled by another to engage in sexual activity,  
39 regardless of the defendant's age [of 18].

40 (cf: P.L.2011, c.195, s.6)

41  
42 9. (New section) a. Any person who, on or after the effective  
43 date of this section, is convicted and serving a sentence as provided  
44 for by Title 2C of the New Jersey Statutes for engaging in  
45 prostitution under paragraph (1) of subsection b. of N.J.S.2C:34-1  
46 may move to have the sentence reviewed by the court on the  
47 grounds that the defendant was a victim of human trafficking  
48 pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8).

1       b. (1) If the court finds that the sentence under review does not  
2 serve the interests of justice, the court may vacate the conviction,  
3 resentence the defendant, or place the defendant on probation.

4       (2) In determining whether the sentence under review serves the  
5 interests of justice, the court shall consider all relevant  
6 circumstances, including whether the defendant's victimization  
7 constituted a significant contributing factor to the defendant's  
8 criminal behavior, regardless of whether the defendant raised this  
9 factor as a defense at trial in accordance with subsection e. of  
10 N.J.S.2C:34-1.

11  
12       10. (New section) a. In addition to any other disposition  
13 authorized by law, the court shall order any person convicted of  
14 engaging a prostitute pursuant to paragraph (1) of subsection b. of  
15 N.J.S.2C:34-1 to participate in the "John School Diversion  
16 Program" established pursuant to subsection d. of this section.

17       b. In addition to any fine, fee, assessment, or penalty  
18 authorized under the provisions of Title 2C of the New Jersey  
19 Statutes, a person convicted of an offense of engaging a prostitute  
20 under paragraph (1) of subsection b. of N.J.S.2C:34-1 shall be  
21 assessed a penalty of \$1,000.

22       c. All penalties provided for in this section, collected as  
23 provided for the collection of fines and restitutions in section 3 of  
24 P.L.1979, c.396 (C.2C:46-4), shall be forwarded to the Department  
25 of the Treasury to be deposited in the "Human Trafficking  
26 Survivor's Assistance Fund" established by section 2 of P.L.     , c.  
27 (C.     ) (pending before the Legislature as this bill). These  
28 monies, and other monies in the fund designated by the Commission  
29 on Human Trafficking pursuant to section 2 of P.L.     , c.  
30 (C.     ), shall be dedicated to the development, establishment,  
31 operation, and maintenance of the "John School Diversion  
32 Program" created pursuant to subsection d. of this section.

33       d. There is hereby established an education program to be  
34 known as the "John School Diversion Program," which shall be  
35 administered by the Administrative Office of the Courts. The  
36 program shall educate defendants who have been convicted of  
37 engaging a prostitute pursuant to paragraph (1) of subsection b. of  
38 N.J.S.2C:34-1 about the risks involved in their unlawful activity.  
39 The program shall inform the defendants of the health risks  
40 connected with the crime of prostitution, including the risk of  
41 transmittable diseases, the legal ramifications for defendants of  
42 their unlawful activity, the terms of imprisonment for subsequent  
43 offenses, and the correlation between prostitution and human  
44 trafficking.

45  
46       11. (New section) a. The Legislature finds and declares that:

1 (1) There reportedly are more than 12 million victims of human  
2 trafficking and it is estimated that this figure could actually be as  
3 high as 27 million;

4 (2) According to the National Center for Missing and Exploited  
5 Children, at least 100,000 human trafficking victims are American  
6 children who are an average age of 13 years old;

7 (3) Advertisements for selling the services of girls as escorts on  
8 Internet websites falsely claim that these girls are 18 years of age or  
9 older, when the girls actually are minors;

10 (4) The advertising of these escort services includes minors who  
11 are being sold for sex, which constitutes sex trafficking and  
12 commercial sexual abuse of minors;

13 (5) Responding to political and public outcry, the Internet  
14 website craigslist.com removed its escort section, but another  
15 website with an escort section, backpage.com, has to date refused to  
16 do so;

17 (6) The states of Washington and Connecticut recently enacted  
18 laws to require Internet websites, such as backpage.com, and the  
19 patrons who advertise on websites, to maintain documentation that  
20 they have proved the age of the escorts presented in the  
21 advertisements;

22 (7) The State of New Jersey criminalized human trafficking in  
23 2005; and

24 (8) Sex trafficking of minors should be eliminated in conformity  
25 with federal laws prohibiting the sexual exploitation of children.

26 b. A person commits the offense of advertising commercial  
27 sexual abuse of a minor if:

28 (1) the person knowingly publishes, disseminates, or displays, or  
29 causes directly or indirectly, to be published, disseminated, or  
30 displayed, any advertisement for a commercial sex act, which is to  
31 take place in this State and which includes the depiction of a minor;  
32 or

33 (2) the person knowingly purchases advertising in this State for a  
34 commercial sex act which includes the depiction of a minor.

35 c. A person who commits the offense of advertising  
36 commercial sexual abuse of a minor as established in subsection b.  
37 of this section is guilty of a crime of the first degree.  
38 Notwithstanding the provisions of N.J.S.2C:43-3, the fine imposed  
39 for an offense under this section concerning criminal negligence  
40 shall be a fine of at least \$25,000, which shall be collected as  
41 provided for the collection of fines and restitutions in section 3 of  
42 P.L.1979, c.396 (C.2C:46-4) and forwarded to the Department of  
43 the Treasury to be deposited in the "Human Trafficking Survivor's  
44 Assistance Fund" established by section 2 of P.L. , c. (C. )  
45 (pending before the Legislature as this bill).

46 d. Nothing in this section shall preclude an indictment and  
47 conviction for any other offense defined by the laws of this State.

48 e. For the purposes of this section:

1 "Advertisement for a commercial sex act" means any  
2 advertisement or offer in electronic or print media, including the  
3 Internet, which includes either an explicit or implicit offer for a  
4 commercial sex act to occur in this State.

5 "Commercial sex act" means any act of sexual contact or sexual  
6 penetration, as defined in N.J.S.2C:14-1, or any prohibited sexual  
7 act, as defined in N.J.S.2C:24-4, for which something of value is  
8 given or received by any person.

9 "Depiction" means any photograph or visual or printed matter.

10 "Minor" means a person who is under 18 years of age.

11 "Photograph" means a print, negative, slide, digital image,  
12 motion picture, or videotape, and includes anything tangible or  
13 intangible produced by photographing.

14 "Visual or printed matter" means any photograph or other  
15 material that contains a reproduction of a photograph.

16 f. It shall not be a defense to a violation of this section that the  
17 defendant did not know the age of the minor depicted in the  
18 advertisement.

19 g. It shall be a defense to a violation of this section that the  
20 defendant made a reasonable, bona fide attempt to ascertain the true  
21 age of the minor depicted in the advertisement by requiring, prior to  
22 publication, dissemination, or display of the advertisement,  
23 production of a driver's license, marriage license, birth certificate,  
24 or other governmental or educational identification card or paper of  
25 the minor depicted in the advertisement and did not rely solely on  
26 oral or written representations of the minor's age, or the apparent  
27 age of the minor as depicted. The defendant shall prove the defense  
28 established this subsection by a preponderance of the evidence.

29 h. The defendant shall maintain and, upon request, produce a  
30 record of the identification used to verify the age of the person  
31 depicted in the advertisement.

32

33 12. Section 2 of P.L.1994, c.133 (C.2C:7-2) is amended to read  
34 as follows:

35 2. a. (1) A person who has been convicted, adjudicated  
36 delinquent or found not guilty by reason of insanity for commission  
37 of a sex offense as defined in subsection b. of this section shall  
38 register as provided in subsections c. and d. of this section.

39 (2) A person who in another jurisdiction is required to register  
40 as a sex offender and (a) is enrolled on a full-time or part-time basis  
41 in any public or private educational institution in this State,  
42 including any secondary school, trade or professional institution,  
43 institution of higher education or other post-secondary school, or  
44 (b) is employed or carries on a vocation in this State, on either a  
45 full-time or a part-time basis, with or without compensation, for  
46 more than 14 consecutive days or for an aggregate period exceeding  
47 30 days in a calendar year, shall register in this State as provided in  
48 subsections c. and d. of this section.

1 (3) A person who fails to register as required under this act shall  
2 be guilty of a crime of the third degree.

3 b. For the purposes of this act a sex offense shall include the  
4 following:

5 (1) Aggravated sexual assault, sexual assault, aggravated  
6 criminal sexual contact, kidnapping pursuant to paragraph (2) of  
7 subsection c. of N.J.S.2C:13-1 or an attempt to commit any of these  
8 crimes if the court found that the offender's conduct was  
9 characterized by a pattern of repetitive, compulsive behavior,  
10 regardless of the date of the commission of the offense or the date  
11 of conviction;

12 (2) A conviction, adjudication of delinquency, or acquittal by  
13 reason of insanity for aggravated sexual assault; sexual assault;  
14 aggravated criminal sexual contact; kidnapping pursuant to  
15 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the  
16 welfare of a child by engaging in sexual conduct which would  
17 impair or debauch the morals of the child pursuant to subsection a.  
18 of N.J.S.2C:24-4; endangering the welfare of a child pursuant to  
19 paragraph (3) or (4) or subparagraph (a) of paragraph (5) of  
20 subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to  
21 section 1 of P.L.1993, c.291 (C.2C:13-6); criminal sexual contact  
22 pursuant to N.J.S.2C:14-3b. if the victim is a minor; kidnapping  
23 pursuant to N.J.S.2C:13-1, criminal restraint pursuant to  
24 N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3 if  
25 the victim is a minor and the offender is not the parent of the  
26 victim; knowingly promoting prostitution of a child pursuant to  
27 paragraph (3) or paragraph (4) of subsection b. of N.J.S.2C:34-1;  
28 advertising commercial sexual abuse of a minor pursuant to section  
29 11 of P.L. , c. (C. ) (pending before the Legislature as this  
30 bill); or an attempt to commit any of these enumerated offenses if  
31 the conviction, adjudication of delinquency or acquittal by reason of  
32 insanity is entered on or after the effective date of this act or the  
33 offender is serving a sentence of incarceration, probation, parole or  
34 other form of community supervision as a result of the offense or is  
35 confined following acquittal by reason of insanity or as a result of  
36 civil commitment on the effective date of this act;

37 (3) A conviction, adjudication of delinquency or acquittal by  
38 reason of insanity for an offense similar to any offense enumerated  
39 in paragraph (2) or a sentence on the basis of criteria similar to the  
40 criteria set forth in paragraph (1) of this subsection entered or  
41 imposed under the laws of the United States, this State or another  
42 state.

43 c. A person required to register under the provisions of this act  
44 shall do so on forms to be provided by the designated registering  
45 agency as follows:

46 (1) A person who is required to register and who is under  
47 supervision in the community on probation, parole, furlough, work  
48 release, or a similar program, shall register at the time the person is



1 placed under supervision or no later than 120 days after the  
2 effective date of this act, whichever is later, in accordance with  
3 procedures established by the Department of Corrections, the  
4 Department of Human Services, the Juvenile Justice Commission  
5 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-  
6 170),<sup>2</sup> or the Administrative Office of the Courts, whichever is  
7 responsible for supervision;

8 (2) A person confined in a correctional or juvenile facility or  
9 involuntarily committed who is required to register shall register  
10 prior to release in accordance with procedures established by the  
11 Department of Corrections, the Department of Human Services or  
12 the Juvenile Justice Commission and, within 48 hours of release,  
13 shall also register with the chief law enforcement officer of the  
14 municipality in which the person resides or, if the municipality does  
15 not have a local police force, the Superintendent of State Police;

16 (3) A person moving to or returning to this State from another  
17 jurisdiction shall register with the chief law enforcement officer of  
18 the municipality in which the person will reside or, if the  
19 municipality does not have a local police force, the Superintendent  
20 of State Police within 120 days of the effective date of this act or 10  
21 days of first residing in or returning to a municipality in this State,  
22 whichever is later;

23 (4) A person required to register on the basis of a conviction  
24 prior to the effective date who is not confined or under supervision  
25 on the effective date of this act shall register within 120 days of the  
26 effective date of this act with the chief law enforcement officer of  
27 the municipality in which the person will reside or, if the  
28 municipality does not have a local police force, the Superintendent  
29 of State Police;

30 (5) A person who in another jurisdiction is required to register  
31 as a sex offender and who is enrolled on a full-time or part-time  
32 basis in any public or private educational institution in this State,  
33 including any secondary school, trade or professional institution,  
34 institution of higher education or other post-secondary school shall,  
35 within ten days of commencing attendance at such educational  
36 institution, register with the chief law enforcement officer of the  
37 municipality in which the educational institution is located or, if the  
38 municipality does not have a local police force, the Superintendent  
39 of State Police;

40 (6) A person who in another jurisdiction is required to register  
41 as a sex offender and who is employed or carries on a vocation in  
42 this State, on either a full-time or a part-time basis, with or without  
43 compensation, for more than 14 consecutive days or for an  
44 aggregate period exceeding 30 days in a calendar year, shall, within  
45 ten days after commencing such employment or vocation, register  
46 with the chief law enforcement officer of the municipality in which  
47 the employer is located or where the vocation is carried on, as the

1 case may be, or, if the municipality does not have a local police  
2 force, the Superintendent of State Police;

3 (7) In addition to any other registration requirements set forth in  
4 this section, a person required to register under this act who is  
5 enrolled at, employed by or carries on a vocation at an institution of  
6 higher education or other post-secondary school in this State shall,  
7 within ten days after commencing such attendance, employment or  
8 vocation, register with the law enforcement unit of the educational  
9 institution, if the institution has such a unit.

10 d. (1) Upon a change of address, a person shall notify the law  
11 enforcement agency with which the person is registered and shall  
12 re-register with the appropriate law enforcement agency no less  
13 than 10 days before he intends to first reside at his new address.  
14 Upon a change of employment or school enrollment status, a person  
15 shall notify the appropriate law enforcement agency no later than  
16 five days after any such change. A person who fails to notify the  
17 appropriate law enforcement agency of a change of address or status  
18 in accordance with this subsection is guilty of a crime of the fourth  
19 degree.

20 (2) A person required to register under this act shall provide the  
21 appropriate law enforcement agency with information as to whether  
22 the person has routine access to or use of a computer or any other  
23 device with Internet capability. A person who fails to notify the  
24 appropriate law enforcement agency of such information or of a  
25 change in the person's access to or use of a computer or other  
26 device with Internet capability or who provides false information  
27 concerning the person's access to or use of a computer or any other  
28 device with Internet capability is guilty of a crime of the fourth  
29 degree.

30 e. A person required to register under paragraph (1) of  
31 subsection b. of this section or under paragraph (3) of subsection b.  
32 due to a sentence imposed on the basis of criteria similar to the  
33 criteria set forth in paragraph (1) of subsection b. shall verify his  
34 address with the appropriate law enforcement agency every 90 days  
35 in a manner prescribed by the Attorney General. A person required  
36 to register under paragraph (2) of subsection b. of this section or  
37 under paragraph (3) of subsection b. on the basis of a conviction for  
38 an offense similar to an offense enumerated in paragraph (2) of  
39 subsection b. shall verify his address annually in a manner  
40 prescribed by the Attorney General. One year after the effective  
41 date of this act, the Attorney General shall review, evaluate and, if  
42 warranted, modify pursuant to the "Administrative Procedure Act,"  
43 P.L.1968, c.410 (C.52:14B-1 et seq.) the verification requirement.  
44 Any person who knowingly provides false information concerning  
45 his place of residence or who fails to verify his address with the  
46 appropriate law enforcement agency or other entity, as prescribed  
47 by the Attorney General in accordance with this subsection, is  
48 guilty of a crime of the fourth degree.

1 f. Except as provided in subsection g. of this section, a person  
2 required to register under this act may make application to the  
3 Superior Court of this State to terminate the obligation upon proof  
4 that the person has not committed an offense within 15 years  
5 following conviction or release from a correctional facility for any  
6 term of imprisonment imposed, whichever is later, and is not likely  
7 to pose a threat to the safety of others.

8 g. A person required to register under this section who has  
9 been convicted of, adjudicated delinquent, or acquitted by reason of  
10 insanity for more than one sex offense as defined in subsection b. of  
11 this section or who has been convicted of, adjudicated delinquent,  
12 or acquitted by reason of insanity for aggravated sexual assault  
13 pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault  
14 pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not  
15 eligible under subsection f. of this section to make application to  
16 the Superior Court of this State to terminate the registration  
17 obligation.

18 (cf: P.L.2007, c.219, s.2)

19  
20 13. N.J.S.2C:24-4 is amended to read as follows:

21 2C:24-4. Endangering Welfare of Children.

22 a. Any person having a legal duty for the care of a child or who  
23 has assumed responsibility for the care of a child who engages in  
24 sexual conduct which would impair or debauch the morals of the  
25 child, or who causes the child harm that would make the child an  
26 abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and  
27 section 1 of P.L.1974, c.119 [, s.1] (C.9:6-8.21) is guilty of a crime  
28 of the second degree. Any other person who engages in conduct or  
29 who causes harm as described in this subsection to a child under the  
30 age of 16 is guilty of a crime of the third degree.

31 b. (1) As used in this subsection:

32 "Child" means any person under 16 years of age.

33 "Internet" means the international computer network of both  
34 federal and non-federal interoperable packet switched data  
35 networks.

36 "Prohibited sexual act" means

37 (a) Sexual intercourse; or

38 (b) Anal intercourse; or

39 (c) Masturbation; or

40 (d) Bestiality; or

41 (e) Sadism; or

42 (f) Masochism; or

43 (g) Fellatio; or

44 (h) Cunnilingus; or

45 (i) Nudity, if depicted for the purpose of sexual stimulation or  
46 gratification of any person who may view such depiction; or

47 (j) Any act of sexual penetration or sexual contact as defined in  
48 N.J.S.2C:14-1.

1 "Reproduction" means, but is not limited to, computer generated  
2 images.

3 (2) (Deleted by amendment, P.L.2001, c.291).

4 (3) A person commits a crime of the second degree if he causes  
5 or permits a child to engage in a prohibited sexual act or in the  
6 simulation of such an act if the person knows, has reason to know  
7 or intends that the prohibited act may be photographed, filmed,  
8 reproduced, or reconstructed in any manner, including on the  
9 Internet, or may be part of an exhibition or performance. If the  
10 person is a parent, guardian or other person legally charged with the  
11 care or custody of the child, the person shall be guilty of a crime of  
12 the first degree.

13 (4) Any person who photographs or films a child in a prohibited  
14 sexual act or in the simulation of such an act or who uses any  
15 device, including a computer, to reproduce or reconstruct the image  
16 of a child in a prohibited sexual act or in the simulation of such an  
17 act is guilty of a crime of the second degree.

18 (5) (a) Any person who knowingly receives for the purpose of  
19 selling or who knowingly sells, procures, manufactures, gives,  
20 provides, lends, trades, mails, delivers, transfers, publishes,  
21 distributes, circulates, disseminates, presents, exhibits, advertises,  
22 offers or agrees to offer, through any means, including the Internet,  
23 any photograph, film, videotape, computer program or file, video  
24 game or any other reproduction or reconstruction which depicts a  
25 child engaging in a prohibited sexual act or in the simulation of  
26 such an act, is guilty of a crime of the second degree.

27 (b) Any person who knowingly possesses or knowingly views  
28 any photograph, film, videotape, computer program or file, video  
29 game or any other reproduction or reconstruction which depicts a  
30 child engaging in a prohibited sexual act or in the simulation of  
31 such an act, including on the Internet, is guilty of a crime of the  
32 **[fourth]** third degree.

33 (6) For purposes of this subsection, a person who is depicted as  
34 or presents the appearance of being under the age of 16 in any  
35 photograph, film, videotape, computer program or file, video game  
36 or any other reproduction or reconstruction shall be rebuttably  
37 presumed to be under the age of 16. If the child who is depicted as  
38 engaging in, or who is caused to engage in, a prohibited sexual act  
39 or simulation of a prohibited sexual act is under the age of 16, the  
40 actor shall be strictly liable and it shall not be a defense that the  
41 actor did not know that the child was under the age of 16, nor shall  
42 it be a defense that the actor believed that the child was 16 years of  
43 age or older, even if such a mistaken belief was reasonable.

44 (cf: P.L.2001, c.291, s.1)

45

46 14. Section 1 of P.L.1985, c.126 (C.2A:84A-32.4) is amended to  
47 read as follows:

1       1. a. In prosecutions for aggravated sexual assault, sexual  
2 assault, aggravated criminal sexual contact, criminal sexual contact,  
3 **[or] human trafficking involving sexual activity**, child abuse, or in  
4 any action alleging an abused or neglected child under P.L.1974,  
5 c.119 (C.9:6-8.21 et seq.), the court may, on motion and after  
6 conducting a hearing in camera, order the taking of the testimony of  
7 a witness on closed circuit television at the trial, out of the view of  
8 the jury, defendant, or spectators upon making findings as provided  
9 in subsection b. of this section.

10       b. An order under this section may be made only if the court  
11 finds that the witness is 16 years of age or younger and that there is  
12 a substantial likelihood that the witness would suffer severe  
13 emotional or mental distress if required to testify in open court.  
14 The order shall be specific as to whether the witness will testify  
15 outside the presence of spectators, the defendant, the jury, or all of  
16 them and shall be based on specific findings relating to the impact  
17 of the presence of each.

18       c. A motion seeking closed circuit testimony under subsection  
19 a. of this section may be filed by:

20       (1) The victim or witness or the victim's or witness's attorney,  
21 parent or legal guardian;

22       (2) The prosecutor;

23       (3) The defendant or the defendant's counsel; or

24       (4) The trial judge on the judge's own motion.

25       d. The defendant's counsel shall be present at the taking of  
26 testimony in camera. If the defendant is not present, he and his  
27 attorney shall be able to confer privately with each other during the  
28 testimony by a separate audio system.

29       e. If testimony is taken on closed circuit television pursuant to  
30 the provisions of this act, a stenographic recording of that testimony  
31 shall also be required. A typewritten transcript of that testimony  
32 shall be included in the record on appeal. The closed circuit  
33 testimony itself shall not constitute part of the record on appeal  
34 except on motion for good cause shown.

35 (cf: P.L.1985, c.126, s.1)

36  
37       15. N.J.S.2C:14-7 is amended to read as follows:

38       2C:14-7. a. In prosecutions for aggravated sexual assault, sexual  
39 assault, aggravated criminal sexual contact, criminal sexual contact,  
40 human trafficking involving sexual activity, endangering the  
41 welfare of a child in violation of N.J.S.2C:24-4<sub>2</sub>, or the fourth degree  
42 crime of lewdness in violation of subsection b. of N.J.S.2C:14-4,  
43 evidence of the victim's previous sexual conduct shall not be  
44 admitted nor reference made to it in the presence of the jury except  
45 as provided in this section. When the defendant seeks to admit such  
46 evidence for any purpose, the defendant must apply for an order of  
47 the court before the trial or preliminary hearing, except that the  
48 court may allow the motion to be made during trial if the court

1 determines that the evidence is newly discovered and could not  
2 have been obtained earlier through the exercise of due diligence.  
3 After the application is made, the court shall conduct a hearing in  
4 camera to determine the admissibility of the evidence. If the court  
5 finds that evidence offered by the defendant regarding the sexual  
6 conduct of the victim is relevant and highly material and meets the  
7 requirements of subsections c. and d. of this section and that the  
8 probative value of the evidence offered substantially outweighs its  
9 collateral nature or the probability that its admission will create  
10 undue prejudice, confusion of the issues, or unwarranted invasion of  
11 the privacy of the victim, the court shall enter an order setting forth  
12 with specificity what evidence may be introduced and the nature of  
13 the questions which shall be permitted, and the reasons why the  
14 court finds that such evidence satisfies the standards contained in  
15 this section. The defendant may then offer evidence under the order  
16 of the court.

17 b. In the absence of clear and convincing proof to the contrary,  
18 evidence of the victim's sexual conduct occurring more than one  
19 year before the date of the offense charged is presumed to be  
20 inadmissible under this section.

21 c. Evidence of previous sexual conduct with persons other than  
22 the defendant which is offered by any lay or expert witness shall not  
23 be considered relevant unless it is material to proving the source of  
24 semen, pregnancy or disease.

25 d. Evidence of the victim's previous sexual conduct with the  
26 defendant shall be considered relevant if it is probative of whether a  
27 reasonable person, knowing what the defendant knew at the time of  
28 the alleged offense, would have believed that the alleged victim  
29 freely and affirmatively permitted the sexual behavior complained  
30 of.

31 e. Evidence of the manner in which the victim was dressed at  
32 the time an offense was committed shall not be admitted unless  
33 such evidence is determined by the court to be relevant and  
34 admissible in the interest of justice, after an offer of proof by the  
35 proponent of such evidence outside the hearing of the jury or at  
36 such hearing as the court may require, and a statement by the court  
37 of its findings of fact essential to its determination. A statement by  
38 the court of its findings shall also be included in the record.

39 f. For the purposes of this section, "sexual conduct" shall mean  
40 any conduct or behavior relating to sexual activities of the victim,  
41 including but not limited to previous or subsequent experience of  
42 sexual penetration or sexual contact, use of contraceptives, sexual  
43 activities reflected in gynecological records, living arrangement and  
44 life style.

45 (cf: P.L.1995, c.237, s.1)

46

47 16. (New section) a. The Attorney General shall, in consultation  
48 with the Commission on Human Trafficking established by section

1 1 of P.L. , c. (C. ) (pending before the Legislature as this  
2 bill), establish and maintain the participation of the State with either  
3 an existing national, 24-hour toll-free hotline telephone service on  
4 human trafficking that is operating on or after the effective date of  
5 this section or any federally required hotline telephone service, and  
6 shall take appropriate action to publicize the service.

7 b. Unless otherwise established by a federally required hotline  
8 telephone service under federal law, the hotline selected by the  
9 Attorney General, in consultation with the commission, shall be  
10 capable of receiving information from members of the public who  
11 have knowledge of or who believe that an act of human trafficking  
12 in violation of section 1 of P.L.2005, c.77 (C.2C:13-8) is being or  
13 has been committed. The hotline service shall also be capable of  
14 receiving and responding to requests for information from members  
15 of the public concerning human trafficking.

16 c. The Attorney General shall, pursuant to any funds  
17 appropriated or otherwise made available, establish an educational  
18 and public information program concerning the crime of human  
19 trafficking set out in section 1 of P.L.2005, c.77 (C.2C:13-8).

20

21 17. (New section) a. (1) The Attorney General and the Director  
22 of the Division of Criminal Justice in the Department of Law and  
23 Public Safety shall develop and approve a training course and  
24 curriculum on the handling, response procedures, investigation, and  
25 prosecution of human trafficking cases for law enforcement  
26 agencies. This training course shall be reviewed at least every two  
27 years and modified by the Attorney General and Director of the  
28 Division of Criminal Justice from time to time as need may require.

29 (2) The Attorney General shall be responsible for ensuring that  
30 all law enforcement officers attend initial training within 90 days of  
31 appointment or transfer and annual inservice training of at least four  
32 hours as described in this section.

33 (3) The Division of Criminal Justice shall distribute the training  
34 materials and curriculum to all State, county, and local law  
35 enforcement agencies.

36 b. (1) The Division of Criminal Justice, in consultation with the  
37 Department of Community Affairs, shall develop and approve a  
38 training course on the handling and response procedures of  
39 suspected human trafficking activities for owners, operators, and  
40 staff of hotels and motels as defined in the "Hotel and Multiple  
41 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.). This training  
42 course shall be reviewed at least every two years and modified by  
43 the Division of Criminal Justice, in consultation with the  
44 Department of Community Affairs, from time to time as need may  
45 require.

46 (2) The Department of Community Affairs shall be responsible  
47 for ensuring that all hotel and motel owners, operators, and staff  
48 attend initial training within 90 days of enactment of this section,

1 and annual inservice training of at least four hours as described in  
2 this section.

3 (3) The Department of Community Affairs shall distribute the  
4 training materials and curriculum to all hotels and motels in the  
5 State.

6 c. (1) The Division of Criminal Justice, in consultation with  
7 the Department of Human Services, shall develop and approve a  
8 training course on the handling and response procedures of  
9 suspected human trafficking activities for employees of every  
10 licensed health care facility as defined in section 2 of P.L.1971,  
11 c.136 (C.26:2H-2), including those professionals whose  
12 professional practice is regulated pursuant to Title 45 of the Revised  
13 Statutes. This training course shall be reviewed at least every two  
14 years and modified by the Division of Criminal Justice, in  
15 consultation with the Department of Human Services.

16 (2) The Department of Human Services shall be responsible for  
17 ensuring that all employees of licensed health care facilities attend  
18 initial training within 90 days of enactment of this section, and  
19 annual inservice training of at least four hours as described in this  
20 section.

21 (3) The Department of Human Services shall distribute the  
22 training materials and curriculum to all licensed health care  
23 facilities in the State.

24 d. (1) The Administrative Office of the Courts shall develop and  
25 approve a training course and a curriculum on the handling,  
26 investigation, and response procedures and prosecution of human  
27 trafficking cases for all judges and all judicial personnel. This  
28 training course shall be reviewed at least every two years and  
29 modified by the Administrative Office of the Courts from time to  
30 time as need may require.

31 (2) The Administrative Office of the Courts shall be responsible  
32 for ensuring that all judges and judicial personnel attend initial  
33 training within 90 days of appointment or transfer and annual in-  
34 service training of at least four hours as described in this section.

35 e. The Division of Criminal Justice, the Department of  
36 Community Affairs, the Department of Human Services, and the  
37 Administrative Office of the Courts shall provide that all training on  
38 the handling of human trafficking cases shall include information  
39 concerning the impact of human trafficking on society, the statutory  
40 and case law concerning human trafficking, policies and procedures  
41 as promulgated or ordered by the Attorney General, the Department  
42 of Community Affairs, the Department of Human Services, or the  
43 Supreme Court, or the federal government and the use of available  
44 community resources, support services, sanctions, and treatment  
45 options for victims of human trafficking.

46

47 18. Section 9 of P.L.1985, c.404 (C.52:4B-47) is amended to  
48 read as follows:



1       9. a. The curriculum for police training courses required  
2 pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.) shall include  
3 training on responding to the needs of crime victims, and specific  
4 training on responding to the needs of victims of human trafficking  
5 as defined in section 1 of P.L.2005, c.77 (C.2C:13-8), and on  
6 services available to provide assistance, including information on  
7 federal, State, and local hotlines available to receive reports of and  
8 provide assistance to victims of human trafficking.

9       b. In-service training shall be made available for police  
10 officers, assistant prosecutors, county detectives and investigators  
11 on specialized needs of crime victims and available services.

12 (cf: P.L.1985, c.404, s.9)

13  
14       19. (New section) a. An applicant for licensure as a massage and  
15 bodywork therapist or registration as an employer offering massage  
16 and bodywork therapies under P.L.1999, c.19 (C.45:11-53 et seq.)  
17 and P.L.2007, c.337 (C.45:11-68 et seq.) shall not be eligible for  
18 licensure or registration, as the case may be, and any holder of a  
19 license or registration under P.L.1999, c.19 (C.45:11-53 et seq.) and  
20 P.L.2007, c.337 (C.45:11-68 et seq.) shall have his license or  
21 registration revoked if the New Jersey Board of Massage and  
22 Bodywork Therapy determines, consistent with subsection f. of  
23 section 8 of P.L.1978, c.73 (C.45:1-21), that criminal history record  
24 information exists on file in the Federal Bureau of Investigation,  
25 Identification Division, or in the State Bureau of Identification in  
26 the Division of State Police, which may disqualify that individual  
27 from being licensed or registered.

28       b. An applicant and holder of a license or registration who is  
29 required to undergo a criminal history record background check  
30 pursuant to subsection a. of this section shall submit to the board his  
31 name, address, and fingerprints taken on standard fingerprint cards  
32 by a State or municipal law enforcement agency or by a private  
33 entity under contract with the State. The board is authorized to  
34 exchange fingerprint data with and receive criminal history record  
35 information from the Federal Bureau of Investigation and the  
36 Division of State Police for use in making the determinations  
37 required pursuant to this section.

38       c. Upon receipt of the criminal history record information for a  
39 person from the Federal Bureau of Investigation or the Division of  
40 State Police, the board shall notify the applicant, licensee, or  
41 registered individual, as applicable, in writing, of the person's  
42 qualification or disqualification for licensure or registration under  
43 this section.

44       d. If an applicant, licensee, or registered individual refuses to  
45 consent to, or cooperate in, the securing of a criminal history record  
46 background check, the board shall not issue a license or registration,  
47 as the case may be, or other authorization to the applicant, licensee,  
48 or registered individual.

1 e. All costs associated with performing the criminal history  
2 record background check required by this section shall be borne by  
3 the applicant for licensure or registration or the holder of any  
4 license or registration.

5 f. The New Jersey Board of Massage and Bodywork Therapy,  
6 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410  
7 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
8 the purposes of this section.

9  
10 20. Sections 1 and 2 of this act shall take effect immediately, and  
11 the remaining sections shall take effect on the first day of the second  
12 month next following the date of enactment, but the Attorney General,  
13 Commissioner of Community Affairs, Commissioner of Human  
14 Services, the Director of the Administrative Office of the Courts, and  
15 the New Jersey Board of Massage and Bodywork Therapy may take  
16 any anticipatory administrative action in advance thereof as shall be  
17 necessary for the implementation of this act.

18  
19  
20 STATEMENT

21  
22 This bill revises and expands the State’s human trafficking law  
23 by creating a new human trafficking commission, criminalizing  
24 additional activities related to human trafficking as well as  
25 upgrading certain penalties on existing human trafficking or related  
26 crimes, increasing protections afforded to victims of human  
27 trafficking, and providing for increased training and public  
28 awareness on human trafficking issues.

29 Section 1: The commission. This section would establish a 15-  
30 member Commission on Human Trafficking, to be located in the  
31 Department of Law and Public Safety. The commission would be  
32 directed to evaluate the existing law concerning human trafficking  
33 and the enforcement thereof, and to make recommendations for  
34 legislation, if appropriate. The commission would also be charged  
35 with the responsibility of reviewing existing victim assistance  
36 programs, and promoting a coordinated response by public and  
37 private resources for victims of human trafficking. In addition, the  
38 commission would administer and make expenditures from the  
39 “Human Trafficking Survivor’s Assistance Fund” established by the  
40 bill (see section 2).

41 The commission would consist of: the Attorney General, or his  
42 designee; the Commissioner of Children and Families, or his  
43 designee; the Commissioner of Human Services, or his designee;  
44 one member of the existing New Jersey Human Trafficking Task  
45 Force in the Department of Law and Public Safety, designated by  
46 the Attorney General; two public members appointed by the  
47 Governor based upon the recommendation of the Senate President,  
48 one representing law enforcement and one representing a victim’s

1 assistance organization; one public member appointed by the  
2 Governor based upon the recommendation of the Senate Minority  
3 Leader representing either a non-profit health care facility or mental  
4 health services; two public members appointed by the Governor  
5 based upon the recommendation of the Speaker of the General  
6 Assembly, one representing law enforcement and one representing a  
7 victim's assistance organization; one public member appointed by  
8 the Governor based upon the recommendation of the Assembly  
9 Minority Leader representing either a non-profit health care facility  
10 or mental health services; and five public members appointed by the  
11 Governor, one of whom shall be a representative of the National  
12 Center for Missing and Exploited Children. All public members  
13 would also be required to possess a background in, or have  
14 specialized knowledge of, the legal, policy, educational, social, or  
15 psychological aspects of human trafficking.

16 The commission would be required to annually report to the  
17 Governor and the Legislature as to its activities, as well as its  
18 findings and recommendations for any needed new laws, services,  
19 or resources for victims of human trafficking.

20 Section 2: The "Human Trafficking Survivor's Assistance  
21 Fund." This section would establish a separate, non-lapsing,  
22 dedicated fund in the General Fund known as the "Human  
23 Trafficking Survivor's Assistance Fund." The Commission on  
24 Human Trafficking would administer the fund, using the monies for  
25 the provision of services to victims of human trafficking, to  
26 promote awareness of human trafficking, and the development,  
27 establishment, operation, and maintenance of the "John School  
28 Diversion Program" created pursuant to section 10 of the bill.

29 Section 3: Human trafficking – expanding criminal liability. The  
30 existing definition of human trafficking would be expanded by this  
31 section. It would incorporate actions involving abduction, fraud,  
32 deceit or other deception, and abuses of power, as recognized means  
33 of accomplishing human trafficking.

34 This section would also establish criminal negligence for  
35 licensed owners or drivers of commercial passenger vehicles with  
36 respect to the negligent participation in transporting human  
37 trafficking victims, and make any other professionally licensed  
38 person criminally liable for negligently permitting an act of human  
39 trafficking on, within, or using that person's property or services.  
40 A "professionally licensed person" is defined under the section as  
41 any person required by law to obtain, from a governmental  
42 department, agency, board, or commission of the State or any  
43 political subdivision of the State, a license, permit, certificate,  
44 approval, registration, charter, or similar form of business or  
45 professional authorization in order to operate a business or as a  
46 professional in this State.

47 Criminal negligence in this context means that the commercially  
48 licensed vehicle owner or driver, or other professionally licensed

1 person, should be aware of a substantial and unjustifiable risk that a  
2 material element of an act of human trafficking exists or will result  
3 from the person's conduct; this risk must be of such a nature and  
4 degree that the professionally licensed person's failure to perceive it  
5 involves a gross deviation from the standard of care that a  
6 reasonable person would observe if in that professionally licensed  
7 person's situation. See N.J.S.2C:2-2.

8 Negligently permitting an act of human trafficking would be  
9 established as a crime of the fourth degree. Such crime is ordinarily  
10 punishable by a term of imprisonment of up to 18 months, a fine of  
11 up to \$10,000, or both. See N.J.S.2C:43-3 and -6. However, while  
12 the section does not modify the ordinary term of imprisonment, it  
13 does alter the possible fine amount. Pursuant to the section's  
14 provisions, an offender, notwithstanding the ordinary fine amount,  
15 would be subject to a fine of up to \$25,000, to be deposited in the  
16 "Human Trafficking Survivor's Assistance Fund." Additionally,  
17 upon conviction, the court would revoke any license, permit,  
18 certificate, approval, registration, charter, or similar form of  
19 business or professional authorization required by law concerning  
20 the operation of that person's business or profession.

21 Finally, the section increases the minimum fine amount for any  
22 other form of criminal human trafficking already established in law  
23 by this section as a crime of the first degree (e.g., recruiting persons  
24 for trafficking, financing a trafficking operation). A crime of the  
25 first degree is ordinarily punishable by a fine of up to \$200,000, but  
26 the bill's provisions would establish that the fine be at least  
27 \$25,000, with the added directive that the monies be deposited in  
28 the "Human Trafficking Survivor's Assistance Fund."

29 Section 4: Civil action for human trafficking. This section would  
30 establish a new civil action for human trafficking, permitting any  
31 person injured as a result of human trafficking, including acts  
32 resulting in the loss of money or property, real or personal, to file  
33 an action in any court of competent jurisdiction. The action could  
34 be brought whether or not a criminal prosecution of human  
35 trafficking occurred.

36 In any such civil action, in addition to any other appropriate legal  
37 or equitable relief, an award of damages would include an amount  
38 reflecting the income or value of the injured party's labor or  
39 services to the defendant, similar to the victim's restitution required  
40 of a criminal defendant upon conviction of a human trafficking  
41 violation.

42 Section 5: Ownership and leasing of premises for human  
43 trafficking. This section would create two crimes concerning  
44 premises used for human trafficking, including a residential home,  
45 apartment, hotel, or motel: (1) a person who knowingly owns,  
46 controls, manages, or supervises any premises where human  
47 trafficking is regularly carried on; and (2) a person who knowingly  
48 leases or otherwise permits any premises controlled by the actor,

1 alone or in association with others, to be regularly used for human  
2 trafficking, or fails to make a reasonable effort to abate such use by  
3 ejecting the tenant or notifying law enforcement authorities. Both  
4 would be categorized as a crime of the first degree, ordinarily  
5 punishable by a term of imprisonment for 10 to 20 years, a fine of  
6 up to \$200,000, or both; however, the bill's provisions would  
7 establish that the fine be at a minimum \$25,000. All fines from a  
8 violation of this section would be deposited in the "Human  
9 Trafficking Survivor's Assistance Fund."

10 These crimes are based on similar crimes in the statutory scheme  
11 concerning prostitution found in N.J.S.2C:34-1, but would be  
12 focused on human trafficking, which, as described in section 1 of  
13 P.L.2005, c.77 (C.2C:13-8), does not just incorporate engaging in  
14 sexual activity but may include forced labor or services by victims.

15 Sections 6 and 7: Removal of tenants due to human trafficking.  
16 These sections amend sections 2 and 3 of P.L.1974, c.49 (C.2A:18-  
17 61.1 and -61.2) concerning the grounds and expedited timing for  
18 removal of tenants, to add a conviction for human trafficking within  
19 or upon a leased premises, building, or complex of buildings as a  
20 basis for removal.

21 The inclusion of a human trafficking conviction would add to the  
22 current law's list of various criminal offenses for which tenant  
23 removal is expressly permitted. These other offenses include: drug  
24 offenses; offenses under N.J.S.2C:12-1 (assault) or N.J.S.2C:12-3  
25 (terroristic threats) against the landlord, a member of the landlord's  
26 family, or an employee of the landlord; and offenses under  
27 N.J.S.2C:20-1 et al. involving theft of property from the landlord,  
28 the leased premises, or other tenants residing in the same premises,  
29 building, or complex.

30 Section 8: Prostitution. This section amends N.J.S.2C:34-1  
31 concerning prostitution.

32 The definition of "prostitution" would be expanded to recognize  
33 that the prohibited sexual activity may be performed in exchange  
34 for something of economic "or other value," intending that a direct  
35 economic benefit need not be derived in order to establish the crime  
36 of prostitution.

37 It would also upgrade the criminal penalty for two existing types  
38 of promoting prostitution. First, transporting a person into or  
39 within this State with the purpose to promote that person's engaging  
40 in prostitution, or procuring or paying for transportation with that  
41 purpose would be upgraded from a crime of the fourth degree to a  
42 crime of the third degree (imprisonment of three to five years; fine  
43 of up to \$15,000; or both). Second, knowingly leasing or otherwise  
44 permitting a place controlled by the actor, alone or in association  
45 with others, to be regularly used for prostitution or promotion of  
46 prostitution, or failure to make a reasonable effort to abate such use  
47 by ejecting the tenant, notifying law enforcement authorities, or  
48 through other legally available means would also be upgraded from

1 a crime of the fourth degree crime to a crime of the third degree  
2 (same sentencing parameters as above).

3 In addition, the amendments would expand the availability of an  
4 affirmative defense against a prosecution for engaging in prostitution,  
5 by allowing any person, regardless of age, to claim the defense of  
6 being a victim compelled to engage in sexual activity.

7 Section 9: Procedure to vacate a criminal conviction for  
8 prostitution due to being a human trafficking victim. This section  
9 would permit any person, convicted and serving a sentence as  
10 provided for by the Criminal Code (Title 2C) for engaging in  
11 prostitution, to move to have the sentence reviewed by a court and  
12 vacated, reduced, or altered, on the grounds that the defendant was a  
13 victim of human trafficking. A court would consider all relevant  
14 circumstances in making a determination, including whether the  
15 defendant's victimization constituted a significant contributing factor  
16 to the criminal behavior, regardless of whether the defendant raised  
17 this factor as a defense at trial.

18 Section 10: John School Diversion Program. This section would  
19 require a person who is convicted of engaging a prostitute ("johns")  
20 to participate in a newly established "John School Diversion  
21 Program." The section would impose a penalty of \$1,000 on each  
22 defendant, to be deposited in the "Human Trafficking Survivor's  
23 Assistance Fund." These monies (and others in the fund) would be  
24 dedicated to the development, establishment, operation, and  
25 maintenance of the program.

26 The program would be administered by the Administrative  
27 Office of the Courts. The program would educate those persons who  
28 have been convicted of engaging a prostitute about the risks  
29 involved in their unlawful activity. Defendants would be informed  
30 about the health risks connected with the crime, the legal  
31 ramifications of their unlawful activity, the terms of imprisonment  
32 for subsequent offenses, and the correlation between prostitution  
33 and human trafficking.

34 The program is modeled after similar "john school" programs  
35 which have been implemented in Buffalo, New York; Brooklyn,  
36 New York; Pittsburgh, Pennsylvania; and West Palm Beach,  
37 Florida.

38 Sections 11 and 12: Advertising commercial sexual abuse of a  
39 minor. This section would make it a crime of the first degree  
40 (imprisonment of 10 to 20 years; fine of at least \$25,000 but not  
41 more than \$200,000; or both) to commit an offense related to  
42 advertising commercial sexual abuse of a minor. A person would  
43 be guilty of this offense if the person: (1) knowingly publishes,  
44 disseminates, or displays, or causes directly or indirectly, to be  
45 published, disseminated, or displayed, any advertisement for a  
46 commercial sex act, which is to take place in this State and which  
47 includes the depiction of a minor; or (2) knowingly purchases  
48 advertising in this State for a commercial sex act which includes the

1 depiction of a minor. An “advertisement for a commercial sex act”  
2 is defined as any advertisement or offer in electronic or print media,  
3 including the Internet, which includes either an explicit or implicit  
4 offer for a commercial sex act to occur in this State. A  
5 “commercial sex act” is defined as any act of sexual contact, sexual  
6 penetration, or other prohibited act that can endanger a minor and  
7 for which something of value is given or received by any person.

8 The section specifies that it would not be a defense that the  
9 defendant did not know the actual age of the minor depicted in an  
10 advertisement; however, it would be a defense if the defendant  
11 made a reasonable, bona fide attempt to ascertain the actual age of  
12 the minor depicted in the advertisement by requiring, prior to  
13 publication, dissemination, or display of the advertisement, a  
14 production of a driver's license, marriage license, birth certificate,  
15 or other governmental or educational identification card or paper of  
16 the minor depicted in the advertisement. To invoke this defense,  
17 the defendant would be required to produce for inspection by law  
18 enforcement a record of the identification used to verify the age of  
19 the person depicted in the advertisement.

20 As with several of the other crimes created or modified by this  
21 bill, the fine imposed for advertising commercial sexual abuse of a  
22 minor (at least \$25,000) would be deposited in the “Human  
23 Trafficking Survivor’s Assistance Fund.”

24 The sponsor intends this section to address the problem of escort  
25 services whose advertisements include minors being sold for sex,  
26 which constitutes a form of sex trafficking and abuse.

27 This section is modeled after a recently enacted Washington state  
28 law, 2012 Wash. Laws c.138 (Wash. Rev. Code Ann. 9.68A.104),  
29 and Connecticut state law, 2012 Conn. Acts 12-141 (not yet  
30 allocated, effective October 1, 2012), that created criminal offenses  
31 related to advertising commercial sexual abuse of a minor.

32 Section 13: Endangering the welfare of children. This section  
33 would increase the criminal penalties for some offenses concerning  
34 endangering the welfare of children. It increases, from a crime of  
35 the fourth degree to a crime of the third degree (imprisonment of  
36 three to five years; fine of up to \$15,000; or both), knowingly  
37 possessing or knowingly viewing any photograph, film, videotape,  
38 computer program or file, video game, or any other reproduction or  
39 reconstruction which depicts a child engaging in a prohibited sexual  
40 act or in the simulation of such an act.

41 Sections 14 and 15: Protecting victims who testify in  
42 prosecutions. This section takes existing criminal procedures  
43 established to protect victims, particularly minors, participating in  
44 the prosecution of various crimes (usually those involving sexual  
45 victimization, such as sexual assault or endangering the welfare of  
46 children), and would expand these procedures to cover prosecutions  
47 for human trafficking.

1        Thus, whenever the crime of human trafficking involved sexual  
2 activity (as defined in paragraph (2) of subsection a. of  
3 N.J.S.2C:34-1), the section would permit, upon appropriate  
4 application, closed circuit testimony by a minor victim taken  
5 outside the presence of spectators, the criminal defendant, the jury,  
6 or all such parties. Additionally, for any victim regardless of age,  
7 the section, expanding the State's rape shield law, would prevent  
8 admissibility in evidence of previous sexual conduct or manner of  
9 dress, unless the value of such evidence is first determined by a  
10 court to be "relevant and highly material" and the value of its  
11 submission substantially outweighed the probability it would create  
12 an unwarranted invasion of privacy of the victim, undue prejudice,  
13 or other concern related to the administration of justice in  
14 prosecuting the case.

15        Section 16: Human trafficking hotline. This section would  
16 require the Attorney General, in consultation with the Commission  
17 on Human Trafficking (see section 1 of the bill), to establish and  
18 maintain the participation of the State with either an existing,  
19 national 24-hour toll-free telephone hotline service on human  
20 trafficking, or any federally required hotline telephone service  
21 created under federal law. Unless otherwise established by a  
22 federally required hotline telephone service under federal law, the  
23 hotline telephone service selected by the Attorney General, in  
24 consultation with the commission, would be required to receive  
25 information from members of the public who have knowledge of or  
26 who believe that an act of human trafficking is being or has been  
27 committed. The hotline would also be required to receive and  
28 respond to requests for information from members of the public  
29 concerning human trafficking. In addition, the section would  
30 require the Attorney General, pursuant to any funds appropriated or  
31 otherwise made available, to establish an educational and public  
32 information program concerning the crime of human trafficking.

33        Section 17: Training programs on human trafficking for  
34 governmental and non-governmental personnel. This section would  
35 require the Division of Criminal Justice, the Department of  
36 Community Affairs, the Department of Human Services, and the  
37 Administrative Office of the Courts to develop and approve training  
38 courses and curricula on the handling, response, investigation, and  
39 prosecution of human trafficking for various governmental and non-  
40 governmental personnel, including law enforcement officers, judges  
41 and judicial personnel, hotel and motel owners, operators and staff,  
42 and licensed health care facility employees. The courses and  
43 curricula would include information concerning the impact of  
44 human trafficking on society, the statutory and case law concerning  
45 human trafficking, policies and procedures of the State, and the use  
46 of available community resources, support services, sanctions, and  
47 treatment options for victims of human trafficking.



1 The Attorney General would be responsible for the training of  
2 law enforcement officers. The training for judges and judicial  
3 personnel would be the responsibility of the Administrative Office  
4 of the Courts. The training for hotel and motel owners, operators,  
5 and staff would be the responsibility of the Department of  
6 Community Affairs. The training for employees of licensed health  
7 care facilities, including those professionals whose professional  
8 practice is regulated pursuant to Title 45 of the Revised Statutes,  
9 would be the responsibility of the Department of Human Services.

10 Section 18: Expanding police training curricula to include  
11 human trafficking victims' assistance. This section would provide  
12 that the curricula for police training courses shall also include  
13 specific training on responding to the needs of victims of the crime  
14 of human trafficking.

15 Section 19: Massage and bodywork therapist background checks.  
16 This section would require applicants, and those persons already  
17 licensed as massage and bodywork therapists or registered as  
18 employers offering massage and bodywork therapies under the  
19 provisions of the "Massage and Bodywork Therapist Licensing  
20 Act," P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337  
21 (C.45:11-68 et seq.), to submit to a State and federal criminal  
22 history background check, to determine whether those persons are  
23 fit to be so licensed or registered. The section provides that if the  
24 New Jersey Board of Massage and Bodywork Therapy found an  
25 applicant for licensure as a massage and bodywork therapist or an  
26 individual already so licensed, or an applicant for registration or an  
27 individual already so registered as an employer offering massage  
28 and bodywork therapies, to have been convicted of, or engaged in  
29 acts constituting any crime or offense involving moral turpitude or  
30 relating adversely to the activities regulated by the board, that  
31 applicant would not be eligible for such licensure or registration,  
32 and an individual who already holds a license or registration would  
33 have that license or registration revoked.

34 If an applicant, licensee, or registered individual refused to  
35 consent to, or cooperate in, the securing of a criminal history record  
36 background check, the board would not issue a license or  
37 registration, as the case may be, or other authorization to the  
38 applicant, licensee, or registered individual.

39 All costs associated with performing a criminal history record  
40 background check would be borne by the applicant for licensure or  
41 registration or the holder of any license or registration.

42 Section 20: Effective date. Sections 1 and 2 of the bill,  
43 establishing the Commission on Human Trafficking and the "Human  
44 Trafficking Survivor's Assistance Fund," would take effect  
45 immediately, and the remaining sections would take effect on the first  
46 day of the second month next following the date of enactment, but the  
47 Attorney General, Commissioner of Community Affairs,  
48 Commissioner of Human Services, Director of the Administrative

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- 1 Office of the Courts, and New Jersey Board of Massage and
- 2 Bodywork Therapy could take any anticipatory administrative action
- 3 in advance thereof as shall be necessary for the bill's implementation.

# ASSEMBLY JUDICIARY COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3352**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: OCTOBER 15, 2012

The Assembly Judiciary Committee reports favorably and with committee amendments Assembly Bill No. 3352.

This bill, as amended, titled the “Human Trafficking Prevention, Protection, and Treatment Act,” revises and expands the State’s human trafficking law by creating a new human trafficking commission, criminalizing additional activities related to human trafficking as well as upgrading certain penalties on existing human trafficking or related crimes, increasing protections afforded to victims of human trafficking, and providing for increased training and public awareness on human trafficking issues.

Section 1: The commission. This section would establish a 15-member Commission on Human Trafficking, to be located in the Department of Law and Public Safety. The commission would be directed to evaluate the existing law concerning human trafficking and the enforcement thereof, and to make recommendations for legislation, if appropriate. The commission would also be charged with the responsibility of reviewing existing victim assistance programs, and promoting a coordinated response by public and private resources for victims of human trafficking. In addition, the commission would administer and make expenditures from the “Human Trafficking Survivor’s Assistance Fund” established by the bill (see section 2).

The commission would consist of: the Attorney General, or his designee; the Commissioner of Children and Families, or his designee; the Commissioner of Human Services, or his designee; a county prosecutor, appointed by the Governor based upon the recommendation of the County Prosecutors Association of the State of New Jersey; one member of the existing New Jersey Human Trafficking Task Force in the Department of Law and Public Safety, designated by the Attorney General; two public members appointed by the Governor based upon the recommendation of the Senate President, one representing law enforcement and one representing a victim’s assistance organization; one public member appointed by the Governor based upon the recommendation of the Senate Minority Leader representing either a non-profit health care facility or mental health services; two public members appointed by the Governor based upon

the recommendation of the Speaker of the General Assembly, one representing law enforcement and one representing a victim's assistance organization; one public member appointed by the Governor based upon the recommendation of the Assembly Minority Leader representing either a non-profit health care facility or mental health services; and four public members appointed by the Governor, one of whom shall be a representative of the National Center for Missing and Exploited Children. All public members would also be required to possess a background in, or have specialized knowledge of, the legal, policy, educational, social, or psychological aspects of human trafficking.

The commission would be required to annually report to the Governor and the Legislature as to its activities, as well as its findings and recommendations for any needed new laws, services, or resources for victims of human trafficking.

Section 2: The "Human Trafficking Survivor's Assistance Fund."

This section would establish a separate, non-lapsing, dedicated fund in the General Fund known as the "Human Trafficking Survivor's Assistance Fund." The Commission on Human Trafficking would administer the fund, using the monies for: the provision of services to victims of human trafficking; to promote awareness of human trafficking; the development, establishment, operation, and maintenance of the "John School Diversion Program" created pursuant to section 10 of the bill; and the development, maintenance, revision, and distribution of materials related to a one-time professional training course on human trafficking mandated for various professions as detailed in section 17 of the bill.

Section 3: Human trafficking – expanding criminal liability. The existing definition of human trafficking would be expanded by this section. It would incorporate actions involving abduction, fraud, deceit or other deception, and abuses of power, as recognized means of accomplishing human trafficking.

This section would also establish criminal liability for licensed owners or drivers of commercial passenger vehicles with respect to their reckless participation in transporting human trafficking victims, and make any other professionally licensed person criminally liable for recklessly permitting an act of human trafficking on, within, or using that person's property or services. A "professionally licensed person" is defined under the section as any person required by law to obtain, from a governmental department, agency, board, or commission of the State or any political subdivision of the State, a license, permit, certificate, approval, registration, charter, or similar form of business or professional authorization in order to operate a business or as a professional in this State.

Criminal recklessness in this context means that the commercially licensed vehicle owner or driver, or other professionally licensed person, consciously disregards a substantial and unjustifiable risk that a material element of an act of human trafficking exists or will result

from the person's conduct; this risk must be of such a nature and degree that, considering the nature and purpose of the conduct and circumstances known to the professionally licensed person, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe if in that professionally licensed person's situation. See N.J.S.2C:2-2.

Recklessly permitting an act of human trafficking would be established as a crime of the fourth degree. Such crime is ordinarily punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. See N.J.S.2C:43-3 and -6. However, while the section does not modify the ordinary term of imprisonment, it does alter the possible fine amount. Pursuant to the section's provisions, an offender, notwithstanding the ordinary fine amount, would be subject to a fine of up to \$25,000, to be deposited in the "Human Trafficking Survivor's Assistance Fund" (section 2, above). Additionally, upon conviction, the court would revoke any license, permit, certificate, approval, registration, charter, or similar form of business or professional authorization required by law concerning the operation of that person's business or profession.

Finally, the section increases the minimum fine amount for any other form of criminal human trafficking already established in law as a crime of the first degree under section 1 of P.L.2005, c.77 (C.2C:13-8) (e.g., recruiting persons for trafficking, financing a trafficking operation). A crime of the first degree is ordinarily punishable by a fine of up to \$200,000, but the bill's provisions would establish that the fine be at least \$25,000, with the added directive that the monies be deposited in the "Human Trafficking Survivor's Assistance Fund."

Section 4: Civil action for human trafficking. This section would establish a new civil action for human trafficking, permitting any person injured as a result of human trafficking, including acts resulting in the loss of money or property, real or personal, to file an action in any court of competent jurisdiction. The action could be brought whether or not a criminal prosecution of human trafficking occurred.

In any such civil action, in addition to any other appropriate legal or equitable relief, an award of damages would include an amount reflecting the income or value of the injured party's labor or services to the defendant, similar to the victim's restitution required of a criminal defendant upon conviction of a human trafficking violation.

Section 5: Ownership and leasing of premises for human trafficking. This section would create two crimes concerning premises used for human trafficking, including a residential home, apartment, hotel, or motel: (1) a person who knowingly owns, controls, manages, or supervises any premises where human trafficking is regularly carried on; and (2) a person who knowingly leases or otherwise permits any premises controlled by the actor, alone or in association with others, to be regularly used for human trafficking, or fails to make a reasonable effort to abate such use by ejecting the tenant or notifying law enforcement authorities. Both would be categorized as a crime of

the first degree, ordinarily punishable by a term of imprisonment for 10 to 20 years, a fine of up to \$200,000, or both; however, the bill's provisions would establish that the fine be at a minimum \$25,000. All fines from a violation of this section would be deposited in the "Human Trafficking Survivor's Assistance Fund."

These crimes are based on similar crimes in the statutory scheme concerning prostitution found in N.J.S.2C:34-1, but would be focused on human trafficking, which, as described in section 1 of P.L.2005, c.77 (C.2C:13-8), does not just incorporate engaging in sexual activity but may include forced labor or services by victims.

Sections 6 and 7: Removal of tenants due to human trafficking. These sections amend sections 2 and 3 of P.L.1974, c.49 (C.2A:18-61.1 and -61.2) concerning the grounds and expedited timing for removal of tenants, to add a conviction for human trafficking within or upon a leased premises, building, or complex of buildings as a basis for removal.

The inclusion of a human trafficking conviction would add to the current law's list of various criminal offenses for which tenant removal is expressly permitted. These other offenses include: drug offenses; offenses under N.J.S.2C:12-1 (assault) or N.J.S.2C:12-3 (terroristic threats) against the landlord, a member of the landlord's family, or an employee of the landlord; and offenses under N.J.S.2C:20-1 et al. involving theft of property from the landlord, the leased premises, or other tenants residing in the same premises, building, or complex.

Section 8: Prostitution. This section amends N.J.S.2C:34-1 concerning prostitution.

The definition of "prostitution" would be expanded to recognize that the prohibited sexual activity may be performed in exchange for something of economic "or other value," intending that a direct economic benefit need not be derived in order to establish the crime of prostitution.

It would also upgrade the criminal penalty for two existing types of promoting prostitution. First, transporting a person into or within this State with the purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose would be upgraded from a crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both). Second, knowingly leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or promotion of prostitution, or failure to make a reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or through other legally available means would also be upgraded from a crime of the fourth degree crime to a crime of the third degree (same sentencing parameters as above).

In addition, the amendments would expand the availability of an affirmative defense against a prosecution for engaging in prostitution,

by allowing any person, regardless of age, to claim the defense of being a victim compelled to engage in sexual activity.

Section 9: Procedure to vacate a criminal conviction for prostitution due to being a human trafficking victim. This section would permit any person, convicted and serving a sentence as provided for by the Criminal Code (Title 2C) for engaging in prostitution, to move to have the sentence reviewed by a court and vacated, reduced, or altered, on the grounds that the defendant was a victim of human trafficking. A court would consider all relevant circumstances in making a determination, including whether the defendant's victimization constituted a significant contributing factor to the criminal behavior, regardless of whether the defendant raised this factor as a defense at trial.

Section 10: John School Diversion Program. This section would require a person who is convicted of engaging a prostitute ("johns") to participate in a newly established "John School Diversion Program." The section would impose a penalty of \$1,000 on each defendant, to be deposited in the "Human Trafficking Survivor's Assistance Fund." These monies (and others in the fund) would be dedicated to the development, establishment, operation, and maintenance of the program.

The program would be administered by the Administrative Office of the Courts. The program would educate those persons who have been convicted of engaging a prostitute about the risks involved in their unlawful activity. Defendants would be informed about the health risks connected with the crime, the legal ramifications of their unlawful activity, the terms of imprisonment for subsequent offenses, and the correlation between prostitution and human trafficking.

The program is modeled after similar "john school" programs which have been implemented in Buffalo, New York; Brooklyn, New York; Pittsburgh, Pennsylvania; and West Palm Beach, Florida.

Sections 11 and 12: Advertising commercial sexual abuse of a minor. This section would make it a crime of the first degree (imprisonment of 10 to 20 years; fine of at least \$25,000 but not more than \$200,000; or both) to commit an offense related to advertising commercial sexual abuse of a minor. A person would be guilty of this offense if the person: (1) knowingly publishes, disseminates, or displays, or causes directly or indirectly, to be published, disseminated, or displayed, any advertisement for a commercial sex act, which is to take place in this State and which includes the depiction of a minor; or (2) knowingly purchases advertising in this State for a commercial sex act which includes the depiction of a minor. An "advertisement for a commercial sex act" is defined as any advertisement or offer in electronic or print media, including the Internet, which includes either an explicit or implicit offer for a commercial sex act to occur in this State. A "commercial sex act" is defined as any act of sexual contact, sexual penetration, or other

prohibited act that can endanger a minor and for which something of value is given or received by any person.

The section specifies that it would not be a defense that the defendant: (1) did not know the actual age of the minor depicted in an advertisement; or (2) claims to know the age of the person depicted, unless there is appropriate proof of age obtained and produced. Accordingly, it would be a defense if the defendant made a reasonable, bona fide attempt to ascertain the actual age of the minor depicted in the advertisement by requiring, prior to publication, dissemination, or display of the advertisement, a production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper of the minor depicted in the advertisement. To invoke this defense, the defendant would be required to produce for inspection by law enforcement a record of the identification used to verify the age of the person depicted in the advertisement.

As with several of the other crimes created or modified by this bill, the fine imposed for advertising commercial sexual abuse of a minor (at least \$25,000) would be deposited in the "Human Trafficking Survivor's Assistance Fund."

The sponsor intends this section to address the problem of escort services whose advertisements include minors being sold for sex, which constitutes a form of sex trafficking and abuse.

This section is modeled after a recently enacted Washington state law, 2012 Wash. Laws c.138 (Wash. Rev. Code Ann. 9.68A.104), and Connecticut state law, 2012 Conn. Acts 12-141 (not yet allocated, effective October 1, 2012), that created criminal offenses related to advertising commercial sexual abuse of a minor.

Section 13: Endangering the welfare of children. This section would increase the criminal penalties for some offenses concerning endangering the welfare of children. It increases, from a crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both), knowingly possessing or knowingly viewing any photograph, film, videotape, computer program or file, video game, or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act.

Sections 14 and 15: Protecting victims who testify in prosecutions. This section takes existing criminal procedures established to protect victims, particularly minors, participating in the prosecution of various crimes (usually those involving sexual victimization, such as sexual assault or endangering the welfare of children), and would expand these procedures to cover prosecutions for human trafficking.

Thus, whenever the crime of human trafficking involved sexual activity (as defined in paragraph (2) of subsection a. of N.J.S.2C:34-1), the section would permit, upon appropriate application, closed circuit testimony by a minor victim taken outside the presence of spectators,



the criminal defendant, the jury, or all such parties. Additionally, for any victim regardless of age, the section, expanding the State's rape shield law, would prevent admissibility in evidence of previous sexual conduct or manner of dress, unless the value of such evidence is first determined by a court to be "relevant and highly material" and the value of its submission substantially outweighed the probability it would create an unwarranted invasion of privacy of the victim, undue prejudice, or other concern related to the administration of justice in prosecuting the case.

Section 16: Human trafficking hotline. This section would require the Attorney General, in consultation with the Commission on Human Trafficking (see section 1 of the bill), to establish and maintain the participation of the State in the national, 24-hour toll-free telephone hotline service on human trafficking that is operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized under federal law. The Attorney General, in consultation with the commission, would also ensure that any State hotline telephone number be directly linked to the national hotline service, so that any telephone call to the State number would be immediately and directly forwarded to that national service.

In addition, the section would require the Attorney General in consultation with the commission, and pursuant to any funds appropriated or otherwise made available, establish an educational and public information program concerning the crime of human trafficking.

Section 17: Training programs on human trafficking for governmental and non-governmental personnel. This section would require the Division of Criminal Justice, the Department of Community Affairs, the Department of Human Services, and the Administrative Office of the Courts to develop and approve training courses and curricula on the handling, response, investigation, and prosecution of human trafficking for various governmental and non-governmental personnel, including law enforcement officers, judges and judicial personnel, hotel and motel owners, operators and staff, and licensed health care facility employees. The courses and curricula would include information concerning the impact of human trafficking on society, the statutory and case law concerning human trafficking, policies and procedures of the State, and the use of available community resources, support services, sanctions, and treatment options for victims of human trafficking.

The Attorney General would be responsible for the training of law enforcement officers. The training for judges and judicial personnel would be the responsibility of the Administrative Office of the Courts. The training for hotel and motel owners, operators, and staff would be the responsibility of the Department of Community Affairs. The training for employees of licensed health care facilities, including those professionals whose professional practice is regulated pursuant

to Title 45 of the Revised Statutes, would be the responsibility of the Department of Human Services.

While the training of law enforcement officers, judges, and judicial personnel would be on-going, the training for the hotel, motel, and health care facility personnel would be a one-time training activity. The Division of Criminal Justice, in consultation with the Commission on Human Trafficking, would generally define by regulation which of these personnel would be required to undergo the training, and the commission would make available and distribute the training materials to those personnel. All hotel, motel, and health care facility personnel currently engaged in their profession as of the effective date of the training requirement would be required to complete the one-time training within one year of the effective date; all new person engaging in their profession for the first time after the effective date would be required to complete the one-time training within six months of the first date of engaging in such profession.

Section 18: Expanding police training curricula to include human trafficking victims' assistance. This section would provide that the curricula for police training courses shall also include specific training on responding to the needs of victims of the crime of human trafficking.

Section 19: Massage and bodywork therapist background checks. This section would require applicants, and those persons already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies under the provisions of the "Massage and Bodywork Therapist Licensing Act," P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et seq.), to submit to a State and federal criminal history background check, to determine whether those persons are fit to be so licensed or registered. The section provides that if the New Jersey Board of Massage and Bodywork Therapy found an applicant for licensure as a massage and bodywork therapist or an individual already so licensed, or an applicant for registration or an individual already so registered as an employer offering massage and bodywork therapies, to have been convicted of, or engaged in acts constituting any crime or offense involving moral turpitude or relating adversely to the activities regulated by the board, that applicant would not be eligible for such licensure or registration, and an individual who already holds a license or registration would have that license or registration revoked.

If an applicant, licensee, or registered individual refused to consent to, or cooperate in, the securing of a criminal history record background check, the board would not issue a license or registration, as the case may be, or other authorization to the applicant, licensee, or registered individual.

All costs associated with performing a criminal history record background check would be borne by the applicant for licensure or registration or the holder of any license or registration.

Section 20: Effective date. Sections 1 and 2 of the bill, establishing the Commission on Human Trafficking and the “Human Trafficking Survivor’s Assistance Fund,” would take effect immediately, and the remaining sections would take effect on the first day of the second month next following the date of enactment, but the Attorney General, Commissioner of Community Affairs, Commissioner of Human Services, Director of the Administrative Office of the Courts, and New Jersey Board of Massage and Bodywork Therapy could take any anticipatory administrative action in advance thereof as shall be necessary for the bill’s implementation.

#### COMMITTEE AMENDMENTS

The committee amendments to the bill:

- add a county prosecutor as a named member of the Commission on Human Trafficking;
- give the commission additional responsibility for developing and distributing training course and other educational materials for use by hotel, motel, and health care facility personnel required to undergo the one-time training course on human trafficking as detailed in section 17 of the bill;
- permit expenditures from the “Human Trafficking Survivor’s Assistance Fund” for the training course and other educational materials;
- replace references to criminal *negligence* with criminal *recklessness* as the culpability standard for several new human trafficking crimes established by the bill;
- establish that it would be no defense to the new crime of advertising commercial sexual abuse (section 11) that the defendant claims to know the age of the person depicted in an advertisement, unless there is appropriate proof of age obtained and produced;
- clarify that the Attorney General, in consultation with the commission, would maintain the State’s participation in the national hotline telephone service on human trafficking that is operated pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized under federal law;
- require that any State hotline telephone number be directly linked to the national hotline telephone service;
- clarify that the hotel, motel, and health care facility personnel training course on human trafficking would be a one-time activity, and provide authority to the Division on Criminal Justice, in consultation with the commission, to define by regulation which such personnel would be required to undergo the training; and
- decrease the period of time within which hotel, motel, and health care facility personnel would have to complete the one-time training course, from two years to one year.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 3352

with committee amendments

# STATE OF NEW JERSEY

DATED: DECEMBER 13, 2012

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3352 (1R), with committee amendments.

As amended, this bill, titled the “Human Trafficking Prevention, Protection, and Treatment Act,” revises and expands the State’s human trafficking law by creating a new human trafficking commission, criminalizing additional activities related to human trafficking as well as upgrading certain penalties on existing human trafficking or related crimes, increasing protections afforded to victims of human trafficking, and providing for increased training and public awareness on human trafficking.

Section 1: The commission. This section establishes a 15-member Commission on Human Trafficking, to be located in the Division of Criminal Justice in the Department of Law and Public Safety. The bill directs the commission to evaluate the existing law concerning human trafficking and the enforcement thereof, and to make recommendations for legislation, if appropriate. The commission is also charged with the responsibility of reviewing existing victim assistance programs, and promoting a coordinated response by public and private resources for victims of human trafficking.

The commission will consist of: the Attorney General, or the Attorney General’s designee; the Commissioner of Children and Families, or the commissioner’s designee; the Commissioner of Human Services, or the commissioner’s designee; a county prosecutor, appointed by the Governor based upon the recommendation of the County Prosecutors Association of the State of New Jersey; one member of the existing New Jersey Human Trafficking Task Force in the Department of Law and Public Safety, designated by the Attorney General; two public members appointed by the Governor based upon the recommendation of the Senate President, one representing law enforcement and one representing a victim’s assistance organization; one public member appointed by the Governor based upon the recommendation of the Senate Minority Leader representing either a non-profit health care facility or mental health services; two public

members appointed by the Governor based upon the recommendation of the Speaker of the General Assembly, one representing law enforcement and one representing a victim's assistance organization; one public member appointed by the Governor based upon the recommendation of the Assembly Minority Leader representing either a non-profit health care facility or mental health services; and four public members appointed by the Governor, one of whom shall be a representative of the National Center for Missing and Exploited Children. All public members are required to possess a background in, or have specialized knowledge of, the legal, policy, educational, social, or psychological aspects of human trafficking.

The bill requires the commission to annually report to the Governor and the Legislature as to its activities, as well as its findings and recommendations for any needed new laws, services, or resources for victims of human trafficking.

Section 2: The "Human Trafficking Survivor's Assistance Fund."

This section establishes a separate, non-lapsing, dedicated fund in the General Fund known as the "Human Trafficking Survivor's Assistance Fund." The Attorney General will administer the fund, using the monies for: the provision of services to victims of human trafficking; to promote awareness of human trafficking; and the development, maintenance, revision, and distribution of materials related to the training courses on human trafficking mandated for various professions as detailed in section 19 of the bill. All expenditures from the fund would be made by the Attorney General, in consultation with the Commission on Human Trafficking, and the Attorney General could not make or withhold expenditures based upon the recipient's cooperation in law enforcement investigations or prosecutions, or lack thereof.

Section 3: Human trafficking – expanding criminal liability. This section expands the existing definition of human trafficking. It incorporates in the definition actions involving abduction, fraud, deceit or other deception, and abuses of power, as recognized means of accomplishing human trafficking.

This section also establishes criminal liability for licensed owners or drivers of commercial passenger vehicles with respect to their reckless participation in transporting human trafficking victims, and makes any other professionally licensed person criminally liable for recklessly permitting an act of human trafficking on, within, or using that person's property or services. A "professionally licensed person" is defined under the section as any person required by law to obtain, from a governmental department, agency, board, or commission of the State or any political subdivision of the State, a license, permit, certificate, approval, registration, charter, or similar form of business or professional authorization in order to operate a business or as a professional in this State.

Criminal recklessness in this context means that the commercially licensed vehicle owner or driver, or other professionally licensed

person, consciously disregards a substantial and unjustifiable risk that a material element of an act of human trafficking exists or will result from the person's conduct; this risk must be of such a nature and degree that, considering the nature and purpose of the conduct and circumstances known to the professionally licensed person, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe if in that professionally licensed person's situation. See N.J.S.2C:2-2.

The bill establishes recklessly permitting an act of human trafficking as a crime of the fourth degree. Such crime is ordinarily punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. See N.J.S.2C:43-3 and -6. However, while the section does not modify the ordinary term of imprisonment, it does alter the possible fine amount. Pursuant to the section's provisions, an offender, notwithstanding the ordinary fine amount, will be subject to a fine of up to \$25,000, to be deposited in the "Human Trafficking Survivor's Assistance Fund" (section 2, above). Additionally, upon conviction, the court will revoke any license, permit, certificate, approval, registration, charter, or similar form of business or professional authorization required by law concerning the operation of that person's business or profession.

The section increases the minimum fine amount for any other form of criminal human trafficking already established in law as a crime of the first degree under section 1 of P.L.2005, c.77 (C.2C:13-8) (for example, recruiting persons for trafficking, financing a trafficking operation). A crime of the first degree is ordinarily punishable by a fine of up to \$200,000 with no defined minimum, but the bill's provisions establish that the fine be in an amount of not less than \$25,000, with the added directive that the monies be deposited in the "Human Trafficking Survivor's Assistance Fund."

Section 4: Civil action for human trafficking. This section establishes a new civil action for human trafficking, permitting any person injured as a result of human trafficking, including acts resulting in the loss of money or property, real or personal, to file an action in any court of competent jurisdiction. The action could be brought whether or not a criminal prosecution of human trafficking occurred.

In any such civil action, in addition to any other appropriate legal or equitable relief, including damages for pain and suffering, recovery of reasonable costs for necessary medical, dental, and psychological services and punitive damages, an award of damages will include an amount reflecting the income or value of the injured party's labor or services to the defendant, similar to the victim's restitution required of a criminal defendant upon conviction of a human trafficking violation. The injured person could also recover reasonable attorney's fees and costs.

Section 5: Ownership and leasing of premises for human trafficking. This section creates two crimes concerning premises used

for human trafficking, including a residential home, apartment, hotel, or motel: (1) a person who knowingly owns, controls, manages, or supervises any premises where human trafficking is regularly carried on; and (2) a person who knowingly leases or otherwise permits any premises controlled by the actor, alone or in association with others, to be regularly used for human trafficking, or fails to make a reasonable effort to abate that use by ejecting the tenant or notifying law enforcement authorities. Both crimes are categorized as a crime of the first degree, ordinarily punishable by a term of imprisonment for 10 to 20 years, a fine of up to \$200,000, or both; however, the bill's provisions establish that the fine be at a minimum \$25,000. All fines from a violation of this section will be deposited in the "Human Trafficking Survivor's Assistance Fund."

These crimes are based on similar crimes in the statutory scheme concerning prostitution found in N.J.S.2C:34-1, but will be focused on human trafficking, which, as described in section 1 of P.L.2005, c.77 (C.2C:13-8), does not just incorporate engaging in sexual activity but may include forced labor or services by victims.

Section 6: Assisting human trafficking or procuring the services of trafficking victims. This section establishes a crime for either: (1) knowingly providing services, resources, or assistance intended for use in furthering criminal human trafficking; or (2) procuring or attempting to procure a person to engage in sexual activity, or to provide labor or services, whether for the procurer or another, knowing or understanding there is a substantial likelihood that the person was a human trafficking victim. The bill categorizes these actions as a crime of the second degree, ordinarily punishable by a term of imprisonment for five to 10 years, a fine of up to \$150,000, or both; the bill's provisions additionally establish that imprisonment include a period of parole ineligibility of one-third to one-half of the term imposed, or three years, whichever is greater, and that the fine be at a minimum \$15,000. All fines from a violation of this section will be deposited in the "Human Trafficking Survivor's Assistance Fund."

Sections 7 and 8: Removal of tenants due to human trafficking. These sections amend sections 2 and 3 of P.L.1974, c.49 (C.2A:18-61.1 and -61.2) concerning the grounds and expedited timing for removal of tenants, to add a finding of civil liability or a criminal conviction for human trafficking committed within or upon a leased premises, building, or complex of buildings as a basis for removal.

The inclusion of a human trafficking violation adds to the current law's list of various criminal or civil offenses for which tenant removal is expressly permitted. Other criminal offenses listed include: drug offenses; offenses under N.J.S.2C:12-1 (assault) or N.J.S.2C:12-3 (terroristic threats) against the landlord, a member of the landlord's family, or an employee of the landlord; and offenses under N.J.S.2C:20-1 et al. involving theft of property from the landlord, the leased premises, or other tenants residing in the same premises, building, or complex.

Section 9: Prostitution. This section amends N.J.S.2C:34-1 concerning prostitution.

The bill alters the crime of prostitution to differentiate between the patrons who engage in prostitution, “johns,” and the person performing prostitution by personally offering sexual activity in exchange for something of economic value. Engaging in prostitution as a patron will constitute a disorderly persons offense (imprisonment up to six months; fine of up to \$1,000; or both), except that a second or third conviction will constitute a crime of the fourth degree (imprisonment of up to 18 months; a fine of up to \$10,000; or both), and a fourth or subsequent conviction will constitute a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both). As to the person performing prostitution by offering sexual activity, this action will also be a disorderly persons offense, except that a second or subsequent conviction will constitute a crime of the fourth degree.

Several existing categories of prostitution activity involving minors are also “upgraded” by the bill. *Promoting prostitution* that involved a person under 18 years of age is upgraded from a crime of the second degree to a crime of the first degree (imprisonment of 10 to 20 years; fine of up to \$200,000; or both). Actions concerning *engaging in prostitution* with a person under 18 years of age are upgraded from a crime of the third degree to a crime of the second degree (imprisonment of five to 10 years; fine of up to \$150,000; or both).

The bill additionally upgrades two other existing types of promoting prostitution. First, transporting a person into or within this State with the purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose is upgraded from a crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both). Second, knowingly leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or promotion of prostitution, or failure to make a reasonable effort to abate that use by ejecting the tenant, notifying law enforcement authorities, or through other legally available means is also be upgraded from a crime of the fourth degree to a crime of the third degree (same sentencing parameters as above).

In addition to any fine, fee, assessment, or penalty authorized under the Criminal Code for prostitution and related offenses, other than for an offense involving patrons engaging in prostitution or persons who personally offer sexual activity, the bill provides for the assessment of an additional penalty of at least \$10,000 but not more than \$50,000, except if the offense involved promotion of the prostitution of a person under 18 years of age, this additional penalty would be at least \$25,000. The additional penalty will be deposited in the “Human Trafficking Survivor’s Assistance Fund.”



The section also expands the availability of an affirmative defense against a prosecution for engaging in prostitution, by allowing any person, regardless of age, to claim the defense of being a victim compelled to engage in sexual activity.

Section 10: Procedure to vacate and expunge a criminal conviction for prostitution and related offenses due to being a human trafficking victim. This section permits a person convicted of prostitution and related offenses, loitering for the purpose of engaging in prostitution, or a similar local ordinance to file an application with the Superior Court, in accordance with the Rules of Court, to have the conviction vacated on grounds that the defendant was, at the time of the offense, a victim of human trafficking pursuant to either the State human trafficking law or as defined by the federal law in paragraph (14) of 22 U.S.C. s.7102. The same application may also seek an order for the expungement of any reference to the defendant's arrest, conviction, and proceedings in any records in the custody of any involved court, or law enforcement or correctional agency.

Section 11: John School Rehabilitative Program. This section requires a person who is convicted of a disorderly persons offense for engaging in prostitution as a patron (the "john") to participate in a newly established "John School Rehabilitative Program."

The bill directs the program to be an instructional program on individual and societal dangers related to prostitution and human trafficking schemes, offered in one or more locations throughout the State by a county or local governmental entity, or a nonprofit or other private provider. The bill requires the instructional program and each provider thereof to be approved by the Attorney General, in consultation with the Commission on Human Trafficking (see section 1 of the bill). The section requires the program to include information intended to increase the participant's awareness of the causes of prostitution and its relationship to human trafficking, the health risks connected with prostitution, the consequences of convictions for prostitution or human trafficking, and the effects of trafficking on its victims.

The section also imposes a penalty of \$500 on each person convicted of engaging in prostitution as a patron, to be deposited in the "Human Trafficking Survivor's Assistance Fund." This penalty is in addition to any other fine, fee, assessment, or penalty authorized under the Criminal Code.

The program is modeled after similar "john school" programs which have been implemented in Buffalo, New York; Brooklyn, New York; Pittsburgh, Pennsylvania; and West Palm Beach, Florida.

Section 12: Advertising commercial sexual abuse of a minor. This section makes it a crime of the first degree (imprisonment of 10 to 20 years; fine of at least \$25,000 but not more than \$200,000; or both) to commit an offense related to advertising commercial sexual abuse of a minor. A person would be guilty of this offense if the person: (1)

knowingly publishes, disseminates, or displays, or causes directly or indirectly, to be published, disseminated, or displayed, any advertisement for a commercial sex act, which is to take place in this State and which includes the depiction of a minor; or (2) knowingly purchases advertising in this State for a commercial sex act which includes the depiction of a minor. An “advertisement for a commercial sex act” is defined as any advertisement or offer in electronic or print media, including the Internet, which includes either an explicit or implicit offer for a commercial sex act to occur in this State. A “commercial sex act” is defined as any act of sexual contact, sexual penetration, or other prohibited act that can endanger a minor and for which something of value is given or received by any person.

The section specifies that it will not be a defense that the defendant: (1) did not know the actual age of the minor depicted in an advertisement; or (2) claims to know the age of the person depicted, unless there is appropriate proof of age obtained and produced. Accordingly, it would be a defense if the defendant made a reasonable, bona fide attempt to ascertain the actual age of the minor depicted in the advertisement by requiring, prior to publication, dissemination, or display of the advertisement, a production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper of the minor depicted in the advertisement. To invoke this defense, the defendant will be required to produce for inspection by law enforcement a record of the identification used to verify the age of the person depicted in the advertisement.

As with several of the other crimes created or modified by this bill, the fine imposed for advertising commercial sexual abuse of a minor (at least \$25,000) will be deposited in the “Human Trafficking Survivor’s Assistance Fund.”

This section is modeled after a recently enacted Washington state law, 2012 Wash. Laws c.138 (Wash. Rev. Code Ann. 9.68A.104), and Connecticut state law, 2012 Conn. Acts 12-141 (not yet allocated, effective October 1, 2012), that created criminal offenses related to advertising commercial sexual abuse of a minor.

Section 13: Endangering the welfare of children. This section raises the age for children subject to protection under the endangering the welfare of children statute, from 16 to 18 years of age, so that the age is consistent with the age of 18 defining a child in the prostitution and related offenses statute, N.J.S.2C:34-1. It also increases the criminal penalties for some offenses concerning endangering the welfare of children. It increases, from a crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both), knowingly possessing or knowingly viewing any photograph, film, videotape, computer program or file, video game, or any other reproduction or reconstruction which depicts a

child engaging in a prohibited sexual act or in the simulation of such an act.

Section 14: Use of wiretapping activities for human trafficking and prostitution investigations. This section would permit law enforcement investigators to utilize wiretapping and other forms of communications eavesdropping with respect to criminal investigations involving human trafficking violations, or involving more serious prostitution and related offenses punishable by imprisonment for more than one year.

Section 15: Making human trafficking a bail restricted crime. The bill adds human trafficking to the statutory list of crimes for which various bail restrictions are enforced. Among the restrictions, a person charged with human trafficking could only post the required amount of bail in the form of full cash, surety bond, or bail bond secured by real property situated in this State with unencumbered equity equal to the bail amount plus \$20,000, with a presumption in favor of posting in the form of full cash and not the other options.

Sections 16 and 17: Protecting victims who testify in prosecutions. This section takes existing criminal procedures established to protect victims, particularly minors, participating in the prosecution of various crimes (usually those involving sexual victimization, such as sexual assault or endangering the welfare of children), and expands these procedures to cover prosecutions for human trafficking.

Thus, whenever the crime of human trafficking involves sexual activity (as defined in paragraph (2) of subsection a. of N.J.S.2C:34-1), the section permits, upon appropriate application, closed circuit testimony by a minor victim taken outside the presence of spectators, the criminal defendant, the jury, or all such parties. Additionally, for any victim regardless of age, provisions expand the State's rape shield law to prevent admissibility in evidence of previous sexual conduct or manner of dress, unless the value of such evidence is first determined by a court to be "relevant and highly material" and the value of its submission substantially outweighs the probability it would create an unwarranted invasion of privacy of the victim, undue prejudice, or other concern related to the administration of justice in prosecuting the case.

Section 18: Human trafficking hotline. This section requires the Attorney General, in consultation with the Commission on Human Trafficking (see section 1 of the bill), to establish and maintain the participation of the State in the national, 24-hour toll-free telephone hotline service on human trafficking that is operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized under federal law. The section requires the Attorney General, in consultation with the commission, to ensure that any State hotline telephone number be directly linked to the national hotline service, so that any telephone call to the State

number would be immediately and directly forwarded to that national service.

In addition, the section requires the Attorney General in consultation with the commission, and pursuant to any funds appropriated or otherwise made available, to establish an educational and public information program concerning the crime of human trafficking.

Section 19: Training programs on human trafficking for governmental and non-governmental personnel. This section requires the Police Training Commission, the Department of Community Affairs, the Department of Health, and the Administrative Office of the Courts to develop and approve training courses on the handling, response, investigation, and prosecution of human trafficking for various governmental and non-governmental personnel, including law enforcement officers, judges and judicial personnel, hotel and motel owners, operators and staff, and licensed health care facility employees. The section requires that these courses be reviewed at least every two years and modified from time to time as need may require.

The Police Training Commission will be responsible for the training of law enforcement officers as part of the police training courses required pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.). The training for appropriate judges and judicial personnel will be the responsibility of the Administrative Office of the Courts, and accomplished through annual in-service judicial training programs or other means. The training for hotel and motel owners, operators, and staff will be the responsibility of the Department of Community Affairs, or alternatively an approved Statewide nonprofit trade association with demonstrated experience in providing course offerings, and the department would determine, in consultation with the Commission on Human Trafficking (section 1 of the bill), appropriate staff to undergo the required one-time training. The training for employees of licensed health care facilities, including those professionals whose professional practice is regulated pursuant to Title 45 of the Revised Statutes, will be the responsibility of the Department of Health, or alternatively an approved Statewide nonprofit trade association with demonstrated experience in providing course offerings, and the department will determine, in consultation with the commission, appropriate employees to undergo the required one-time training.

For hotel, motel, and health care facility personnel, verifiable completion of the training course will be handled by the appropriate executive branch department with oversight authority for the particular facility, tied to that department's ability to prevent issuance, maintenance, or renewal of any necessary license, permit, or other operating requirement for failures by personnel in meeting the training requirements.

The section requires that all hotel, motel, and health care facility personnel currently engaged in their profession as of the effective date of the training requirement to complete the one-time training within one year of the effective date; all new persons engaging in their profession for the first time after the effective date are required to complete the one-time training within six months of the first date of engaging in that profession.

Section 20: Expanding police training curricula to include human trafficking victims' assistance. This section provides that the curricula for police training courses must also include specific training on responding to the needs of victims of the crime of human trafficking.

Section 21: Massage and bodywork therapist background checks. This section requires applicants, and those persons already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies under the provisions of the "Massage and Bodywork Therapist Licensing Act," P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et seq.), to be subject to a criminal history record background check, consistent with the provisions of current statutory law on the issue, section 8 of P.L.1978, c.73 (C.45:1-21), and supporting regulations promulgated by the New Jersey Board of Massage and Bodywork Therapy. The background check could result in a refusal to issue a license or certificate, or suspension or revocation of an existing license or certificate.

Section 22: Effective date. Sections 1 and 2 of the bill, establishing the Commission on Human Trafficking and the "Human Trafficking Survivor's Assistance Fund," take effect immediately, and the remaining sections take effect on the first day of the second month next following the date of enactment, but the Attorney General, Commissioner of Community Affairs, Commissioner of Health, Director of the Administrative Office of the Courts, and New Jersey Board of Massage and Bodywork Therapy can take any anticipatory administrative action in advance thereof as shall be necessary for the bill's implementation.

FISCAL IMPACT:

The Office of Legislative Services (OLS) notes that the bill will generate indeterminate costs and revenues. Revenues collected from fines which are currently imposed will be shifted from the General Fund to the Human Trafficking Survivor's Assistance Fund. New revenues for newly created offenses will be deposited into the Human Trafficking Survivor's Assistance Fund.

Section 1 establishes the Commission on Human Trafficking within the Division of Criminal Justice in the Department of Law and Public Safety. This provision will generate an indeterminate expenditure for the Department of Law and Public Safety

Section 2 creates the Human Trafficking Survivor's Assistance Fund for victims of human trafficking, into which the proceeds of the

finer set forth and amended by the bill will be deposited. This will generate an indeterminate amount of revenue for the fund as well as shift an indeterminate amount of fines which are currently collected by the General Fund to the Human Trafficking Survivor's Assistance Fund.

Section 3 expands the definition of human trafficking by establishing the crime of recklessly permitting an act of human trafficking as a fourth degree crime. A crime of the fourth degree is normally punishable by a fine of up to \$10,000, a term of imprisonment of up to 18 months, or both. However, there is a presumption of non-incarceration for first time offenders of third and fourth degree crimes. The bill will increase the minimum fine from up to \$10,000 to \$25,000, and the proceeds will be deposited in the Human Trafficking Survivor's Assistance Fund. This section also increases the fine for other forms of human trafficking currently in law as crimes of the first degree. The crime of a first degree is punishable with a fine of up to \$200,000, term of imprisonment of 10-20 years, or both. The bill provides that the minimum fine would total \$25,000. The entire fine will be deposited in the fund. The bill will generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of these enhanced crimes or the amount to be collected.

Section 4 establishes a new civil action for victims of human trafficking and would generate additional indeterminate trial costs for the Judiciary.

Section 5 creates new crimes for a person who knowingly owns controls, manages, or supervises any premises where human trafficking is regularly carried on, and a person who knowingly leases or otherwise permits any premises controlled by the actor to be regularly used for human trafficking. These crimes are classified as first degree crimes and are punishable with a fine of up to \$200,000, term of imprisonment of 10-20 years, or both. The bill provides that the minimum fine will total \$25,000. The entire fine will be deposited in the fund. The bill will generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of these new crimes or the amount to be collected.

Section 6 establishes a new crime of knowingly assisting human trafficking or procuring the services of a trafficking victim. These actions are classified as a crime of the second degree, ordinarily punishable by a term of imprisonment of 5 to 10 years, a fine of up to \$150,000 or both. The bill requires that imprisonment include a mandatory minimum term of one-third to one half of the term imposed, or three years, whichever is greater. The bill also specifies

that the fine be a minimum of \$15,000, all of which will be deposited in the Human Trafficking Survivor's Fund. The bill will generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of this new crime or the amount to be collected.

Sections 7 and 8 permit landlords to undertake the removal of tenants who are participants in human trafficking and will generate additional indeterminate court costs for the Judiciary.

Section 9 alters the crime of prostitution to differentiate between "johns," or patrons, and the person providing the service. Under this section, patrons convicted of the crime of prostitution for the first time are guilty of a disorderly persons offense, which is punishable by a \$1,000 fine, incarceration of up to 6 months, or both. Patrons convicted of a second or third offense are guilty of a fourth degree crime which is punishable by a fine of up to \$10,000, term of imprisonment of up to 18 months, or both. However, there is a presumption of non-incarceration for first time offenders of third and fourth degree crimes. Patrons convicted of fourth or subsequent offenses would be guilty of a third degree crime which is punishable by a fine of \$15,000, term of imprisonment of 3-5 years, or both.

This section also enumerates the crime of provider of prostitution. The first offense is a disorderly person's offense. Second and subsequent offenses would be fourth degree crimes.

Additional categories of prostitution activities upgraded by this section include:

Promoting prostitution involving a person under 18 yrs of age is upgraded from a second degree crime to a first degree crime.

Engaging in prostitution with a person 18 yrs of age and older is upgraded from a third degree crime to a second degree crime. Second degree crimes are subject to a fine of up to \$150,000, a term of imprisonment of up to 5-10 years, or both.

Transporting into or within New Jersey for prostitution or procuring or paying for transportation for that purpose is upgraded from a fourth degree crime to a third degree crime.

Knowingly leasing or permitting a place controlled by an actor to be regularly used for prostitution or promotion of prostitution is upgraded from a fourth degree crime to a third degree crime.

All fines collected under this section are to be deposited in the Human Trafficking Survivor's Assistance Fund. The bill will generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of

individuals who would be convicted of these enhanced crimes or the amount to be collected.

Section 10 permits individuals convicted of prostitution and related offenses to have the conviction vacated and records expunged on the grounds that the defendant was a victim of human trafficking. This section could generate nominal costs to the Judiciary for the necessary court time to process these actions.

Section 11 provides that all patrons convicted of a disorderly persons offense under the bill must participate in a “John School Rehabilitative Program” and pay an additional \$500 penalty. The school is to be operated by county, local government, or nonprofit or other private providers. Funding for this program is to be provided by the Human Trafficking Survivor’s Assistance Fund.

Section 12 creates a new crime of the first degree for advertising commercial sexual abuse of a minor, which is punishable with a fine of at least \$25,000 and up to \$200,000, a term of imprisonment of 10-20 years, or both. The proceeds of the fines collected under this section will be deposited in the fund. The bill will generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of this crime or the amount to be collected.

Section 13 raises the age for children subject to protection under the endangering the welfare of children statute from 16 to 18 years, increases crimes for certain actions from the fourth degree to the third degree. The bill will generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of these enhanced crimes or the amount to be collected.

Section 15 makes human trafficking a bail restricted crime. The OLS notes that if an offender is unable to make bail, that offender will be incarcerated in the county jail until trial, increasing county costs by an indeterminate amount.

Section 18 requires the Attorney General to establish and maintain participation in the national 24 hour toll free telephone hotline service on human trafficking that is currently operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized by federal law. This section will generate indeterminate additional costs for the Attorney General.

Section 19 requires the Police Training Commission, Department of Community Affairs, the Department of Health and the Administrative Office of the Courts to develop, approve and provide for training courses on the handling, response, investigation and prosecution of human trafficking for various governmental and non-



governmental personnel, including law enforcement officers, judges and judicial personnel, hotel and motel owners, operators and staff, and licensed health care facility employees. Training for hotel and motel personnel and for health care facility personnel could alternatively be provided by an approved Statewide nonprofit trade association. Funding for this program is to be provided by the Human Trafficking Survivor's Assistance Fund.

Section 20 requires the expansion of police training curricula to include human trafficking victims' assistance. This section will generate a one-time cost for the development of the required curricula.

Section 21 requires applicants and those individuals already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies be subject to criminal history record background checks. This provision will generate no additional government costs, but will generate costs to massage and bodywork therapists and their employers.

#### COMMITTEE AMENDMENTS:

The amendments:

- narrow the duties of the Commission on Human Trafficking so that it only serves as a consulting and advisory body;
- provide for the administration of the "Human Trafficking Survivor's Assistance Fund" by the Attorney General, with all expenditures from the fund handled by the Attorney General in consultation with the commission;
- state that the Attorney General could not make or withhold expenditures from the fund based upon the recipient's cooperation in law enforcement investigations or prosecutions, or lack thereof;
- establish that the newly expanded definitions for human trafficking crimes only apply to criminal acts occurring after the bill's provisions take effect, and the definitions in place prior to the bill's enactment continue to be applied for any prosecution of human trafficking that occurred prior to enactment, without regard, reference, or comparison to the newer definitions;
- provide for the recovery of costs for medical, dental, and psychological services, punitive damages, and attorney's fees for the victim in civil actions for human trafficking violations;
- create a new crime of knowingly assisting human trafficking or knowingly procuring the services of a trafficking victim;
- permit a finding of either civil liability or a criminal conviction for human trafficking committed within or upon leased premises as grounds for the removal of tenants;
- upgrade several categories of prostitution and related offenses (such as promoting prostitution) to establish harsher penalties, and alter the scope of prostitution to differentiate between patrons engaging in prostitution ("johns") and persons performing prostitution by personally offering sexual activity in exchange for something of economic value;

- establish an additional penalty for prostitution and related offenses, other than for patrons engaging in prostitution or persons who personally offer sexual activity, which is generally at least \$10,000 but not more than \$50,000, to be deposited in the “Human Trafficking Survivor’s Assistance Fund”;

- expand the availability of an affirmative defense against a prosecution for engaging in prostitution, by allowing any person, regardless of age, to claim the defense of being a victim compelled to engage in sexual activity;

- eliminate the original process for vacating sentences, and replace it with a process allowing any person convicted of prostitution and related offenses, loitering for the purpose of engaging in prostitution, or a similar local ordinance to file an application with the Superior Court to vacate a conviction, which may also include a request to expunge related records;

- rename the “John School Diversion Program” the “John School Rehabilitative Program,” and specify that only persons convicted of a disorderly persons offense for engaging in prostitution (the “johns”) would be ordered to attend the program;

- remove administration of the “john school” program from the Administrative Office of the Courts, and instead provide for an instructional program offered by an approved county or local governmental entity, or a nonprofit or other private provider;

- eliminate provisions that would have added the new crime of advertising commercial sexual abuse of a minor to the list of crimes requiring registration and monitoring as a Megan’s Law violation pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2), as the focus of Megan’s Law, dealing with local oversight of individual perpetrators, diverges greatly from many elements of the new established crime which is targeted at commercial entities;

- raise the age for children subject to protection under the endangering the welfare of children statute from 16 to 18 years of age, so that the age is consistent with the age of 18 defining a child in the prostitution and related offenses statute;

- permit law enforcement investigators to utilize wiretapping and other forms of eavesdropping with respect to criminal investigations involving human trafficking violations, or involving more serious prostitution and related offenses punishable by imprisonment for more than one year;

- make human trafficking a bail restricted crime;

- alter the creation and administration of training courses for governmental and non-governmental personnel, to give the Commission on Human Trafficking a greater consulting role, and require police training to be handled by the existing Police Training Commission, while appropriate judges and judicial personnel would receive training through annual in-service judicial training programs or other means, and appropriate hotel, motel, and health care facility

personnel would be subject to a one-time required course, which could be provided by an approved Statewide nonprofit course provider;

- provide that for hotel, motel, and health care facility personnel, verifiable completion of the training course will be handled by the appropriate executive branch department with oversight authority for the particular facility, tied to that department's ability to prevent issuance, maintenance, or renewal of any necessary license, permit, or other operating requirement; and

- recognize and codify the existing statutory and regulatory criminal history record background checks for massage and bodywork therapists, instead of establishing a detailed, separate process as originally set forth in the bill.

[Corrected Copy]

STATEMENT TO

[Second Reprint]

**ASSEMBLY, No. 3352**

with Assembly Floor Amendments  
(Proposed by Assemblywoman VAINIERI HUTTLE)

ADOPTED: JANUARY 28, 2013

These floor amendments to the bill, referred to as the “Human Trafficking Prevention, Protection, and Treatment Act,” provide the following:

Section 1: The commission. While the membership on the commission remains at 15 members, the amendments alter the qualifying criteria of one public member, so that this member would be a human trafficking survivor; and the public member representing the National Center for Missing and Exploited Children would instead be broadened to be a representative of “a child advocacy organization concerning missing, abducted, or exploited children.”

The commission would also be specifically tasked with promoting public awareness of the national, 24-hour toll-free hotline telephone service on human trafficking, operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized under federal law.

Section 2: The “Human Trafficking Survivor’s Assistance Fund.” Concerning expenditures from the fund, the amendments clarify that the receipt of expenditures by any provider of services to human trafficking victims could not be based or otherwise conditioned upon the cooperation of that provider regarding any law enforcement investigation or prosecution, or lack thereof.

Section 3: Human trafficking – general criminal liability. The expanded definitions of human trafficking activities based upon the current underlying version of the bill are eliminated by the floor amendments. The amendments also eliminate the new crimes of: professionally licensed owners or drivers recklessly participating in the transportation of human trafficking victims; and any other professionally licensed person recklessly permitting an act of human trafficking on, within, or using that licensed person’s property or services.

Instead, the existing crime of committing human trafficking by “threats of serious bodily harm or physical restraint” is altered to be more consistent with other criminal provisions set forth throughout the Criminal Code (Title 2C of the New Jersey Statutes), so that it would read “causing or threatening to cause serious bodily harm or physical restraint.”

Further, the amendments add two more descriptive prongs concerning human trafficking actions, which would clarify and highlight common actions that could otherwise be prosecuted under the existing statutory prongs, but warrant separate enumeration due to their common nature: human trafficking by means of fraud, deceit, or misrepresentation; and human trafficking by facilitating access to a controlled dangerous substance or controlled substance analog.

The amendments would also address the human trafficking of younger victims to engage in sexual activity by making a person strictly liable for a crime of the first degree for holding, recruiting, luring, enticing, harboring, transporting, providing, or obtaining, by any means, a child under 18 years of age to engage in sexual activity, whether or not the actor mistakenly believed that the child was 18 years of age or older, even if that mistaken belief was reasonable.

Section 4: Civil action for human trafficking. The amendments clarify that a civil action may be brought against the actor and all those acting in concert with that actor who committed a human trafficking offense. The underlying bill provisions did not specify the scope of civil liability in this fashion, potentially exposing a wider array of third parties who may have only been tangentially involved with the victim in some limited capacity, not tied to the commission of a human trafficking crime, contrary to the intent in establishing this new civil liability.

Section 5: Assisting human trafficking or procuring the services of trafficking victims (renumbered; previously designated as section 6). The underlying section 5, ownership or leasing of premises for human trafficking, is omitted in its entirety, as the target offenses are covered under the broader, new crimes of assisting human trafficking or procuring the services of trafficking victims set forth in this section of the bill.

These new crimes generally maintain a “knowing” standard of criminal liability. However, the amendments provide several permissive inferences that allow a jury to find that the defendant had the requisite knowledge in order to help establish potential criminal activity for the criminal action of assisting human trafficking; the amendments state that knowledge may be inferred if the defendant “was aware that a person to whom the defendant was providing services, resources, or assistance: (1) was subject to or subjected another to restrictions on the person’s freedom of movement, so that the person could not leave without accompaniment of another person or was otherwise subjected to obvious restrictions on mobility; or (2) did not possess or have access to any means of communication, including but not limited to a cellular or other wireless telephone or other electronic communication device, and was not permitted or was otherwise unable to communicate with another person without supervision or permission.

As to the criminal action of procuring the services of trafficking victims, the amendments provide that there would be a rebuttable presumption that the defendant knew, and that a reasonable person would conclude there was a substantial likelihood, that a person was a human trafficking victim, if the person was subjected to significant

restrictions on the person's freedom of movement or ability to communicate with others.

Section 6: Conspiracy to commit human trafficking. This section, newly added by the amendments, would make a conspiracy to commit a crime of human trafficking as set forth in section 1 of P.L.2005, c.77 (C.2C:13-8) a crime of the first degree (imprisonment of 10-20 years; up to \$200,000 fine; or both). Without this addition to the bill, conspiracy to commit human trafficking would remain a crime of the second degree (imprisonment of five to 10 years; up to \$150,000 fine; or both), because human trafficking is a crime of the first degree; ordinarily, under the grading of criminal conspiracy set forth in N.J.S.2C:5-4, conspiracy to commit a crime of the first degree is considered to be a crime of the second degree.

Section 9: Prostitution. With respect to the ordinary fine of up to \$1,000 imposed upon a person by a municipal court for a disorderly persons offense for prostitution (first offense: engaging in prostitution as a patron; or personally offering sexual activity in exchange for something of economic value), the amendments would direct that such fine be paid into the municipal treasury of the municipality in which the offense was committed. Any additional fine for prostitution imposed based upon the provisions of the bill would still be deposited in the "Human Trafficking Survivor's Assistance Fund," for the provision of services to victims, promoting awareness of human trafficking, and the other matters specified in the underlying bill.

For a second or subsequent conviction for engaging in prostituting as a patron (the "john"), being a crime of either the third or fourth degree under the provisions of the underlying bill, the amendments add that the presumption of nonimprisonment for such crimes as set forth in N.J.S.2C:44-1 shall not be applicable.

Section 10: John School Rehabilitative Program. The amendments modify this program, so that while it remains mandatory for any person convicted of a disorderly persons offense for engaging in prostituting as a patron (the "john") to participate in the "John School Rehabilitative Program," the prosecutor, by motion, could request that this mandatory participation be waived. For any person ordered to participate, the person would be assessed a fee of \$500, to be collected by the court and forwarded to the "Human Trafficking Survivor's Assistance Fund." From this fee, \$200 would be retained in the fund, and the remaining \$300 would be distributed as follows: \$200 to the approved provider of the program attended by the person; and \$100 to the law enforcement agency that arrested the person resulting in that person's conviction.

The program would consist of educational programs offered in one or more locations through the State: (1) by a county or local governmental entity, if that county or local governmental entity demonstrates an interest in establishing a program (which could alternatively be provided by a nonprofit or other private entity) and the proposed program receives approval from the Attorney General in consultation with the Commission on Human Trafficking; and (2) by the State, to be established within six months of the effective date of this section of the bill, based upon the Attorney General approving, in

consultation with the commission, an instructional program to be provided by one or more nonprofit or other private providers.

Section 18: Human trafficking hotline. The amendments remove the requirement that the Attorney General establish and maintain the State's participation in the national, 24-hour toll-free hotline telephone service on human trafficking operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized under federal law. Also eliminated is the requirement that the Attorney General ensure a direct link between the federal hotline telephone service and any State hotline telephone service, resulting in any call to the State number being immediately forwarded to the national telephone service. Instead, the amendments would provide for more administrative flexibility by broadly requiring that the Attorney General "coordinate the State's involvement with the national, 24-hour toll-free hotline telephone service."

Section 19: Training programs on human trafficking for governmental and non-governmental personnel. The amendments expressly indicate that monies from the "Human Trafficking Survivor's Assistance Fund" may be utilized to support the operation of the various training programs developed pursuant to this section for law enforcement officers, judges and judicial personnel, hotel and motel owners, operators and staff, and licensed health care facility employees. Although the existing broad language for fund expenditures set forth in section 2 of the bill implied the possible use of monies from the fund for such purpose, the amendments clarify this point.

# LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

**ASSEMBLY, No. 3352**

## **STATE OF NEW JERSEY 215th LEGISLATURE**

DATED: FEBRUARY 20, 2013

### SUMMARY

- Synopsis:** The “Human Trafficking Prevention, Protection, and Treatment Act.”
- Type of Impact:** General Fund expenditure, Human Trafficking Survivor’s Assistance Fund revenue
- Agencies Affected:** Department of Law and Public Safety, Department of Corrections, Judiciary, County and Municipal governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate – See comments below		
<b>State Revenue</b>	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) notes that the bill would generate indeterminate costs and revenues. Revenues collected from fines which are currently imposed would be shifted from the General Fund to the Human Trafficking Survivor’s Assistance Fund. New revenues for newly created offenses will be deposited into the Human Trafficking Survivor’s Assistance Fund.
- The bill, titled the “Human Trafficking Prevention, Protection, and Treatment Act,” revises and expands the State’s human trafficking law by creating a new human trafficking commission, criminalizing additional activities related to human trafficking as well as upgrading certain penalties on existing human trafficking or related crimes, increasing protections afforded to victims of human trafficking, and providing for increased training and public awareness on human trafficking.

### BILL DESCRIPTION

Assembly Bill No. 3352 (3R) of 2012 titled the “Human Trafficking Prevention, Protection, and Treatment Act,” revises and expands the State’s human trafficking law by creating a new human trafficking commission, criminalizing additional activities related to human trafficking as



well as upgrading certain penalties on existing human trafficking or related crimes, increasing protections afforded to victims of human trafficking, and providing for increased training and public awareness on human trafficking.

Section 1: The commission. This section establishes a 15-member Commission on Human Trafficking, to be located in the Division of Criminal Justice in the Department of Law and Public Safety. The bill directs the commission to evaluate the existing law concerning human trafficking and the enforcement thereof, and to make recommendations for legislation, if appropriate. The commission is also charged with the responsibility of reviewing existing victim assistance programs, and promoting a coordinated response by public and private resources for victims of human trafficking.

Section 2: The “Human Trafficking Survivor’s Assistance Fund.” This section establishes a separate, non-lapsing, dedicated fund in the General Fund known as the “Human Trafficking Survivor’s Assistance Fund.” The Attorney General will administer the fund, using the monies for: the provision of services to victims of human trafficking; to promote awareness of human trafficking; the preparation and distribution of materials related to training courses on human trafficking mandated for various professions and the operation of those training courses; and the preparation and distribution of the materials for the “John School Rehabilitative Program” as well as the operation of this program. All expenditures from the fund would be made by the Attorney General, in consultation with the Commission on Human Trafficking, and the Attorney General could not make or withhold expenditures for providers of services to human trafficking victims based upon the provider’s cooperation in law enforcement investigations or prosecutions, or lack thereof.

Section 3: Human trafficking – expanding criminal liability. This section alters the existing crime of committing human trafficking by “threats of serious bodily harm or physical restraint” to be more consistent with other criminal provisions set forth throughout the Criminal Code (Title 2C of the New Jersey Statutes), so that it would read “causing or threatening to cause serious bodily harm or physical restraint.” This section would also address the human trafficking of younger victims to engage in sexual activity by making a person strictly liable for a crime of the first degree for holding, recruiting, luring, enticing, harboring, transporting, providing, or obtaining, by any means, a child under 18 years of age to engage in sexual activity, whether or not the actor mistakenly believed that the child was 18 years of age or older, even if that mistaken belief was reasonable.

The crime of a first degree is punishable with a fine of up to \$200,000, term of imprisonment of 10-20 years, or both. However, under the bill, offenders would be subject to a minimum of 20 years of imprisonment before becoming eligible for parole. The bill provides that the minimum fine would total \$25,000. The entire fine will be deposited in the fund.

Section 4: Civil action for human trafficking. This section establishes a new civil action for human trafficking, permitting any person injured as a result of human trafficking, including acts resulting in the loss of money or property, real or personal, to file an action in any court of competent jurisdiction. The action could be brought whether or not a criminal prosecution of human trafficking occurred.

In any such civil action, in addition to any other appropriate legal or equitable relief, including damages for pain and suffering, recovery of reasonable costs for necessary medical, dental, and psychological services and punitive damages, an award of damages will include an amount reflecting the income or value of the injured party’s labor or services to the defendant, similar to the victim’s restitution required of a criminal defendant upon conviction of a human trafficking violation. The injured person could also recover reasonable attorney’s fees and costs.

Section 5: Assisting human trafficking or procuring the services of trafficking victims (renumbered; previously designated as section 6). This section creates new crimes for a person

who provides services, resources, or assistance with the knowledge that the services, resources, or assistance are intended to be used in furtherance of the commission of the crime of human trafficking. These crimes are classified as second degree crimes and are punishable with a fine of up to \$150,000, a term of imprisonment of up to five to 10 years, or both. However, the bill requires that imprisonment include a mandatory minimum term of one-third to one half of the term imposed, or three years, whichever is greater. The bill provides that the minimum fine will total \$15,000. The entire fine will be deposited in the fund. This section also provides for the revocation of any license, permit, certificate, approval, registration, charter or similar form of business or professional authorization required by law concerning the operation of that person's business or professions if that business or profession was used in the course of the crime.

Section 6: Conspiracy to commit human trafficking. This section establishes the new crime of conspiracy to commit a crime of human trafficking. These actions are classified as a crime of the first degree, ordinarily punishable by a term of imprisonment of 10 to 20 years, a fine of up to \$200,000 or both.

Sections 7 and 8: Removal of tenants due to human trafficking. These sections add a human trafficking violation to the current law's list of various criminal or civil offenses for which tenant removal is expressly permitted. Other criminal offenses listed include: drug offenses; offenses under N.J.S.2C:12-1 (assault) or N.J.S.2C:12-3 (terroristic threats) against the landlord, a member of the landlord's family, or an employee of the landlord; and offenses under N.J.S.2C:20-1 et al. involving theft of property from the landlord, the leased premises, or other tenants residing in the same premises, building, or complex.

Section 9: Prostitution. This section amends N.J.S.2C:34-1 concerning prostitution. The bill alters the crime of prostitution to differentiate between the patrons who engage in prostitution, "johns," and the person performing prostitution by personally offering sexual activity in exchange for something of economic value. Engaging in prostitution as a patron will constitute a disorderly persons offense (imprisonment up to six months; fine of up to \$1,000; or both), except that a second or third conviction will constitute a crime of the fourth degree (imprisonment of up to 18 months; a fine of up to \$10,000; or both), and a fourth or subsequent conviction will constitute a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both). As to the person performing prostitution by offering sexual activity, this action will also be a disorderly persons offense, except that a second or subsequent conviction will constitute a crime of the fourth degree.

With respect to the ordinary fine of up to \$1,000 imposed upon a person by a municipal court for a disorderly persons offense for prostitution (first offense: engaging in prostitution as a patron; or personally offering sexual activity in exchange for something of economic value), the bill would direct that such fine be paid into the municipal treasury of the municipality in which the offense was committed. Any additional fine for prostitution imposed based upon the provisions of the bill would still be deposited in the "Human Trafficking Survivor's Assistance Fund," for the provision of services to victims, promoting awareness of human trafficking, and the other matters specified in the underlying bill.

Several existing categories of prostitution activity involving minors are also "upgraded" by the bill. *Promoting prostitution* that involved a person under 18 years of age is upgraded from a crime of the second degree to a crime of the first degree (imprisonment of 10 to 20 years; fine of up to \$200,000; or both). Actions concerning *engaging in prostitution* with a person under 18 years of age are upgraded from a crime of the third degree to a crime of the second degree (imprisonment of five to 10 years; fine of up to \$150,000; or both).

The bill additionally upgrades two other existing types of promoting prostitution. First, transporting a person into or within this State with the purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose is upgraded from a

crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both). Second, knowingly leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or promotion of prostitution, or failure to make a reasonable effort to abate that use by ejecting the tenant, notifying law enforcement authorities, or through other legally available means is also be upgraded from a crime of the fourth degree to a crime of the third degree (same sentencing parameters as above).

In addition to any fine, fee, assessment, or penalty authorized under the Criminal Code for prostitution and related offenses, other than for an offense involving patrons engaging in prostitution or persons who personally offer sexual activity, the bill provides for the assessment of an additional penalty of at least \$10,000 but not more than \$50,000, except if the offense involved promotion of the prostitution of a person under 18 years of age, this additional penalty would be at least \$25,000. The additional penalty will be deposited in the “Human Trafficking Survivor’s Assistance Fund.”

The section also expands the availability of an affirmative defense against a prosecution for engaging in prostitution, by allowing any person, regardless of age, to claim the defense of being a victim compelled to engage in sexual activity.

Section 10: Procedure to vacate and expunge a criminal conviction for prostitution and related offenses due to being a human trafficking victim. This section permits a person convicted of prostitution and related offenses, loitering for the purpose of engaging in prostitution, or a similar local ordinance to file an application with the Superior Court, in accordance with the Rules of Court, to have the conviction vacated on grounds that the defendant was, at the time of the offense, a victim of human trafficking pursuant to either the State human trafficking law or as defined by the federal law in paragraph (14) of 22 U.S.C. s.7102. The same application may also seek an order for the expungement of any reference to the defendant’s arrest, conviction, and proceedings in any records in the custody of any involved court, or law enforcement or correctional agency.

Section 11: John School Rehabilitative Program. This section requires a person who is convicted of a disorderly persons offense for engaging in prostitution as a patron (the “john”) to participate in a newly established “John School Rehabilitative Program.” The program would consist of educational programs offered in one or more locations through the State: (1) by a county or local governmental entity, if that county or local governmental entity demonstrates an interest in establishing a program (which could alternatively be provided by a nonprofit or other private entity) and the proposed program receives approval from the Attorney General in consultation with the Commission on Human Trafficking; and (2) by the State, to be established within six months of the effective date of this section of the bill, based upon the Attorney General approving, in consultation with the commission, an instructional program to be provided by one or more nonprofit or other private providers.

The section requires the program to include information intended to increase the participant’s awareness of the causes of prostitution and its relationship to human trafficking, the health risks connected with prostitution, the consequences of convictions for prostitution or human trafficking, and the effects of trafficking on its victims.

The section also imposes a penalty of \$500 on each person required to participate in the program, to be deposited as follows: \$200 to the Human Trafficking Survivor’s Assistance Fund; \$200 to the program provider; and \$100 to the arresting law enforcement agency. This penalty is in addition to any other fine, fee, assessment, or penalty authorized under the Criminal Code.

Section 12: Advertising commercial sexual abuse of a minor. This section makes it a crime of the first degree (imprisonment of 10 to 20 years; fine of at least \$25,000 but not more than

\$200,000; or both) to commit an offense related to advertising commercial sexual abuse of a minor. A person would be guilty of this offense if the person: (1) knowingly publishes, disseminates, or displays, or causes directly or indirectly, to be published, disseminated, or displayed, any advertisement for a commercial sex act, which is to take place in this State and which includes the depiction of a minor; or (2) knowingly purchases advertising in this State for a commercial sex act which includes the depiction of a minor. An “advertisement for a commercial sex act” is defined as any advertisement or offer in electronic or print media, including the Internet, which includes either an explicit or implicit offer for a commercial sex act to occur in this State.

The fine imposed for advertising commercial sexual abuse of a minor (at least \$25,000) will be deposited in the “Human Trafficking Survivor’s Assistance Fund.”

Section 13: Endangering the welfare of children. This section raises the age for children subject to protection under the endangering the welfare of children statute, from 16 to 18 years of age, so that the age is consistent with the age of 18 defining a child in the prostitution and related offenses statute, N.J.S.2C:34-1. It also increases the criminal penalties for some offenses concerning endangering the welfare of children. It increases, from a crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both), knowingly possessing or knowingly viewing any photograph, film, videotape, computer program or file, video game, or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act.

Section 14: Use of wiretapping activities for human trafficking and prostitution investigations. This section would permit law enforcement investigators to utilize wiretapping and other forms of communications eavesdropping with respect to criminal investigations involving human trafficking violations, or involving more serious prostitution and related offenses punishable by imprisonment for more than one year.

Section 15: Making human trafficking a bail restricted crime. The bill adds human trafficking to the statutory list of crimes for which various bail restrictions are enforced. Among the restrictions, a person charged with human trafficking could only post the required amount of bail in the form of full cash, surety bond, or bail bond secured by real property situated in this State with unencumbered equity equal to the bail amount plus \$20,000, with a presumption in favor of posting in the form of full cash and not the other options.

Sections 16 and 17: Protecting victims who testify in prosecutions. Under these section, whenever the crime of human trafficking involves sexual activity, the provisions permits, upon appropriate application, closed circuit testimony by a minor victim taken outside the presence of spectators, the criminal defendant, the jury, or all such parties. Additionally, for any victim regardless of age, provisions expand the State’s rape shield law to prevent admissibility in evidence of previous sexual conduct or manner of dress, unless the value of such evidence is first determined by a court to be “relevant and highly material” and the value of its submission substantially outweighs the probability it would create an unwarranted invasion of privacy of the victim, undue prejudice, or other concern related to the administration of justice in prosecuting the case.

Section 18: Human trafficking hotline. This section requires the Attorney General to coordinate the State’s involvement in the national 24-hour toll-free telephone hotline service on human trafficking that is currently operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized by federal law.

Section 19: Training programs on human trafficking for governmental and non-governmental personnel. This section requires the Police Training Commission, the Department of Community Affairs, the Department of Health, and the Administrative Office of the Courts to develop and approve training courses on the handling, response, investigation, and prosecution

of human trafficking for various governmental and non-governmental personnel, including law enforcement officers, judges and judicial personnel, hotel and motel owners, operators and staff, and licensed health care facility employees. The section requires that these courses be reviewed at least every two years and modified from time to time as need may require.

Section 20: Expanding police training curricula to include human trafficking victims' assistance. This section provides that the curricula for police training courses must also include specific training on responding to the needs of victims of the crime of human trafficking.

Section 21: Massage and bodywork therapist background checks. This section requires applicants, and those persons already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies under the provisions of the "Massage and Bodywork Therapist Licensing Act," P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et seq.), to be subject to a criminal history record background check, consistent with the provisions of current statutory law on the issue, section 8 of P.L.1978, c.73 (C.45:1-21), and supporting regulations promulgated by the New Jersey Board of Massage and Bodywork Therapy. The background check could result in a refusal to issue a license or certificate, or suspension or revocation of an existing license or certificate.

Section 22: Effective date. Sections 1 and 2 of the bill, establishing the Commission on Human Trafficking and the "Human Trafficking Survivor's Assistance Fund," take effect immediately, and the remaining sections take effect on the first day of the second month next following the date of enactment, but the Attorney General, Commissioner of Community Affairs, Commissioner of Health, Director of the Administrative Office of the Courts, and New Jersey Board of Massage and Bodywork Therapy can take any anticipatory administrative action in advance thereof as shall be necessary for the bill's implementation.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that the bill would generate indeterminate costs and revenues. Revenues collected from fines which are currently imposed will be shifted from the General Fund to the Human Trafficking Survivor's Assistance Fund. New revenues for newly created offenses will be deposited into the Human Trafficking Survivor's Assistance Fund.

Section 1 establishes the Commission on Human Trafficking within the Division of Criminal Justice in the Department of Law and Public Safety. This provision will generate an indeterminate expenditure for the Department of Law and Public Safety.

Section 2 creates the Human Trafficking Survivor's Assistance Fund for victims of human trafficking, into which the proceeds of the fines set forth and amended by the bill will be deposited. The fund will be administered by the Attorney General. This will generate an indeterminate amount of revenue for the fund as well as shift an indeterminate amount of fines which are currently collected by the General Fund to the Human Trafficking Survivor's Assistance Fund.

Section 3 alters the existing crime of committing human trafficking by "threats of serious bodily harm or physical restraint" to be more consistent with other criminal provisions set forth throughout the Criminal Code (Title 2C of the New Jersey Statutes), so that it would read

“causing or threatening to cause serious bodily harm or physical restraint.” This section would also address the human trafficking of younger victims to engage in sexual activity by making a person strictly liable for a crime of the first degree for holding, recruiting, luring, enticing, harboring, transporting, providing, or obtaining, by any means, a child under 18 years of age to engage in sexual activity, whether or not the actor mistakenly believed that the child was 18 years of age or older, even if that mistaken belief was reasonable.

The crime of a first degree is punishable with a fine of up to \$200,000, a term of imprisonment of 10-20 years, or both. However, under the bill, offenders would be subject to a minimum of 20 years of imprisonment before becoming eligible for parole. The bill provides that the minimum fine would total \$25,000. The entire fine would be deposited in the fund. The bill would generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of these enhanced crimes or the amount to be collected.

Section 4 establishes a new civil action for victims of human trafficking and would generate additional indeterminate trial costs for the Judiciary.

Section 5 creates new crimes for a person who provides services, resources, or assistance with the knowledge that the services, resources, or assistance are intended to be used in furtherance of the commission of the crime of human trafficking. These crimes are classified as second degree crimes and are punishable with a fine of up to \$150,000, a term of imprisonment of up to five to 10 years, or both. The bill requires that imprisonment include a mandatory minimum term of one-third to one half of the term imposed, or three years, whichever is greater. The bill provides that the minimum fine will total \$15,000. The entire fine would be deposited in the fund. This section also provides for the revocation of any license, permit, certificate, approval, registration, charter or similar form of business or professional authorization required by law concerning the operation of that person’s business or professions if that business or profession was used in the course of the crime. The bill would generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of these new crimes or the amount to be collected.

Section 6 establishes the new crime of conspiracy to commit a crime of human trafficking. These actions are classified as a crime of the first degree, ordinarily punishable by a term of imprisonment of 10 to 20 years, a fine of up to \$200,000 or both. The bill would generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of this new crime or the amount to be collected.

Sections 7 and 8 permit landlords to undertake the removal of tenants who are participants in human trafficking and would generate additional indeterminate court costs for the Judiciary.

Section 9 alters the crime of prostitution to differentiate between “johns,” or patrons, and the person providing the service. Under this section, patrons convicted of the crime of prostitution for the first time are guilty of a disorderly persons offense, which is punishable by a \$1,000 fine to be paid to the municipality within which the offense was committed, incarceration of up to six months, or both. Patrons convicted of a second or third offense are guilty of a fourth degree crime which is punishable by a fine of up to \$10,000, a term of imprisonment of up to 18 months, or both. Patrons convicted of fourth or subsequent offenses would be guilty of a third degree crime which is punishable by a fine of \$15,000, a term of imprisonment of three to five years, or both.

This section also enumerates the crime of provider of prostitution. The first offense is a disorderly person's offense. Second and subsequent offenses would be fourth degree crimes.

Additional categories of prostitution activities upgraded by this section include:

- 1) Promoting prostitution involving a person under 18 years of age is upgraded from a second degree crime to a first degree crime. A first degree crime is punishable with a fine of up to \$200,000, a term of imprisonment of 10-20 years, or both.
- 2) Engaging in prostitution with a person 18 years of age and older is upgraded from a third degree crime to a second degree crime. Second degree crimes are subject to a fine of up to \$150,000, a term of imprisonment of up to five to 10 years, or both.
- 3) Transporting into or within New Jersey for prostitution or procuring or paying for transportation for that purpose is upgraded from a fourth degree crime to a third degree crime which is punishable by a fine of \$15,000, a term of imprisonment of three to five years, or both
- 4) Knowingly leasing or permitting a place controlled by an actor to be regularly used for prostitution or promotion of prostitution is upgraded from a fourth degree crime to a third degree crime.

Disorderly Persons fines imposed under this section are to be paid to the municipality within which the crime occurred. All other fines collected under this section are to be deposited in the Human Trafficking Survivor's Assistance Fund. The bill would generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of the detailed enhanced crimes or the amount to be collected.

Section 10 permits individuals convicted of prostitution and related offenses to have the conviction vacated and records expunged on the grounds that the defendant was a victim of human trafficking. This section could generate nominal costs to the Judiciary for the necessary court time to process these actions.

Section 11 provides that all patrons convicted of a disorderly persons offense under the bill must participate in a "John School Rehabilitative Program". The program would consist of educational programs offered in one or more locations through the State: (1) by a county or local governmental entity, if that county or local governmental entity demonstrates an interest in establishing a program (which could alternatively be provided by a nonprofit or other private entity) and the proposed program receives approval from the Attorney General in consultation with the Commission on Human Trafficking; and (2) by the State, to be established within six months of the effective date of this section of the bill, based upon the Attorney General approving, in consultation with the commission, an instructional program to be provided by one or more nonprofit or other private providers.

These participants would pay an additional \$500 penalty. The penalty will be divided as follows: \$200 to the Human Trafficking Survivor's Assistance Fund; \$200 to the program provider; and \$100 to the arresting law enforcement agency.

Section 12 creates a new crime of the first degree for advertising commercial sexual abuse of a minor, which is punishable with a fine of at least \$25,000 and up to \$200,000, a term of imprisonment of 10-20 years, or both. The proceeds of the fines collected under this section would be deposited in the fund. The bill would generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of this crime or the amount to be collected.

Section 13 raises the age for children subject to protection under the endangering the welfare of children statute from 16 to 18 years, and increases crimes for certain actions from the fourth degree to the third degree. The bill would generate additional costs for the Judiciary for trial

costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of these enhanced crimes or the amount to be collected.

Section 14 permits the use of wiretapping or other forms of communications eavesdropping.

Section 15 makes human trafficking a bail restricted crime. The OLS notes that if an offender is unable to make bail, that offender would be incarcerated in the county jail until trial, increasing county costs by an indeterminate amount.

Section 16 and 17 permit closed circuit testimony by the minor victim and expand the rape shield law for any victim regardless of age.

Section 18 requires the Attorney General to coordinate the State's involvement in the national 24-hour toll-free telephone hotline service on human trafficking that is currently operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized by federal law. This section would generate indeterminate additional costs for the Attorney General.

Section 19 requires the Police Training Commission, Department of Community Affairs, the Department of Health and the Administrative Office of the Courts to develop, approve and provide for training courses on the handling, response, investigation and prosecution of human trafficking for various governmental and non-governmental personnel, including law enforcement officers, judges and judicial personnel, hotel and motel owners, operators and staff, and licensed health care facility employees. Training for hotel and motel personnel and for health care facility personnel could alternatively be provided by an approved Statewide nonprofit trade association. Funding for this program is to be provided by the Human Trafficking Survivor's Assistance Fund.

Section 20 requires the expansion of police training curricula to include human trafficking victims' assistance. This section would generate a one-time cost for the development of the required curricula.

Section 21 requires applicants and those individuals already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies be subject to criminal history record background checks. This provision would generate no additional government costs, but would generate costs to massage and bodywork therapists and their employers.

*Section: Judiciary*

*Analyst: Anne Raughley  
Principal Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[Third Reprint]

## ASSEMBLY, No. 3352

with committee amendments

# STATE OF NEW JERSEY

DATED: MARCH 4, 2013

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 3352 (3R), with committee amendments.

As amended, this bill titled the “Human Trafficking Prevention, Protection, and Treatment Act,” revises and expands the State’s human trafficking law by creating a new human trafficking commission, criminalizing additional activities related to human trafficking as well as upgrading certain penalties on existing human trafficking or related crimes, increasing protections afforded to victims of human trafficking, and providing for increased training and public awareness on human trafficking.

Section 1: The commission. This section establishes a 15-member Commission on Human Trafficking, to be located in the Division of Criminal Justice in the Department of Law and Public Safety. The bill directs the commission to evaluate the existing law concerning human trafficking and the enforcement thereof, and to make recommendations for legislation, if appropriate. The commission is also charged with the responsibility of reviewing existing victim assistance programs, and promoting a coordinated response by public and private resources for victims of human trafficking.

The commission would consist of: the Attorney General, or the Attorney General’s designee; the Commissioner of Children and Families, or the commissioner’s designee; the Commissioner of Human Services, or the commissioner’s designee; a county prosecutor, appointed by the Governor based upon the recommendation of the County Prosecutors Association of the State of New Jersey; one member of the existing New Jersey Human Trafficking Task Force in the Department of Law and Public Safety, designated by the Attorney General; two public members appointed by the Governor based upon the recommendation of the Senate President, one representing law enforcement and one representing a victim’s assistance organization; one public member appointed by the Governor based upon the recommendation of the Senate Minority Leader representing either a non-profit health care facility or mental health services; two public

members appointed by the Governor based upon the recommendation of the Speaker of the General Assembly, one representing law enforcement and one representing a victim's assistance organization; one public member appointed by the Governor based upon the recommendation of the Assembly Minority Leader representing either a non-profit health care facility or mental health services; and four public members appointed by the Governor, one of whom shall be a representative of a child advocacy organization concerning missing, abducted, or exploited children, and one of whom shall be a human trafficking survivor. All public members are required to have experience with, possess a background in, or demonstrate a specialized knowledge of, the legal, policy, educational, social, or psychological aspects of human trafficking.

The bill requires the commission to annually report to the Governor and the Legislature as to its activities, as well as its findings and recommendations for any needed new laws, services, or resources for victims of human trafficking.

Section 2: The "Human Trafficking Survivor's Assistance Fund."

This section establishes a separate, non-lapsing, dedicated fund in the General Fund known as the "Human Trafficking Survivor's Assistance Fund." The Attorney General would administer the fund, using the monies for: the provision of services to victims of human trafficking; to promote awareness of human trafficking; the preparation and distribution of materials for the "John School Rehabilitative Program" (detailed in section 11), and the operation of this program; and the preparation and distribution of materials related to training courses on human trafficking mandated for various professions (detailed in section 19 of the bill), and the operation of these training courses.

All expenditures from the fund would be made by the Attorney General in consultation with the Commission on Human Trafficking. With respect to the receipt of expenditures by any provider of services to human trafficking victims, such receipt could not be based or otherwise conditioned upon the cooperation of that provider regarding any law enforcement investigation or prosecution, or lack thereof.

Section 3: Human trafficking – expanding criminal liability. This section clarifies aspects of the existing definition of human trafficking and expands the definition for criminal activity as it relates to younger victims.

The existing crime of committing human trafficking by "threats of serious bodily harm or physical restraint" is altered to be more consistent with other criminal provisions set forth throughout the Criminal Code (Title 2C of the New Jersey Statutes), so that it would read "causing or threatening to cause serious bodily harm or physical restraint."

Further, the section adds two more descriptive prongs concerning human trafficking actions, which would clarify and highlight common actions that could otherwise be prosecuted under the existing statutory prongs, but warrant separate enumeration due to their common nature:

human trafficking by means of fraud, deceit, or misrepresentation; and human trafficking by facilitating access to a controlled dangerous substance or controlled substance analog.

The section also addresses the human trafficking of younger victims to engage in sexual activity by making a person liable for a crime of the first degree for knowingly holding, recruiting, luring, enticing, harboring, transporting, providing, or obtaining, by any means, a child under 18 years of age to engage in such activity. A person would be criminally liable whether or not that person mistakenly believed that the child was 18 years of age or older, even if that mistaken belief was reasonable. Making this action a crime of the first degree matches the degree of crime already applied to the other forms of human trafficking established in law under section 1 of P.L.2005, c.77 (C.2C:13-8) (for example, recruiting persons for trafficking, or financing a trafficking operation).

A crime of the first degree is ordinarily punishable by a term of imprisonment of 10 to 20 years, a fine of up to \$200,000 with no defined minimum, or both. However, human trafficking of younger victims would carry a mandatory minimum term of imprisonment of either 20 years during which a person is not eligible for parole, or a specific term between 20 years and life, of which the person shall serve 20 years before being parole eligible. Additionally, the section establishes a minimum fine amount for this or any other defined human trafficking crime, so that any ordered fine be not less than \$25,000, with the added directive that the monies be deposited in the “Human Trafficking Survivor’s Assistance Fund.”

Section 4: Civil action for human trafficking. This section establishes a new civil action for human trafficking, permitting any person injured as a result of human trafficking, including acts resulting in the loss of money or property, real or personal, to file an action in any court of competent jurisdiction against the actor and all those acting in concert with that actor who committed the human trafficking offense. The action could be brought whether or not a criminal prosecution of human trafficking occurred.

In any such civil action, in addition to any other appropriate legal or equitable relief, including damages for pain and suffering, recovery of reasonable costs for necessary medical, dental, and psychological services and punitive damages, an award of damages would include an amount reflecting the income or value of the injured party’s labor or services to the defendant, similar to the victim’s restitution required of a criminal defendant upon conviction of a human trafficking violation. The injured person could also recover reasonable attorney’s fees and costs.

Section 5: Assisting human trafficking or procuring the services of trafficking victims (renumbered; previously designated as section 6). The committee amendments omit section 5, ownership or leasing of premises for human trafficking, as the target offenses are covered

under the broader, new crimes that were originally described in section 6 of the underlying bill. These new crimes address: (1) knowingly providing services, resources, or assistance intended for use in furthering criminal human trafficking; and (2) procuring or attempting to procure a person to engage in sexual activity, or to provide labor or services, whether for the procurer or another, knowing or understanding there is a substantial likelihood that the person was a human trafficking victim.

Both actions are categorized as a crime of the second degree, ordinarily punishable by a term of imprisonment for five to 10 years, a fine of up to \$150,000, or both; the section's provisions additionally establish that imprisonment include a period of parole ineligibility of one-third to one-half of the term imposed, or three years, whichever is greater, and that the fine be at a minimum \$15,000. All fines from a violation of this section would be deposited in the "Human Trafficking Survivor's Assistance Fund." As further punishment, the court would also direct the appropriate governmental agency to revoke any form of business or professional authorization, such as a license, permit or registration, if the convicted person's business or profession was used in the course of the crime.

Section 6: Conspiracy to commit human trafficking. This section, newly added by the amendments, would make a conspiracy to commit a crime of human trafficking as set forth in section 1 of P.L.2005, c.77 (C.2C:13-8) a crime of the first degree (imprisonment of 10-20 years; up to \$200,000 fine; or both). Without this addition to the bill, conspiracy to commit human trafficking would remain a crime of the second degree (imprisonment of five to 10 years; up to \$150,000 fine; or both), because human trafficking is a crime of the first degree; ordinarily, under the grading of criminal conspiracy set forth in N.J.S.2C:5-4, conspiracy to commit a crime of the first degree is considered to be a crime of the second degree.

Sections 7 and 8: Removal of tenants due to human trafficking. These sections amend sections 2 and 3 of P.L.1974, c.49 (C.2A:18-61.1 and -61.2) concerning the grounds and expedited timing for removal of tenants, to add a finding of civil liability or a criminal conviction for human trafficking committed within or upon a leased premises, building, or complex of buildings as a basis for removal.

The inclusion of a human trafficking violation adds to the current law's list of various criminal or civil offenses for which tenant removal is expressly permitted. Other criminal offenses listed include: drug offenses; offenses under N.J.S.2C:12-1 (assault) or N.J.S.2C:12-3 (terroristic threats) against the landlord, a member of the landlord's family, or an employee of the landlord; and offenses under N.J.S.2C:20-1 et al. involving theft of property from the landlord, the leased premises, or other tenants residing in the same premises, building, or complex.

Section 9: Prostitution. This section amends N.J.S.2C:34-1 concerning prostitution.

The section alters the crime of prostitution to differentiate between the patrons who engage in prostitution, the “johns,” and the person performing prostitution by personally offering sexual activity in exchange for something of economic value. Engaging in prostitution as a patron would constitute a disorderly persons offense (imprisonment up to six months; fine of up to \$1,000; or both), except that a second or third conviction would constitute a crime of the fourth degree (imprisonment of up to 18 months; a fine of up to \$10,000; or both), and a fourth or subsequent conviction would constitute a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both). As to the person performing prostitution by offering sexual activity, this action would also be a disorderly persons offense, except that a second or subsequent conviction would constitute a crime of the fourth degree.

Regarding the above described disorderly persons offense for prostitution (first offense: engaging in prostitution as a patron; or personally offering sexual activity in exchange for something of economic value), the ordinary fine of up to \$1,000 imposed upon a person by a municipal court for such offense would be paid into the municipal treasury of the municipality in which the offense was committed.

Several existing categories of prostitution activity involving minors are also “upgraded” by the bill. *Promoting prostitution* that involved a person under 18 years of age is upgraded from a crime of the second degree to a crime of the first degree (imprisonment of 10 to 20 years; fine of up to \$200,000; or both). Actions concerning *engaging in prostitution* with a person under 18 years of age are upgraded from a crime of the third degree to a crime of the second degree (imprisonment of five to 10 years; fine of up to \$150,000; or both).

The bill additionally upgrades two other existing types of promoting prostitution. First, transporting a person into or within this State with the purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose is upgraded from a crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both). Second, knowingly leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or promotion of prostitution, or failure to make a reasonable effort to abate that use by ejecting the tenant, notifying law enforcement authorities, or through other legally available means is also upgraded from a crime of the fourth degree to a crime of the third degree (same sentencing parameters as above).

In addition to any fine, fee, assessment, or penalty authorized under the Criminal Code for prostitution and related offenses, other

than for an offense involving patrons engaging in prostitution or persons who personally offer sexual activity, the bill provides for the assessment of an additional penalty of at least \$10,000 but not more than \$50,000, except if the offense involved promotion of the prostitution of a person under 18 years of age, this additional penalty would be at least \$25,000. The additional penalty would be deposited in the “Human Trafficking Survivor’s Assistance Fund.”

The section also expands the availability of an affirmative defense against a prosecution for engaging in prostitution, by allowing any person, regardless of age, to claim the defense of being a victim compelled to engage in sexual activity.

Section 10: Procedure to vacate and expunge a criminal conviction for prostitution and related offenses due to being a human trafficking victim. This section permits a person convicted of prostitution and related offenses, loitering for the purpose of engaging in prostitution, or a similar local ordinance to file an application with the Superior Court, in accordance with the Rules of Court, to have the conviction vacated on grounds that the defendant was, at the time of the offense, a victim of human trafficking pursuant to either the State human trafficking law or as defined by the federal law in paragraph (14) of 22 U.S.C. s.7102. The same application may also seek an order for the expungement of any reference to the defendant’s arrest, conviction, and proceedings in any records in the custody of any involved court, or law enforcement or correctional agency.

Section 11: John School Rehabilitative Program. This section requires a person who is convicted of a disorderly persons offense for engaging in prostitution as a patron (the “john”) to participate in a newly established “John School Rehabilitative Program.” While participation is mandatory, a prosecutor, by motion, could request that participation be waived. The program would be an instructional program, providing information intended to increase the participant’s awareness of the causes of prostitution and its relationship to human trafficking, the health risks connected with prostitution, the consequences of convictions for prostitution or human trafficking, and the effects of trafficking on its victims.

For any person ordered to participate, the person would be assessed a fee of \$500, to be collected by the court and forwarded to the “Human Trafficking Survivor’s Assistance Fund.” From this fee, \$200 would be retained in the fund, and the remaining \$300 would be distributed as follows: \$200 to the approved provider of the program attended by the person; and \$100 to the law enforcement agency that arrested the person resulting in that person’s conviction.

The “John School Rehabilitative Program” would consist of instructional programs offered in one or more locations through the State: (1) by a county or local governmental entity, if that county or local governmental entity demonstrates an interest in establishing a program (which could alternatively be provided by a nonprofit or other

private entity) and the proposed program receives approval from the Attorney General in consultation with the Commission on Human Trafficking; and (2) by the State, to be established within six months of the effective date of this section of the bill, based upon the Attorney General approving, in consultation with the commission, an instructional program to be provided by one or more nonprofit or other private providers.

*Section 12: Advertising commercial sexual abuse of a minor.* This section makes it a crime of the first degree (imprisonment of 10 to 20 years; fine of at least \$25,000 but not more than \$200,000; or both) to commit an offense related to advertising commercial sexual abuse of a minor. A person would be guilty of this offense if the person: (1) knowingly publishes, disseminates, or displays, or causes directly or indirectly, to be published, disseminated, or displayed, any advertisement for a commercial sex act, which is to take place in this State and which includes the depiction of a minor; or (2) knowingly purchases advertising in this State for a commercial sex act which includes the depiction of a minor. An “advertisement for a commercial sex act” is defined as any advertisement or offer in electronic or print media, including the Internet, which includes either an explicit or implicit offer for a commercial sex act to occur in this State. A “commercial sex act” is defined as any act of sexual contact, sexual penetration, or other prohibited act that can endanger a minor and for which something of value is given or received by any person.

The section specifies that it would not be a defense that the defendant: (1) did not know the actual age of the minor depicted in an advertisement; or (2) claims to know the age of the person depicted, unless there is appropriate proof of age obtained and produced. Accordingly, it would be a defense if the defendant made a reasonable, bona fide attempt to ascertain the actual age of the minor depicted in the advertisement by requiring, prior to publication, dissemination, or display of the advertisement, a production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper of the minor depicted in the advertisement. To invoke this defense, the defendant would be required to produce for inspection by law enforcement a record of the identification used to verify the age of the person depicted in the advertisement.

As with several of the other crimes created or modified by this bill, the fine imposed for advertising commercial sexual abuse of a minor (at least \$25,000) would be deposited in the “Human Trafficking Survivor’s Assistance Fund.”

This section is modeled after a recently enacted Washington state law, 2012 Wash. Laws c.138 (Wash. Rev. Code Ann. 9.68A.104), and Connecticut state law, 2012 Conn. Acts 12-141 (not yet allocated, effective October 1, 2012), that created criminal offenses related to advertising commercial sexual abuse of a minor.

Section 13: Endangering the welfare of children. This section raises the age for children subject to protection under the endangering the welfare of children statute, from 16 to 18 years of age, so that the age is consistent with the age of 18 defining a child in the prostitution and related offenses statute, N.J.S.2C:34-1. It also increases the criminal penalties for some offenses concerning endangering the welfare of children. It increases, from a crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both), knowingly possessing or knowingly viewing any photograph, film, videotape, computer program or file, video game, or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act.

Section 14: Use of wiretapping activities for human trafficking and prostitution investigations. This section would permit law enforcement investigators to utilize wiretapping and other forms of communications eavesdropping with respect to criminal investigations involving human trafficking violations, or involving more serious prostitution and related offenses punishable by imprisonment for more than one year.

Section 15: Making human trafficking a bail restricted crime. The section adds human trafficking to the statutory list of crimes for which various bail restrictions are enforced. Among the restrictions, a person charged with human trafficking could only post the required amount of bail in the form of full cash, surety bond, or bail bond secured by real property situated in this State with unencumbered equity equal to the bail amount plus \$20,000, with a presumption in favor of posting in the form of full cash and not the other options.

Sections 16 and 17: Protecting victims who testify in prosecutions. These sections take existing criminal procedures established to protect victims, particularly minors, participating in the prosecution of various crimes (usually those involving sexual victimization, such as sexual assault or endangering the welfare of children), and expand these procedures to cover prosecutions for human trafficking.

Thus, whenever the crime of human trafficking involves sexual activity (as defined in paragraph (2) of subsection a. of N.J.S.2C:34-1), the provisions permit, upon appropriate application, closed circuit testimony by a minor victim taken outside the presence of spectators, the criminal defendant, the jury, or all such parties. Additionally, for any victim regardless of age, provisions expand the State's rape shield law to prevent admissibility in evidence of previous sexual conduct or manner of dress, unless the value of such evidence is first determined by a court to be "relevant and highly material" and the value of its submission substantially outweighs the probability it would create an unwarranted invasion of privacy of the victim, undue prejudice, or other concern related to the administration of justice in prosecuting the case.



Section 18: Human trafficking hotline. This section requires the Attorney General, in consultation with the Commission on Human Trafficking, to coordinate the State's involvement with the national, 24-hour toll-free telephone hotline service on human trafficking that is operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized under federal law.

Section 19: Training programs on human trafficking for governmental and non-governmental personnel. This section requires the Police Training Commission, the Department of Community Affairs, the Department of Health, and the Administrative Office of the Courts to develop and approve training courses on the handling, response, investigation, and prosecution of human trafficking for various governmental and non-governmental personnel, including law enforcement officers, judges and judicial personnel, hotel and motel owners, operators and staff, and licensed health care facility employees. The section requires that these courses be reviewed at least every two years and modified from time to time as need may require.

The Police Training Commission would be responsible for the training of law enforcement officers as part of the police training courses required pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.). The training for appropriate judges and judicial personnel would be the responsibility of the Administrative Office of the Courts, and accomplished through annual in-service judicial training programs or other means. The training for hotel and motel owners, operators, and staff would be the responsibility of the Department of Community Affairs, or alternatively an approved Statewide nonprofit trade association with demonstrated experience in providing course offerings, and the department would determine, in consultation with the Commission on Human Trafficking, appropriate staff to undergo the required one-time training. The training for employees of licensed health care facilities, including those professionals whose professional practice is regulated pursuant to Title 45 of the Revised Statutes, would be the responsibility of the Department of Health, or alternatively an approved Statewide nonprofit trade association with demonstrated experience in providing course offerings, and the department would determine, in consultation with the commission, appropriate employees to undergo the required one-time training.

For hotel, motel, and health care facility personnel, verifiable completion of the training course would be handled by the appropriate executive branch department with oversight authority for the particular facility, tied to that department's ability to prevent issuance, maintenance, or renewal of any necessary license, permit, or other operating requirement for failures by personnel in meeting the training requirements.

The section requires that all hotel, motel, and health care facility personnel currently engaged in their profession as of the effective date of the section complete the one-time training within one year of the effective date; all new persons engaging in their profession for the first time after the effective date are required to complete the one-time training within six months of the first date of engaging in that profession.

Section 20: Expanding police training curricula to include human trafficking victims' assistance. This section provides that the curricula for police training courses would also include specific training on responding to the needs of victims of the crime of human trafficking.

Section 21: Massage and bodywork therapist background checks. This section requires applicants, and those persons already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies under the provisions of the "Massage and Bodywork Therapist Licensing Act," P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et seq.), to be subject to a criminal history record background check, consistent with the provisions of current statutory law on the issue, section 8 of P.L.1978, c.73 (C.45:1-21), and supporting regulations promulgated by the New Jersey Board of Massage and Bodywork Therapy. The background check could result in a refusal to issue a license or certificate, or suspension or revocation of an existing license or certificate.

Section 22: Effective date. Sections 1 and 2 of the bill, establishing the Commission on Human Trafficking and the "Human Trafficking Survivor's Assistance Fund," take effect immediately, and the remaining sections take effect on the first day of the second month next following the date of enactment, but the Attorney General, Commissioner of Community Affairs, Commissioner of Health, Director of the Administrative Office of the Courts, and New Jersey Board of Massage and Bodywork Therapy could take any anticipatory administrative action in advance thereof as necessary for the bill's implementation.

#### COMMITTEE AMENDMENTS:

The committee amendments to the bill require, with respect to the operation of instructional programs under the "John School Rehabilitative Program" (section 11), that the Attorney General notify the Administrative Office of the Courts concerning each program's establishment and approval, and provide that a court would only sentence a person to participate in such program following the Attorney General's notice.

#### FISCAL IMPACT:

The OLS notes that the bill would generate indeterminate costs and revenues. Revenues collected from fines which are currently imposed would be shifted from the General Fund to the Human Trafficking

Survivor's Assistance Fund. New revenues for newly created offenses would be deposited into the Human Trafficking Survivor's Assistance Fund. Costs associated with the bill would arise as a result of the following provisions:

1) Establishment of the Commission on Human Trafficking within the Division of Criminal Justice in the Department of Law and Public Safety would generate an indeterminate expenditure for the Department of Law and Public Safety.

2) New and upgraded crimes would generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of these new and enhanced crimes or the amount to be collected.

3) The creation of a new civil action for victims of human trafficking, and provisions allowing landlords to evict tenants who participate in human trafficking would generate additional indeterminate trial costs for the Judiciary.

4) The vacation and record expungement of convictions of prostitution and related offenses on the grounds that the defendant was a victim of human trafficking could generate nominal costs to the Judiciary for the necessary court time to process these actions.

5) Making human trafficking a bail restricted crime would increase the costs to the counties for housing these offenders by an indeterminate amount.

6) Coordination of the State's involvement in the national 24-hour toll-free telephone hotline service on human trafficking would generate indeterminate additional costs for the Attorney General.

7) Expansion of police training curricula to include human trafficking victims' assistance would generate a one-time cost for the development of the required curricula.

8) The requirement that applicants and those individuals already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies be subject to criminal history record background checks would generate no additional government costs, but would generate costs to massage and bodywork therapists and their employers.

STATEMENT TO  
[Fourth Reprint]  
**ASSEMBLY, No. 3352**

with Senate Floor Amendments  
(Proposed by Senator POU)

ADOPTED: MARCH 18, 2013

These floor amendments to the bill, titled the “Human Trafficking Prevention, Protection, and Treatment Act,” address two points: renaming the “John School Rehabilitative Program,” and revising the criteria for training providers who would provide training to hotel and motel owners, operators, and selected staff on addressing suspected human trafficking activities.

First, the amendments change the name of the “John School Rehabilitative Program” established by the bill to the “Prostitution Offender Program.” The provisions concerning the establishment of the instructional program in one or more locations by the State, as well as by county or local governmental entities, and attendance at the program by persons who are convicted of a disorderly persons offense for engaging in prostitution as a patron (pursuant to paragraph (1) of subsection b. of N.J.S.2C:34-1), as ordered by the court, are unchanged by the amendments.

Second, the amendments eliminate the use of a nonprofit trade association as an option for providing necessary one-time training on handling suspected human trafficking activities for owners, operators, and staff of hotels and motels as defined in the “Hotel and Multiple Dwelling Law,” P.L.1967, c.76 (C.55:13A-1 et seq.). Instead, the amendments provide that the Department of Community Affairs, in consultation with the Commission on Human Trafficking created by the bill, could approve a one-time training course for use by hotels and motels on handling suspected activities.

# LEGISLATIVE FISCAL ESTIMATE

[Fifth Reprint]

## ASSEMBLY, No. 3352

### STATE OF NEW JERSEY 215th LEGISLATURE

DATED: MARCH 25, 2013

#### SUMMARY

- Synopsis:** The “Human Trafficking Prevention, Protection, and Treatment Act.”
- Type of Impact:** General Fund expenditure, Human Trafficking Survivor’s Assistance Fund revenue.
- Agencies Affected:** Department of Law and Public Safety, Department of Corrections, Judiciary, County and Municipal governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate – See comments below		
<b>State Revenue</b>	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) notes that the bill would generate indeterminate costs and revenues as enumerated on page 3 of this Fiscal Estimate.
- Revenues collected from fines which are currently imposed would be shifted from the General Fund to the Human Trafficking Survivor’s Assistance Fund. New revenues for newly created offenses also will be deposited into the Human Trafficking Survivor’s Assistance Fund.

#### BILL DESCRIPTION

Assembly Bill No. 3352 (5R) of 2012, titled the “Human Trafficking Prevention, Protection, and Treatment Act,” revises and expands the State’s human trafficking law by creating a new human trafficking commission, criminalizing additional activities related to human trafficking as well as upgrading certain penalties on existing human trafficking or related crimes, increasing protections afforded to victims of human trafficking, and providing for increased training and public awareness on human trafficking. The bill’s provisions include:

- The establishment of a 15-member Commission on Human Trafficking, to be located in the Division of Criminal Justice in the Department of Law and Public Safety.

- The creation of a separate, non-lapsing, dedicated fund in the General Fund known as the Human Trafficking Survivor's Assistance Fund to be administered by the Attorney General.
- Expansion of the definition for criminal human trafficking activity as it relates to younger victims.
- Establishment of a new civil action for human trafficking, permitting any person injured as a result of human trafficking to file an action in any court of competent jurisdiction against the actor and all those acting in concert with that actor who committed the human trafficking offense.
- Creation of new crimes for a person who: (1) knowingly provides services, resources, or assistance intended for use in furthering criminal human trafficking; and (2) procuring or attempting to procure a person to engage in sexual activity, or to provide labor or services, whether for the procurer or another, knowing or understanding there is a substantial likelihood that the person was a human trafficking victim.
- Making a conspiracy to commit a crime of human trafficking a crime of the first degree.
- Providing for the inclusion of a human trafficking violation to the current law's list of criminal or civil offenses for which tenant removal is expressly permitted.
- Altering the crime of prostitution to differentiate between the patrons who engage in prostitution, the "johns," and the person performing prostitution by personally offering sexual activity in exchange for something of economic value.
- Upgrading several existing categories of prostitution activity involving minors as well as upgrading other existing types of promoting prostitution.
- Providing for the assessment of an additional penalty of at least \$10,000 but not more than \$50,000, except this penalty will be at least \$25,000 if the offense involved promotion of the prostitution of a person under 18 years of age, to be deposited in the Human Trafficking Survivor's Assistance Fund.
- Permitting a person convicted of prostitution and related offenses, loitering for the purpose of engaging in prostitution, or a similar local ordinance to file an application with the Superior Court to have the conviction vacated on grounds that the defendant was, at the time of the offense, a victim of human trafficking. The same application may also seek an order for the expungement of any reference to the defendant's arrest, conviction, and proceedings in any records in the custody of any involved court, or law enforcement or correctional agency.
- Requiring a person who is convicted of a disorderly persons offense for engaging in prostitution as a patron (the "john") to participate in a newly established "Prostitution Offender Program." While participation is mandatory, a prosecutor could request that participation be waived. For any person ordered to participate, the person would be assessed a fee of \$500, to be forwarded to the Human Trafficking Survivor's Assistance Fund. From this fee, \$200 would be retained in the fund, and the remaining \$300 would be distributed as follows: \$200 to the approved provider of the program attended by the person; and \$100 to the law enforcement agency that arrested the person resulting in that person's conviction.
- Making it a crime of the first degree to commit an offense related to advertising commercial sexual abuse of a minor. The fine imposed for advertising commercial sexual abuse of a minor (at least \$25,000) would be deposited in the Human Trafficking Survivor's Assistance Fund.
- Raising the age for children subject to protection under the endangering the welfare of children statute, from 16 to 18 years of age, so that the age is consistent with the age of

18 defining a child in the prostitution and related offenses statute, N.J.S.2C:34-1. It also increases the criminal penalties for some offenses concerning endangering the welfare of children.

- Permitting law enforcement investigators to use wiretapping and other forms of communications eavesdropping with respect to criminal investigations involving human trafficking violations, or involving more serious prostitution and related offenses punishable by imprisonment for more than one year.
- Adding human trafficking to the statutory list of crimes for which various bail restrictions are enforced.
- Expanding existing criminal procedures established to protect victims, particularly minors, participating in the prosecution of various crimes to cover prosecutions for human trafficking.
- Requiring the Attorney General, in consultation with the Commission on Human Trafficking, to coordinate the State's involvement with the national, 24-hour toll-free telephone hotline service on human trafficking.
- Requiring the Police Training Commission, the Department of Community Affairs, the Department of Health, and the Administrative Office of the Courts to develop and administer training courses on the handling, response, investigation, and prosecution of human trafficking for various governmental and non-governmental personnel.
- Requiring applicants, and those persons already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies under the provisions of the "Massage and Bodywork Therapist Licensing Act," to be subject to a criminal history record background check.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that the bill would generate indeterminate costs and revenues. Revenues collected from fines which are currently imposed would be shifted from the General Fund to the Human Trafficking Survivor's Assistance Fund. New revenues for newly created offenses would also be deposited into the Human Trafficking Survivor's Assistance Fund. Costs for various entities would be generated as follows:

- Establishment of the Commission on Human Trafficking within the Division of Criminal Justice in the Department of Law and Public Safety would generate an indeterminate expenditure for the Department of Law and Public Safety.
- New and upgraded crimes would generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of these enhanced crimes or the amount to be collected. However, the OLS notes that the average cost to house an inmate in a State correctional facility is \$43,000 per year.
- The creation of a new civil action for victims of human trafficking, and provisions allowing landlords to evict tenants who participate in human trafficking would generate additional indeterminate trial costs for the Judiciary.

- The vacation and record expungement of convictions of prostitution and related offenses on the grounds that the defendant was a victim of human trafficking could generate nominal costs to the Judiciary for the necessary court time to process these actions.
- Making human trafficking a bail restricted crime would increase the costs to the counties for housing these offenders by an indeterminate amount.
- Coordination of the State's involvement in the national 24-hour toll-free telephone hotline service on human trafficking would generate indeterminate additional costs for the Attorney General.
- Expansion of police training curricula to include human trafficking victims' assistance would generate a one-time cost for the development of the required curricula.
- The cost of training law enforcement officers would be covered by the Police Training Commission; the cost of training judges and judicial personnel would be the responsibility of the Judiciary; the cost of training hotel and motel owners, operators, and staff would be the responsibility of the Department of Community Affairs (DCA), or alternatively an approved Statewide nonprofit trade association; and the cost of training for employees of licensed health care facilities, would be the responsibility of the Department of Health (DOH), or alternatively handled by hotel and motels. Training costs are indeterminate. Information is not available concerning the ability of DCA and DOH to pass on the cost of training to the hotel and motel owners, operators and staff or for employees of licensed health care facilities.
- The requirement, that applicants and those individuals already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies be subject to criminal history record background checks, would generate no additional government costs, but would generate costs to massage and bodywork therapists and their employers.

*Section:*        *Judiciary*

*Analyst:*       *Anne Raughley*  
                      *Principal Fiscal Analyst*

*Approved:*     *David J. Rosen*  
                      *Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).



# SENATE, No. 2239

## STATE OF NEW JERSEY 215th LEGISLATURE

INTRODUCED OCTOBER 4, 2012

**Sponsored by:**

**Senator NELLIE POU**  
**District 35 (Bergen and Passaic)**  
**Senator JOSEPH F. VITALE**  
**District 19 (Middlesex)**  
**Senator NIA H. GILL**  
**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

**Senators T.Kean and Ruiz**

**SYNOPSIS**

The “Human Trafficking Prevention, Protection, and Treatment Act.”

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 11/30/2012)**

1 AN ACT concerning human trafficking and designated the “Human  
2 Trafficking Prevention, Protection, and Treatment Act,” and  
3 amending and supplementing various parts of the statutory law.  
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*  
7

8 1. (New section) a. (1) There is hereby created, in the  
9 Department of Law and Public Safety, a commission to be known  
10 as the Commission on Human Trafficking, consisting of 15  
11 members as follows: the Attorney General, or his designee; the  
12 Commissioner of Children and Families, or his designee; the  
13 Commissioner of Human Services, or his designee; one member of  
14 the New Jersey Human Trafficking Task Force established within  
15 the Department of Law and Public Safety, designated by the  
16 Attorney General; two public members appointed by the Governor  
17 based upon the recommendation of the Senate President, one  
18 representing law enforcement and one representing a victim’s  
19 assistance organization; one public member appointed by the  
20 Governor based upon the recommendation of the Senate Minority  
21 Leader representing either a non-profit health care facility or mental  
22 health services; two public members appointed by the Governor  
23 based upon the recommendation of the Speaker of the General  
24 Assembly, one representing law enforcement and one representing a  
25 victim’s assistance organization; one public member appointed by  
26 the Governor based upon the recommendation of the Assembly  
27 Minority Leader representing either a non-profit health care facility  
28 or mental health services; and five public members appointed by the  
29 Governor, one of whom shall be a representative of the National  
30 Center for Missing and Exploited Children. All public members  
31 shall possess a background in, or have specialized knowledge of,  
32 the legal, policy, educational, social, or psychological aspects of  
33 human trafficking.

34 b. (1) Of the public members first appointed:

35 (a) the following shall serve for a term of three years: one  
36 member appointed upon the recommendation of the Senate  
37 President; one member appointed upon the recommendation of the  
38 Speaker of the General Assembly; and three members appointed by  
39 the Governor; and

40 (b) the following shall serve for a term of two years: one member  
41 appointed upon the recommendation of the Senate President; one  
42 member appointed upon the recommendation of the Speaker of the  
43 General Assembly; each member appointed by the Senate and  
44 Assembly Minority Leaders; and two members appointed by the  
45 Governor.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (c) Upon the conclusion of the initial terms, each public member  
2 shall be appointed for a term of three years.

3 (2) Each member appointed shall hold office for the term of  
4 appointment and until a successor shall have been appointed and  
5 qualified.

6 (3) Any vacancy in the membership of the commission shall be  
7 filled by appointment in the same manner as the original  
8 appointment was made.

9 c. (1) The commission shall organize upon the appointment of a  
10 majority of its authorized membership. The members shall elect  
11 one of the members to serve as chair and vice-chair, and the chair  
12 may appoint a secretary, who need not be a member of the  
13 commission.

14 (2) The commission shall meet at those times and places within  
15 the State of New Jersey as the commission shall determine. A  
16 majority of the commission's authorized membership shall  
17 constitute a quorum for the transaction of any business, for the  
18 performance of any duty, or for the exercise of any power of the  
19 commission.

20 d. The members of the commission shall serve without  
21 compensation, but shall be eligible for reimbursement for necessary  
22 and reasonable expenses incurred in the performance of their  
23 official duties within the limits of funds appropriated or otherwise  
24 made available to the commission for its purposes.

25 e. The commission shall be entitled to accept the assistance and  
26 services of the employees of any State, county, or municipal  
27 department, board, bureau, commission, or agency as may be made  
28 available to it and to employ legal, stenographic, technical, and  
29 clerical assistance and incur expenses as may be necessary in order  
30 to perform its duties within the limits of funds appropriated or  
31 otherwise made available to it for its purposes.

32 f. It shall be the duty of the commission to:

33 (1) Evaluate the existing law concerning human trafficking and  
34 the enforcement thereof, and to make recommendations for  
35 legislation, if appropriate;

36 (2) Review existing victim assistance programs and analyze the  
37 costs, organization, and availability of these services for victims of  
38 human trafficking and to make recommendations for legislation, if  
39 appropriate;

40 (3) Promote a coordinated response by public and private  
41 resources for victims of human trafficking;

42 (4) Develop mechanisms to promote public awareness of human  
43 trafficking; and

44 (5) Administer and make expenditures from the "Human  
45 Trafficking Survivor's Assistance Fund" established under section 2  
46 of P.L. , c. (C. ), for the provision of services to victims of  
47 human trafficking, to promote awareness of human trafficking, and  
48 the development, establishment, operation, and maintenance of the

1 "John School Diversion Program" created pursuant to section 10 of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill).

3 The commission shall adopt, pursuant to the "Administrative  
4 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and  
5 regulations necessary to implement the duties and purposes of the  
6 commission provided in this section.

7 g. The commission shall report annually to the Governor and to  
8 the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
9 19.1), its activities, as well as its findings and recommendations for  
10 any needed new services or resources for victims of human  
11 trafficking, and any proposed changes to the current law concerning  
12 human trafficking.

13

14 2. (New section) There is established the "Human Trafficking  
15 Survivor's Assistance Fund" as a separate, non-lapsing, dedicated  
16 fund in the General Fund, which shall be administered by the  
17 Commission on Human Trafficking created by section 1 of P.L. ,  
18 c. (C. ) (pending before the Legislature as this bill). All  
19 monies deposited in the fund pursuant to P.L. , c. (C. )  
20 (pending before the Legislature as this bill), any other enactment, or  
21 as otherwise provided from any public or private source shall be  
22 used for the provision of services to victims of human trafficking, to  
23 promote awareness of human trafficking, and the development,  
24 establishment, operation, and maintenance of the "John School  
25 Diversion Program" created pursuant to section 10 of P.L. , c.  
26 (C. ) (pending before the Legislature as this bill), and done so  
27 in accordance with rules and regulations promulgated by the  
28 commission pursuant to subsection f. of section 1 of P.L. ,  
29 c. (C. ) (pending before the Legislature as this bill) and other  
30 applicable law.

31

32 3. Section 1 of P.L.2005, c.77 (C.2C:13-8) is amended to read  
33 as follows:

34 1. Human trafficking. a. A person commits the crime of human  
35 trafficking if he:

36 (1) knowingly holds, recruits, lures, entices, harbors, transports,  
37 provides or obtains, by any means, another, to engage in sexual  
38 activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-  
39 1 or to provide labor or services:

40 (a) by threats or incidents of serious bodily harm **[or]**, physical  
41 restraint, or abduction against the person or any other person;

42 (b) by means of any scheme, fraud, deceit or other deception,  
43 plan, or pattern intended to cause the person to believe that the  
44 person or any other person would suffer serious bodily harm or  
45 physical restraint;

46 (c) by committing a violation of N.J.S.2C:13-5 involving  
47 coercion against the person; **[or]**

1 (d) by destroying, concealing, removing, confiscating, or  
2 possessing any passport, immigration-related document as defined  
3 in section 1 of P.L.1997, c.1 (C.2C:21-31), or other document  
4 issued by a governmental agency to any person which could be used  
5 as a means of verifying the person's identity or age or any other  
6 personal identifying information; or

7 (e) by means of the abuse of power or threatened abuse of  
8 power of the law or legal process; or

9 (2) receives anything of value from participation as an  
10 organizer, supervisor, financier or manager in a scheme or course of  
11 conduct which violates paragraph (1) of this subsection; or

12 (3) as a licensed owner or driver of an autocab, limousine,  
13 autobus, or any other passenger automobile as defined in R.S.39:1-1  
14 that is subject to regulation under chapter 16 of Title 48 of the  
15 Revised Statutes, negligently participates in the transportation of  
16 another which violates paragraph (1) or (2) of this subsection; or

17 (4) otherwise being a professionally licensed person, negligently  
18 permits an act of human trafficking described in paragraph (1) or  
19 (2) of this subsection, on, within, or using the person's property or  
20 services. For purposes of this paragraph, "professionally licensed  
21 person" means any person required by law to obtain, from a  
22 governmental department, agency, board, or commission of the  
23 State or any political subdivision of the State, a license, permit,  
24 certificate, approval, registration, charter, or similar form of  
25 business or professional authorization in order to operate a business  
26 or as a professional in this State.

27 b. An offense under this section constitutes a crime of the first  
28 degree, except that an offense under paragraph (3) or (4) of  
29 subsection a. of this section concerning criminal negligence  
30 constitutes a crime of the fourth degree.

31 c. It is an affirmative defense to prosecution for a violation of  
32 this section that, during the time of the alleged commission of the  
33 offense of human trafficking created by this section, the defendant  
34 was a victim of human trafficking.

35 d. (1) Notwithstanding the provisions of N.J.S.2C:43-6, the  
36 term of imprisonment imposed for a crime of the first degree under  
37 paragraph (2) of subsection a. of this section shall be either a term  
38 of 20 years during which the actor shall not be eligible for parole,  
39 or a specific term between 20 years and life imprisonment, of which  
40 the actor shall serve 20 years before being eligible for parole.  
41 Notwithstanding the provisions of N.J.S.2C:43-3, the fine imposed  
42 for a crime of the first degree under this section shall be a fine of at  
43 least \$25,000, which shall be collected as provided for the  
44 collection of fines and restitutions in section 3 of P.L.1979, c.396  
45 (C.2C:46-4) and forwarded to the Department of the Treasury to be  
46 deposited in the "Human Trafficking Survivor's Assistance Fund"  
47 established by section 2 of P.L. , c. (C. ) (pending before the  
48 Legislature as this bill).

1       (2) Notwithstanding the provisions of N.J.S.2C:43-3, the fine  
2 imposed for a crime of the fourth degree under paragraph (3) or (4)  
3 of subsection a. of this section concerning criminal negligence shall  
4 be a fine of up to \$25,000, which shall be collected as provided for  
5 the collection of fines and restitutions in section 3 of P.L.1979,  
6 c.396 (C.2C:46-4) and forwarded to the Department of the Treasury  
7 to be deposited in the “Human Trafficking Survivor’s Assistance  
8 Fund” established by section 2 of P.L. , c. (C. ) (pending  
9 before the Legislature as this bill). Additionally, upon conviction  
10 for this crime, the court shall revoke any license, permit, certificate,  
11 approval, registration, charter, or similar form of business or  
12 professional authorization required by law concerning the operation  
13 of that person’s business or profession.

14       e. In addition to any other disposition authorized by law, any  
15 person who violates the provisions of this section, other than a  
16 violation of paragraph (3) or (4) of subsection a. of this section  
17 concerning criminal negligence, shall be sentenced to make  
18 restitution to any victim. The court shall award to the victim  
19 restitution which is the greater of:

20       (1) the gross income or value to the defendant of the victim's  
21 labor or services; or

22       (2) the value of the victim's labor or services as determined by  
23 the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-  
24 56.25 et seq.), the "New Jersey State Wage and Hour Law,"  
25 P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal Farm Labor  
26 Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws concerning the  
27 regulation of child labor in chapter 2 of Title 34 of the Revised  
28 Statutes, or any other applicable State law, and the "Fair Labor  
29 Standards Act of 1938," 29 U.S.C. s.201 et seq., or any other  
30 applicable federal law.

31 (cf: P.L.2005, c.77, s.1)

32

33       4. (New section) a. Any person injured, including due to the  
34 loss of moneys or property, real or personal, as a result of a  
35 violation of the human trafficking provisions set forth in section 1  
36 of P.L.2005, c.77 (C.2C:13-8) may bring a civil action in any court  
37 of competent jurisdiction. A civil action brought under this section  
38 shall not preclude the application of any other civil, administrative,  
39 or criminal remedy under any other provision of law.

40       b. (1) The standard of proof in a civil action brought pursuant to  
41 this section is a preponderance of the evidence, and the fact that a  
42 prosecution for human trafficking under section 1 of P.L.2005, c.77  
43 (C.2C:13-8) is not instituted or, whenever instituted, terminates  
44 without a conviction, shall not preclude a civil action.

45       (2) A final judgment rendered in favor of the State in any  
46 criminal proceeding shall estop the defendant from denying the  
47 same conduct in any civil action brought pursuant to this section.

1 c. In any civil action brought pursuant to this section, the court  
2 shall, in addition to any other appropriate legal or equitable relief,  
3 award damages in an amount that is the greater of:

4 (1) the gross income or value to the defendant of the injured  
5 party's labor or services; or

6 (2) the value of the injured party's labor or services as  
7 determined by the "New Jersey Prevailing Wage Act," P.L.1963,  
8 c.150 (C.34:11-56.25 et seq.), the "New Jersey State Wage and  
9 Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal  
10 Farm Labor Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws  
11 concerning the regulation of child labor in chapter 2 of Title 34 of  
12 the Revised Statutes, or any other applicable State law, and the  
13 "Fair Labor Standards Act of 1938," 29 U.S.C. s.201 et seq., or any  
14 other applicable federal law.  
15

16 5. (New section) a. (1) A person who knowingly owns,  
17 controls, manages, supervises, or otherwise keeps, alone or in  
18 association with another, any premises where human trafficking is  
19 regularly carried on is guilty of a crime of the first degree.

20 (2) A person who knowingly leases or otherwise permits any  
21 premises controlled by the actor, alone or in association with others,  
22 to be regularly used for human trafficking, or fails to make a  
23 reasonable effort to abate this use by ejecting the tenant, notifying  
24 law enforcement authorities, or employing other legally available  
25 means, is guilty of a crime of the first degree.

26 (3) As used in this section "premises" includes, but is not limited  
27 to, any residence, apartment, hotel, motel, inn, rooming house,  
28 boarding house, or other establishment for lodging.

29 b. Notwithstanding the provisions of N.J.S.2C:43-3, the fine  
30 imposed for an offense under this section shall be a fine of at least  
31 \$25,000, which shall be collected as provided for the collection of  
32 fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4)  
33 and forwarded to the Department of the Treasury to be deposited in  
34 the "Human Trafficking Survivor's Assistance Fund" established by  
35 section 2 of P.L. , c. (C. ) (pending before the Legislature as  
36 this bill).  
37

38 6. Section 2 of P.L.1974, c.49 (C.2A:18-61.1) is amended to  
39 read as follows:

40 2. No lessee or tenant or the assigns, under-tenants or legal  
41 representatives of such lessee or tenant may be removed by the  
42 Superior Court from any house, building, mobile home or land in a  
43 mobile home park or tenement leased for residential purposes, other  
44 than (1) owner-occupied premises with not more than two rental  
45 units or a hotel, motel or other guest house or part thereof rented to  
46 a transient guest or seasonal tenant; (2) a dwelling unit which is  
47 held in trust on behalf of a member of the immediate family of the  
48 person or persons establishing the trust, provided that the member

1 of the immediate family on whose behalf the trust is established  
2 permanently occupies the unit; and (3) a dwelling unit which is  
3 permanently occupied by a member of the immediate family of the  
4 owner of that unit, provided, however, that exception (2) or (3) shall  
5 apply only in cases in which the member of the immediate family  
6 has a developmental disability, except upon establishment of one of  
7 the following grounds as good cause:

8 a. The person fails to pay rent due and owing under the lease  
9 whether the same be oral or written; provided that, for the purposes  
10 of this section, any portion of rent unpaid by a tenant to a landlord  
11 but utilized by the tenant to continue utility service to the rental  
12 premises after receiving notice from an electric, gas, water or sewer  
13 public utility that such service was in danger of discontinuance  
14 based on nonpayment by the landlord, shall not be deemed to be  
15 unpaid rent.

16 b. The person has continued to be, after written notice to cease,  
17 so disorderly as to destroy the peace and quiet of the occupants or  
18 other tenants living in said house or neighborhood.

19 c. The person has willfully or by reason of gross negligence  
20 caused or allowed destruction, damage or injury to the premises.

21 d. The person has continued, after written notice to cease, to  
22 substantially violate or breach any of the landlord's rules and  
23 regulations governing said premises, provided such rules and  
24 regulations are reasonable and have been accepted in writing by the  
25 tenant or made a part of the lease at the beginning of the lease term.

26 e. (1) The person has continued, after written notice to cease, to  
27 substantially violate or breach any of the covenants or agreements  
28 contained in the lease for the premises where a right of reentry is  
29 reserved to the landlord in the lease for a violation of such covenant  
30 or agreement, provided that such covenant or agreement is  
31 reasonable and was contained in the lease at the beginning of the  
32 lease term.

33 (2) In public housing under the control of a public housing  
34 authority or redevelopment agency, the person has substantially  
35 violated or breached any of the covenants or agreements contained  
36 in the lease for the premises pertaining to illegal uses of controlled  
37 dangerous substances, or other illegal activities, whether or not a  
38 right of reentry is reserved to the landlord in the lease for a  
39 violation of such covenant or agreement, provided that such  
40 covenant or agreement conforms to federal guidelines regarding  
41 such lease provisions and was contained in the lease at the  
42 beginning of the lease term.

43 f. The person has failed to pay rent after a valid notice to quit  
44 and notice of increase of said rent, provided the increase in rent is  
45 not unconscionable and complies with any and all other laws or  
46 municipal ordinances governing rent increases.

47 g. The landlord or owner (1) seeks to permanently board up or  
48 demolish the premises because he has been cited by local or State



1 housing inspectors for substantial violations affecting the health and  
2 safety of tenants and it is economically unfeasible for the owner to  
3 eliminate the violations; (2) seeks to comply with local or State  
4 housing inspectors who have cited him for substantial violations  
5 affecting the health and safety of tenants and it is unfeasible to so  
6 comply without removing the tenant; simultaneously with service of  
7 notice of eviction pursuant to this clause, the landlord shall notify  
8 the Department of Community Affairs of the intention to institute  
9 proceedings and shall provide the department with such other  
10 information as it may require pursuant to rules and regulations. The  
11 department shall inform all parties and the court of its view with  
12 respect to the feasibility of compliance without removal of the  
13 tenant and may in its discretion appear and present evidence; (3)  
14 seeks to correct an illegal occupancy because he has been cited by  
15 local or State housing inspectors or zoning officers and it is  
16 unfeasible to correct such illegal occupancy without removing the  
17 tenant; or (4) is a governmental agency which seeks to permanently  
18 retire the premises from the rental market pursuant to a  
19 redevelopment or land clearance plan in a blighted area. In those  
20 cases where the tenant is being removed for any reason specified in  
21 this subsection, no warrant for possession shall be issued until  
22 P.L.1967, c.79 (C.52:31B-1 et seq.) and P.L.1971, c.362 (C.20:4-1  
23 et seq.) have been complied with.

24 h. The owner seeks to retire permanently the residential  
25 building or the mobile home park from residential use or use as a  
26 mobile home park, provided this subsection shall not apply to  
27 circumstances covered under subsection g. of this section.

28 i. The landlord or owner proposes, at the termination of a  
29 lease, reasonable changes of substance in the terms and conditions  
30 of the lease, including specifically any change in the term thereof,  
31 which the tenant, after written notice, refuses to accept; provided  
32 that in cases where a tenant has received a notice of termination  
33 pursuant to subsection g. of section 3 of P.L.1974, c.49 (C.2A:18-  
34 61.2), or has a protected tenancy status pursuant to [section 9 of]  
35 the "Senior Citizens and Disabled Protected Tenancy Act,"  
36 P.L.1981, c.226 [(C.2A:18-61.30)] (C.2A:18-61.22), or pursuant to  
37 the "Tenant Protection Act of 1992," P.L.1991, c.509 (C.2A:18-  
38 61.40 et al.), the landlord or owner shall have the burden of proving  
39 that any change in the terms and conditions of the lease, rental or  
40 regulations both is reasonable and does not substantially reduce the  
41 rights and privileges to which the tenant was entitled prior to the  
42 conversion.

43 j. The person, after written notice to cease, has habitually and  
44 without legal justification failed to pay rent which is due and owing.

45 k. The landlord or owner of the building or mobile home park  
46 is converting from the rental market to a condominium, cooperative  
47 or fee simple ownership of two or more dwelling units or park sites,  
48 except as hereinafter provided in subsection l. of this section.

1 Where the tenant is being removed pursuant to this subsection, no  
2 warrant for possession shall be issued until this act has been  
3 complied with. No action for possession shall be brought pursuant  
4 to this subsection against a senior citizen tenant or disabled tenant  
5 with protected tenancy status pursuant to the "Senior Citizens and  
6 Disabled Protected Tenancy Act," P.L.1981, c.226 (C.2A:18-61.22  
7 et al.), or against a qualified tenant under the "Tenant Protection  
8 Act of 1992," P.L.1991, c.509 (C.2A:18-61.40 et al.), as long as the  
9 agency has not terminated the protected tenancy status or the  
10 protected tenancy period has not expired.

11 l. (1) The owner of a building or mobile home park, which is  
12 constructed as or being converted to a condominium, cooperative or  
13 fee simple ownership, seeks to evict a tenant or sublessee whose  
14 initial tenancy began after the master deed, agreement establishing  
15 the cooperative or subdivision plat was recorded, because the owner  
16 has contracted to sell the unit to a buyer who seeks to personally  
17 occupy it and the contract for sale calls for the unit to be vacant at  
18 the time of closing. However, no action shall be brought against a  
19 tenant under paragraph (1) of this subsection unless the tenant was  
20 given a statement in accordance with section 6 of P.L.1975, c.311  
21 (C.2A:18-61.9);

22 (2) The owner of three or less condominium or cooperative units  
23 seeks to evict a tenant whose initial tenancy began by rental from an  
24 owner of three or less units after the master deed or agreement  
25 establishing the cooperative was recorded, because the owner seeks  
26 to personally occupy the unit, or has contracted to sell the unit to a  
27 buyer who seeks to personally occupy it and the contract for sale  
28 calls for the unit to be vacant at the time of closing;

29 (3) The owner of a building of three residential units or less  
30 seeks to personally occupy a unit, or has contracted to sell the  
31 residential unit to a buyer who wishes to personally occupy it and  
32 the contract for sale calls for the unit to be vacant at the time of  
33 closing.

34 m. The landlord or owner conditioned the tenancy upon and in  
35 consideration for the tenant's employment by the landlord or owner  
36 as superintendent, janitor or in some other capacity and such  
37 employment is being terminated.

38 n. The person has been convicted of or pleaded guilty to, or if a  
39 juvenile, has been adjudicated delinquent on the basis of an act  
40 which if committed by an adult would constitute an offense under  
41 the "Comprehensive Drug Reform Act of 1987," N.J.S.2C:35-1 et  
42 al., involving the use, possession, manufacture, dispensing or  
43 distribution of a controlled dangerous substance, controlled  
44 dangerous substance analog or drug paraphernalia within the  
45 meaning of that act within or upon the leased premises or the  
46 building or complex of buildings and land appurtenant thereto, or  
47 the mobile home park, in which those premises are located, and has  
48 not in connection with his sentence for that offense either (1)

1 successfully completed or (2) been admitted to and continued upon  
2 probation while completing, a drug rehabilitation program pursuant  
3 to N.J.S.2C:35-14; or, being the tenant or lessee of such leased  
4 premises, knowingly harbors or harbored therein a person who has  
5 been so convicted or has so pleaded, or otherwise permits or  
6 permitted such a person to occupy those premises for residential  
7 purposes, whether continuously or intermittently, except that this  
8 subsection shall not apply to a person harboring or permitting a  
9 juvenile to occupy the premises if the juvenile has been adjudicated  
10 delinquent upon the basis of an act which if committed by an adult  
11 would constitute the offense of use or possession under the said act.  
12 No action for removal may be brought pursuant to this subsection  
13 more than two years after the date of the adjudication or conviction  
14 or more than two years after the person's release from incarceration  
15 whichever is the later.

16 o. The person has been convicted of or pleaded guilty to, or if a  
17 juvenile, has been adjudicated delinquent on the basis of an act  
18 which if committed by an adult would constitute an offense under  
19 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault, or terroristic  
20 threats against the landlord, a member of the landlord's family or an  
21 employee of the landlord; or, being the tenant or lessee of such  
22 leased premises, knowingly harbors or harbored therein a person  
23 who has been so convicted or has so pleaded, or otherwise permits  
24 or permitted such a person to occupy those premises for residential  
25 purposes, whether continuously or intermittently. No action for  
26 removal may be brought pursuant to this subsection more than two  
27 years after the adjudication or conviction or more than two years  
28 after the person's release from incarceration whichever is the later.

29 p. The person has been found, by a preponderance of the  
30 evidence, liable in a civil action for removal commenced under this  
31 act for an offense under N.J.S.2C:20-1 et al. involving theft of  
32 property located on the leased premises from the landlord, the  
33 leased premises or other tenants residing in the leased premises, or  
34 N.J.S.2C:12-1 or N.J.S.2C:12-3 involving assault or terroristic  
35 threats against the landlord, a member of the landlord's family or an  
36 employee of the landlord, or under the "Comprehensive Drug  
37 Reform Act of 1987," N.J.S.2C:35-1 et al., involving the use,  
38 possession, manufacture, dispensing or distribution of a controlled  
39 dangerous substance, controlled dangerous substance analog or drug  
40 paraphernalia within the meaning of that act within or upon the  
41 leased premises or the building or complex of buildings and land  
42 appurtenant thereto, or the mobile home park, in which those  
43 premises are located, and has not in connection with his sentence  
44 for that offense either (1) successfully completed or (2) been  
45 admitted to and continued upon probation while completing a drug  
46 rehabilitation program pursuant to N.J.S.2C:35-14; or, being the  
47 tenant or lessee of such leased premises, knowingly harbors or  
48 harbored therein a person who committed such an offense, or

1 otherwise permits or permitted such a person to occupy those  
2 premises for residential purposes, whether continuously or  
3 intermittently, except that this subsection shall not apply to a person  
4 who harbors or permits a juvenile to occupy the premises if the  
5 juvenile has been adjudicated delinquent upon the basis of an act  
6 which if committed by an adult would constitute the offense of use  
7 or possession under the said "Comprehensive Drug Reform Act of  
8 1987."

9 q. The person has been convicted of or pleaded guilty to, or if a  
10 juvenile, has been adjudicated delinquent on the basis of an act  
11 which if committed by an adult would constitute an offense under  
12 N.J.S.2C:20-1 et al. involving theft of property from the landlord,  
13 the leased premises or other tenants residing in the same building or  
14 complex; or, being the tenant or lessee of such leased premises,  
15 knowingly harbors therein a person who has been so convicted or  
16 has so pleaded, or otherwise permits such a person to occupy those  
17 premises for residential purposes, whether continuously or  
18 intermittently.

19 r. The person has been convicted of or pleaded guilty to, or if a  
20 juvenile, has been adjudicated delinquent on the basis of an act  
21 which if committed by an adult would constitute the crime of  
22 human trafficking under section 1 of P.L.2005, c.77 (C.2C:13-8)  
23 within or upon the leased premises or the building or complex of  
24 buildings and land appurtenant thereto, or the mobile home park, in  
25 which those premises are located; or, being the tenant or lessee of  
26 such leased premises, knowingly harbors or harbored therein a  
27 person who has been so convicted or has so pleaded, or otherwise  
28 permits or permitted such a person to occupy those premises for  
29 residential purposes, whether continuously or intermittently. No  
30 action for removal may be brought pursuant to this subsection more  
31 than two years after the date of the adjudication or conviction or  
32 more than two years after the person's release from incarceration  
33 whichever is the later.

34 For purposes of this section, (1) "developmental disability"  
35 means any disability which is defined as such pursuant to section 3  
36 of P.L.1977, c.82 (C.30:6D-3); (2) "member of the immediate  
37 family" means a person's spouse, parent, child or sibling, or a  
38 spouse, parent, child or sibling of any of them; and (3)  
39 "permanently" occupies or occupied means that the occupant  
40 maintains no other domicile at which the occupant votes, pays rent  
41 or property taxes or at which rent or property taxes are paid on the  
42 occupant's behalf.

43 (cf: P.L.2000, c.113, s.3)

44

45 7. Section 3 of P.L.1974, c.49 (C.2A:18-61.2) is amended to read  
46 as follows:

47 3. No judgment of possession shall be entered for any premises  
48 covered by section 2 of this act, except in the nonpayment of rent

1 under subsection a. or f. of section 2, unless the landlord has made  
2 written demand and given written notice for delivery of possession  
3 of the premises. The following notice shall be required:

4 a. For an action alleging disorderly conduct under subsection b.  
5 of section 2, or injury to the premises under subsection c. of section  
6 2, or any grounds under subsection m., n., o. **[or]** , p. , q., or r. of  
7 section 2, three days' notice prior to the institution of the action for  
8 possession;

9 b. For an action alleging continued violation of rules and  
10 regulations under subsection d. of section 2, or substantial breach of  
11 covenant under subsection e. of section 2, or habitual failure to pay  
12 rent, one month's notice prior to the institution of the action for  
13 possession;

14 c. For an action alleging any grounds under subsection g. of  
15 section 2, three months' notice prior to the institution of the action;

16 d. For an action alleging permanent retirement under subsection  
17 h. of section 2, 18 months' notice prior to the institution of the  
18 action and, provided that, where there is a lease in effect, no action  
19 may be instituted until the lease expires;

20 e. For an action alleging refusal of acceptance of reasonable  
21 lease changes under subsection i. of section 2, one month's notice  
22 prior to institution of action;

23 f. For an action alleging any grounds under subsection l. of  
24 section 2, two months' notice prior to the institution of the action  
25 and, provided that where there is a written lease in effect no action  
26 shall be instituted until the lease expires;

27 g. For an action alleging any grounds under subsection k. of  
28 section 2, three years' notice prior to the institution of action, and  
29 provided that where there is a written lease in effect, no action shall  
30 be instituted until the lease expires;

31 h. In public housing under the control of a public housing  
32 authority or redevelopment agency, for an action alleging  
33 substantial breach of contract under paragraph (2) of subsection e.  
34 of section 2, the period of notice required prior to the institution of  
35 an action for possession shall be in accordance with federal  
36 regulations pertaining to public housing leases.

37 The notice in each of the foregoing instances shall specify in  
38 detail the cause of the termination of the tenancy and shall be  
39 served either personally upon the tenant or lessee or such person in  
40 possession by giving him a copy thereof, or by leaving a copy  
41 thereof at his usual place of abode with some member of his family  
42 above the age of 14 years, or by certified mail; if the certified letter  
43 is not claimed, notice shall be sent by regular mail.

44 (cf: P.L.1997, c.228, s.2)

45

46 8. N.J.S.2C:34-1 is amended to read as follows:

47 2C:34-1. Prostitution and Related Offenses.

48 a. As used in this section:

1 (1) "Prostitution" is sexual activity with another person in  
2 exchange for something of economic value, or the offer or  
3 acceptance of an offer to engage in sexual activity in exchange for  
4 something of economic value.

5 (2) "Sexual activity" includes, but is not limited to, sexual  
6 intercourse, including genital-genital, oral-genital, anal-genital, and  
7 oral-anal contact, whether between persons of the same or opposite  
8 sex; masturbation; touching of the genitals, buttocks, or female  
9 breasts; sadistic or masochistic abuse and other deviate sexual  
10 relations.

11 (3) "House of prostitution" is any place where prostitution or  
12 promotion of prostitution is regularly carried on by one person  
13 under the control, management or supervision of another.

14 (4) "Promoting prostitution" is:

15 (a) Owning, controlling, managing, supervising or otherwise  
16 keeping, alone or in association with another, a house of  
17 prostitution or a prostitution business;

18 (b) Procuring an inmate for a house of prostitution or place in a  
19 house of prostitution for one who would be an inmate;

20 (c) Encouraging, inducing, or otherwise purposely causing  
21 another to become or remain a prostitute;

22 (d) Soliciting a person to patronize a prostitute;

23 (e) Procuring a prostitute for a patron;

24 (f) Transporting a person into or within this State with purpose  
25 to promote that person's engaging in prostitution, or procuring or  
26 paying for transportation with that purpose; or

27 (g) Knowingly leasing or otherwise permitting a place  
28 controlled by the actor, alone or in association with others, to be  
29 regularly used for prostitution or promotion of prostitution, or  
30 failure to make a reasonable effort to abate such use by ejecting the  
31 tenant, notifying law enforcement authorities, or other legally  
32 available means.

33 b. A person commits an offense if:

34 (1) The actor engages in prostitution;

35 (2) The actor promotes prostitution;

36 (3) The actor knowingly promotes prostitution of a child under  
37 18 whether or not the actor mistakenly believed that the child was  
38 18 years of age or older, even if such mistaken belief was  
39 reasonable;

40 (4) The actor knowingly promotes prostitution of the actor's  
41 child, ward, or any other person for whose care the actor is  
42 responsible;

43 (5) The actor compels another to engage in or promote  
44 prostitution;

45 (6) The actor promotes prostitution of the actor's spouse; or

46 (7) The actor knowingly engages in prostitution with a person  
47 under the age of 18, or if the actor enters into or remains in a house  
48 of prostitution for the purpose of engaging in sexual activity with a

1 child under the age of 18, or if the actor solicits or requests a child  
2 under the age of 18 to engage in sexual activity. It shall be no  
3 defense to a prosecution under this paragraph that the actor  
4 mistakenly believed that the child was 18 years of age or older,  
5 even if such mistaken belief was reasonable.

6 c. Grading of offenses under subsection b.

7 (1) An offense under subsection b. constitutes a crime of the  
8 second degree if the offense falls within paragraph (3) or (4) of that  
9 subsection.

10 (2) An offense under subsection b. constitutes a crime of the  
11 third degree if the offense falls within paragraph (5), (6) or (7) of  
12 that subsection.

13 (3) An offense under paragraph (2) of subsection b. constitutes a  
14 crime of the third degree if the conduct falls within subparagraph  
15 (a), (b), **[or]** (c), (f), or (g) of paragraph (4) of subsection a.  
16 Otherwise the offense is a crime of the fourth degree.

17 (4) An offense under subsection b. constitutes a disorderly  
18 persons offense if the offense falls within paragraph (1) of that  
19 subsection except that a second or subsequent conviction for such  
20 an offense constitutes a crime of the fourth degree. In addition,  
21 where a motor vehicle was used in the commission of any offense  
22 under paragraph (1) of subsection b. the court shall suspend for six  
23 months the driving privilege of any such offender who has a valid  
24 driver's license issued by this State. Upon conviction, the court  
25 shall immediately collect the offender's driver's license and shall  
26 forward it, along with a report stating the first and last day of the  
27 suspension imposed pursuant to this paragraph, to the New Jersey  
28 Motor Vehicle Commission.

29 d. Presumption from living off prostitutes. A person, other  
30 than the prostitute or the prostitute's minor child or other legal  
31 dependent incapable of self-support, who is supported in whole or  
32 substantial part by the proceeds of prostitution is presumed to be  
33 knowingly promoting prostitution.

34 e. It is an affirmative defense to prosecution for a violation of  
35 this section that, during the time of the alleged commission of the  
36 offense, the defendant was a victim of human trafficking pursuant  
37 to section 1 of P.L.2005, c.77 (C.2C:13-8) or **[the defendant was**  
38 **under the]** compelled by another to engage in sexual activity,  
39 regardless of the defendant's age [of 18].

40 (cf: P.L.2011, c.195, s.6)

41  
42 9. (New section) a. Any person who, on or after the effective  
43 date of this section, is convicted and serving a sentence as provided  
44 for by Title 2C of the New Jersey Statutes for engaging in  
45 prostitution under paragraph (1) of subsection b. of N.J.S.2C:34-1  
46 may move to have the sentence reviewed by the court on the  
47 grounds that the defendant was a victim of human trafficking  
48 pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8).

1       b. (1) If the court finds that the sentence under review does not  
2 serve the interests of justice, the court may vacate the conviction,  
3 resentence the defendant, or place the defendant on probation.

4       (2) In determining whether the sentence under review serves the  
5 interests of justice, the court shall consider all relevant  
6 circumstances, including whether the defendant's victimization  
7 constituted a significant contributing factor to the defendant's  
8 criminal behavior, regardless of whether the defendant raised this  
9 factor as a defense at trial in accordance with subsection e. of  
10 N.J.S.2C:34-1.

11  
12       10. (New section) a. In addition to any other disposition  
13 authorized by law, the court shall order any person convicted of  
14 engaging a prostitute pursuant to paragraph (1) of subsection b. of  
15 N.J.S.2C:34-1 to participate in the "John School Diversion  
16 Program" established pursuant to subsection d. of this section.

17       b. In addition to any fine, fee, assessment, or penalty authorized  
18 under the provisions of Title 2C of the New Jersey Statutes, a  
19 person convicted of an offense of engaging a prostitute under  
20 paragraph (1) of subsection b. of N.J.S.2C:34-1 shall be assessed a  
21 penalty of \$1,000.

22       c. All penalties provided for in this section, collected as provided  
23 for the collection of fines and restitutions in section 3 of P.L.1979,  
24 c.396 (C.2C:46-4), shall be forwarded to the Department of the  
25 Treasury to be deposited in the "Human Trafficking Survivor's  
26 Assistance Fund" established by section 2 of P.L.     , c. (C.     )  
27 (pending before the Legislature as this bill). These monies, and  
28 other monies in the fund designated by the Commission on Human  
29 Trafficking pursuant to section 2 of P.L.     , c. (C.     ), shall be  
30 dedicated to the development, establishment, operation, and  
31 maintenance of the "John School Diversion Program" created  
32 pursuant to subsection d. of this section.

33       d. There is hereby established an education program to be known  
34 as the "John School Diversion Program," which shall be  
35 administered by the Administrative Office of the Courts. The  
36 program shall educate defendants who have been convicted of  
37 engaging a prostitute pursuant to paragraph (1) of subsection b. of  
38 N.J.S.2C:34-1 about the risks involved in their unlawful activity.  
39 The program shall inform the defendants of the health risks  
40 connected with the crime of prostitution, including the risk of  
41 transmittable diseases, the legal ramifications for defendants of  
42 their unlawful activity, the terms of imprisonment for subsequent  
43 offenses, and the correlation between prostitution and human  
44 trafficking.

45  
46       11. (New section) a. The Legislature finds and declares that:



1 (1) There reportedly are more than 12 million victims of human  
2 trafficking and it is estimated that this figure could actually be as  
3 high as 27 million;

4 (2) According to the National Center for Missing and Exploited  
5 Children, at least 100,000 human trafficking victims are American  
6 children who are an average age of 13 years old;

7 (3) Advertisements for selling the services of girls as escorts on  
8 Internet websites falsely claim that these girls are 18 years of age or  
9 older, when the girls actually are minors;

10 (4) The advertising of these escort services includes minors who  
11 are being sold for sex, which constitutes sex trafficking and  
12 commercial sexual abuse of minors;

13 (5) Responding to political and public outcry, the Internet  
14 website craigslist.com removed its escort section, but another  
15 website with an escort section, backpage.com, has to date refused to  
16 do so;

17 (6) The states of Washington and Connecticut recently enacted  
18 laws to require Internet websites, such as backpage.com, and the  
19 patrons who advertise on websites, to maintain documentation that  
20 they have proved the age of the escorts presented in the  
21 advertisements;

22 (7) The State of New Jersey criminalized human trafficking in  
23 2005; and

24 (8) Sex trafficking of minors should be eliminated in conformity  
25 with federal laws prohibiting the sexual exploitation of children.

26 b. A person commits the offense of advertising commercial  
27 sexual abuse of a minor if:

28 (1) the person knowingly publishes, disseminates, or displays, or  
29 causes directly or indirectly, to be published, disseminated, or  
30 displayed, any advertisement for a commercial sex act, which is to  
31 take place in this State and which includes the depiction of a minor;  
32 or

33 (2) the person knowingly purchases advertising in this State for a  
34 commercial sex act which includes the depiction of a minor.

35 c. A person who commits the offense of advertising commercial  
36 sexual abuse of a minor as established in subsection b. of this  
37 section is guilty of a crime of the first degree. Notwithstanding the  
38 provisions of N.J.S.2C:43-3, the fine imposed for an offense under  
39 this section concerning criminal negligence shall be a fine of at  
40 least \$25,000, which shall be collected as provided for the  
41 collection of fines and restitutions in section 3 of P.L.1979, c.396  
42 (C.2C:46-4) and forwarded to the Department of the Treasury to be  
43 deposited in the "Human Trafficking Survivor's Assistance Fund"  
44 established by section 2 of P.L. , c. (C. ) (pending before the  
45 Legislature as this bill).

46 d. Nothing in this section shall preclude an indictment and  
47 conviction for any other offense defined by the laws of this State.

48 e. For the purposes of this section:

1 "Advertisement for a commercial sex act" means any  
2 advertisement or offer in electronic or print media, including the  
3 Internet, which includes either an explicit or implicit offer for a  
4 commercial sex act to occur in this State.

5 "Commercial sex act" means any act of sexual contact or sexual  
6 penetration, as defined in N.J.S.2C:14-1, or any prohibited sexual  
7 act, as defined in N.J.S.2C:24-4, for which something of value is  
8 given or received by any person.

9 "Depiction" means any photograph or visual or printed matter.

10 "Minor" means a person who is under 18 years of age.

11 "Photograph" means a print, negative, slide, digital image,  
12 motion picture, or videotape, and includes anything tangible or  
13 intangible produced by photographing.

14 "Visual or printed matter" means any photograph or other  
15 material that contains a reproduction of a photograph.

16 f. It shall not be a defense to a violation of this section that the  
17 defendant did not know the age of the minor depicted in the  
18 advertisement.

19 g. It shall be a defense to a violation of this section that the  
20 defendant made a reasonable, bona fide attempt to ascertain the true  
21 age of the minor depicted in the advertisement by requiring, prior to  
22 publication, dissemination, or display of the advertisement,  
23 production of a driver's license, marriage license, birth certificate,  
24 or other governmental or educational identification card or paper of  
25 the minor depicted in the advertisement and did not rely solely on  
26 oral or written representations of the minor's age, or the apparent  
27 age of the minor as depicted. The defendant shall prove the defense  
28 established this subsection by a preponderance of the evidence.

29 h. The defendant shall maintain and, upon request, produce a  
30 record of the identification used to verify the age of the person  
31 depicted in the advertisement.

32

33 12. Section 2 of P.L.1994, c.133 (C.2C:7-2) is amended to read  
34 as follows:

35 2. a. (1) A person who has been convicted, adjudicated  
36 delinquent or found not guilty by reason of insanity for commission  
37 of a sex offense as defined in subsection b. of this section shall  
38 register as provided in subsections c. and d. of this section.

39 (2) A person who in another jurisdiction is required to register  
40 as a sex offender and (a) is enrolled on a full-time or part-time basis  
41 in any public or private educational institution in this State,  
42 including any secondary school, trade or professional institution,  
43 institution of higher education or other post-secondary school, or  
44 (b) is employed or carries on a vocation in this State, on either a  
45 full-time or a part-time basis, with or without compensation, for  
46 more than 14 consecutive days or for an aggregate period exceeding  
47 30 days in a calendar year, shall register in this State as provided in  
48 subsections c. and d. of this section.

1 (3) A person who fails to register as required under this act shall  
2 be guilty of a crime of the third degree.

3 b. For the purposes of this act a sex offense shall include the  
4 following:

5 (1) Aggravated sexual assault, sexual assault, aggravated  
6 criminal sexual contact, kidnapping pursuant to paragraph (2) of  
7 subsection c. of N.J.S.2C:13-1 or an attempt to commit any of these  
8 crimes if the court found that the offender's conduct was  
9 characterized by a pattern of repetitive, compulsive behavior,  
10 regardless of the date of the commission of the offense or the date  
11 of conviction;

12 (2) A conviction, adjudication of delinquency, or acquittal by  
13 reason of insanity for aggravated sexual assault; sexual assault;  
14 aggravated criminal sexual contact; kidnapping pursuant to  
15 paragraph (2) of subsection c. of N.J.S.2C:13-1; endangering the  
16 welfare of a child by engaging in sexual conduct which would  
17 impair or debauch the morals of the child pursuant to subsection a.  
18 of N.J.S.2C:24-4; endangering the welfare of a child pursuant to  
19 paragraph (3) or (4) or subparagraph (a) of paragraph (5) of  
20 subsection b. of N.J.S.2C:24-4; luring or enticing pursuant to  
21 section 1 of P.L.1993, c.291 (C.2C:13-6); criminal sexual contact  
22 pursuant to N.J.S.2C:14-3b. if the victim is a minor; kidnapping  
23 pursuant to N.J.S.2C:13-1, criminal restraint pursuant to  
24 N.J.S.2C:13-2, or false imprisonment pursuant to N.J.S.2C:13-3 if  
25 the victim is a minor and the offender is not the parent of the  
26 victim; knowingly promoting prostitution of a child pursuant to  
27 paragraph (3) or paragraph (4) of subsection b. of N.J.S.2C:34-1;  
28 advertising commercial sexual abuse of a minor pursuant to section  
29 11 of P.L. , c. (C. ) (pending before the Legislature as this  
30 bill); or an attempt to commit any of these enumerated offenses if  
31 the conviction, adjudication of delinquency or acquittal by reason of  
32 insanity is entered on or after the effective date of this act or the  
33 offender is serving a sentence of incarceration, probation, parole or  
34 other form of community supervision as a result of the offense or is  
35 confined following acquittal by reason of insanity or as a result of  
36 civil commitment on the effective date of this act;

37 (3) A conviction, adjudication of delinquency or acquittal by  
38 reason of insanity for an offense similar to any offense enumerated  
39 in paragraph (2) or a sentence on the basis of criteria similar to the  
40 criteria set forth in paragraph (1) of this subsection entered or  
41 imposed under the laws of the United States, this State or another  
42 state.

43 c. A person required to register under the provisions of this act  
44 shall do so on forms to be provided by the designated registering  
45 agency as follows:

46 (1) A person who is required to register and who is under  
47 supervision in the community on probation, parole, furlough, work  
48 release, or a similar program, shall register at the time the person is

1 placed under supervision or no later than 120 days after the  
2 effective date of this act, whichever is later, in accordance with  
3 procedures established by the Department of Corrections, the  
4 Department of Human Services, the Juvenile Justice Commission  
5 established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-  
6 170),<sup>2</sup> or the Administrative Office of the Courts, whichever is  
7 responsible for supervision;

8 (2) A person confined in a correctional or juvenile facility or  
9 involuntarily committed who is required to register shall register  
10 prior to release in accordance with procedures established by the  
11 Department of Corrections, the Department of Human Services or  
12 the Juvenile Justice Commission and, within 48 hours of release,  
13 shall also register with the chief law enforcement officer of the  
14 municipality in which the person resides or, if the municipality does  
15 not have a local police force, the Superintendent of State Police;

16 (3) A person moving to or returning to this State from another  
17 jurisdiction shall register with the chief law enforcement officer of  
18 the municipality in which the person will reside or, if the  
19 municipality does not have a local police force, the Superintendent  
20 of State Police within 120 days of the effective date of this act or 10  
21 days of first residing in or returning to a municipality in this State,  
22 whichever is later;

23 (4) A person required to register on the basis of a conviction  
24 prior to the effective date who is not confined or under supervision  
25 on the effective date of this act shall register within 120 days of the  
26 effective date of this act with the chief law enforcement officer of  
27 the municipality in which the person will reside or, if the  
28 municipality does not have a local police force, the Superintendent  
29 of State Police;

30 (5) A person who in another jurisdiction is required to register  
31 as a sex offender and who is enrolled on a full-time or part-time  
32 basis in any public or private educational institution in this State,  
33 including any secondary school, trade or professional institution,  
34 institution of higher education or other post-secondary school shall,  
35 within ten days of commencing attendance at such educational  
36 institution, register with the chief law enforcement officer of the  
37 municipality in which the educational institution is located or, if the  
38 municipality does not have a local police force, the Superintendent  
39 of State Police;

40 (6) A person who in another jurisdiction is required to register  
41 as a sex offender and who is employed or carries on a vocation in  
42 this State, on either a full-time or a part-time basis, with or without  
43 compensation, for more than 14 consecutive days or for an  
44 aggregate period exceeding 30 days in a calendar year, shall, within  
45 ten days after commencing such employment or vocation, register  
46 with the chief law enforcement officer of the municipality in which  
47 the employer is located or where the vocation is carried on, as the

1 case may be, or, if the municipality does not have a local police  
2 force, the Superintendent of State Police;

3 (7) In addition to any other registration requirements set forth in  
4 this section, a person required to register under this act who is  
5 enrolled at, employed by or carries on a vocation at an institution of  
6 higher education or other post-secondary school in this State shall,  
7 within ten days after commencing such attendance, employment or  
8 vocation, register with the law enforcement unit of the educational  
9 institution, if the institution has such a unit.

10 d. (1) Upon a change of address, a person shall notify the law  
11 enforcement agency with which the person is registered and shall  
12 re-register with the appropriate law enforcement agency no less  
13 than 10 days before he intends to first reside at his new address.  
14 Upon a change of employment or school enrollment status, a person  
15 shall notify the appropriate law enforcement agency no later than  
16 five days after any such change. A person who fails to notify the  
17 appropriate law enforcement agency of a change of address or status  
18 in accordance with this subsection is guilty of a crime of the fourth  
19 degree.

20 (2) A person required to register under this act shall provide the  
21 appropriate law enforcement agency with information as to whether  
22 the person has routine access to or use of a computer or any other  
23 device with Internet capability. A person who fails to notify the  
24 appropriate law enforcement agency of such information or of a  
25 change in the person's access to or use of a computer or other  
26 device with Internet capability or who provides false information  
27 concerning the person's access to or use of a computer or any other  
28 device with Internet capability is guilty of a crime of the fourth  
29 degree.

30 e. A person required to register under paragraph (1) of  
31 subsection b. of this section or under paragraph (3) of subsection b.  
32 due to a sentence imposed on the basis of criteria similar to the  
33 criteria set forth in paragraph (1) of subsection b. shall verify his  
34 address with the appropriate law enforcement agency every 90 days  
35 in a manner prescribed by the Attorney General. A person required  
36 to register under paragraph (2) of subsection b. of this section or  
37 under paragraph (3) of subsection b. on the basis of a conviction for  
38 an offense similar to an offense enumerated in paragraph (2) of  
39 subsection b. shall verify his address annually in a manner  
40 prescribed by the Attorney General. One year after the effective  
41 date of this act, the Attorney General shall review, evaluate and, if  
42 warranted, modify pursuant to the "Administrative Procedure Act,"  
43 P.L.1968, c.410 (C.52:14B-1 et seq.) the verification requirement.  
44 Any person who knowingly provides false information concerning  
45 his place of residence or who fails to verify his address with the  
46 appropriate law enforcement agency or other entity, as prescribed  
47 by the Attorney General in accordance with this subsection, is  
48 guilty of a crime of the fourth degree.

1 f. Except as provided in subsection g. of this section, a person  
2 required to register under this act may make application to the  
3 Superior Court of this State to terminate the obligation upon proof  
4 that the person has not committed an offense within 15 years  
5 following conviction or release from a correctional facility for any  
6 term of imprisonment imposed, whichever is later, and is not likely  
7 to pose a threat to the safety of others.

8 g. A person required to register under this section who has  
9 been convicted of, adjudicated delinquent, or acquitted by reason of  
10 insanity for more than one sex offense as defined in subsection b. of  
11 this section or who has been convicted of, adjudicated delinquent,  
12 or acquitted by reason of insanity for aggravated sexual assault  
13 pursuant to subsection a. of N.J.S.2C:14-2 or sexual assault  
14 pursuant to paragraph (1) of subsection c. of N.J.S.2C:14-2 is not  
15 eligible under subsection f. of this section to make application to  
16 the Superior Court of this State to terminate the registration  
17 obligation.

18 (cf: P.L.2007, c.219, s.2)

19

20 13. N.J.S. 2C:24-4 is amended to read as follows:

21 2C:24-4. Endangering Welfare of Children.

22 a. Any person having a legal duty for the care of a child or who  
23 has assumed responsibility for the care of a child who engages in  
24 sexual conduct which would impair or debauch the morals of the  
25 child, or who causes the child harm that would make the child an  
26 abused or neglected child as defined in R.S.9:6-1, R.S.9:6-3 and  
27 section 1 of P.L.1974, c.119 [ , s.1 ] (C.9:6-8.21) is guilty of a crime  
28 of the second degree. Any other person who engages in conduct or  
29 who causes harm as described in this subsection to a child under the  
30 age of 16 is guilty of a crime of the third degree.

31 b. (1) As used in this subsection:

32 "Child" means any person under 16 years of age.

33 "Internet" means the international computer network of both  
34 federal and non-federal interoperable packet switched data  
35 networks.

36 "Prohibited sexual act" means

37 (a) Sexual intercourse; or

38 (b) Anal intercourse; or

39 (c) Masturbation; or

40 (d) Bestiality; or

41 (e) Sadism; or

42 (f) Masochism; or

43 (g) Fellatio; or

44 (h) Cunnilingus; or

45 (i) Nudity, if depicted for the purpose of sexual stimulation or  
46 gratification of any person who may view such depiction; or

47 (j) Any act of sexual penetration or sexual contact as defined in  
48 N.J.S.2C:14-1.

1 "Reproduction" means, but is not limited to, computer generated  
2 images.

3 (2) (Deleted by amendment, P.L.2001, c.291).

4 (3) A person commits a crime of the second degree if he causes  
5 or permits a child to engage in a prohibited sexual act or in the  
6 simulation of such an act if the person knows, has reason to know  
7 or intends that the prohibited act may be photographed, filmed,  
8 reproduced, or reconstructed in any manner, including on the  
9 Internet, or may be part of an exhibition or performance. If the  
10 person is a parent, guardian or other person legally charged with the  
11 care or custody of the child, the person shall be guilty of a crime of  
12 the first degree.

13 (4) Any person who photographs or films a child in a prohibited  
14 sexual act or in the simulation of such an act or who uses any  
15 device, including a computer, to reproduce or reconstruct the image  
16 of a child in a prohibited sexual act or in the simulation of such an  
17 act is guilty of a crime of the second degree.

18 (5) (a) Any person who knowingly receives for the purpose of  
19 selling or who knowingly sells, procures, manufactures, gives,  
20 provides, lends, trades, mails, delivers, transfers, publishes,  
21 distributes, circulates, disseminates, presents, exhibits, advertises,  
22 offers or agrees to offer, through any means, including the Internet,  
23 any photograph, film, videotape, computer program or file, video  
24 game or any other reproduction or reconstruction which depicts a  
25 child engaging in a prohibited sexual act or in the simulation of  
26 such an act, is guilty of a crime of the second degree.

27 (b) Any person who knowingly possesses or knowingly views  
28 any photograph, film, videotape, computer program or file, video  
29 game or any other reproduction or reconstruction which depicts a  
30 child engaging in a prohibited sexual act or in the simulation of  
31 such an act, including on the Internet, is guilty of a crime of the  
32 **[fourth] third** degree.

33 (6) For purposes of this subsection, a person who is depicted as  
34 or presents the appearance of being under the age of 16 in any  
35 photograph, film, videotape, computer program or file, video game  
36 or any other reproduction or reconstruction shall be rebuttably  
37 presumed to be under the age of 16. If the child who is depicted as  
38 engaging in, or who is caused to engage in, a prohibited sexual act  
39 or simulation of a prohibited sexual act is under the age of 16, the  
40 actor shall be strictly liable and it shall not be a defense that the  
41 actor did not know that the child was under the age of 16, nor shall  
42 it be a defense that the actor believed that the child was 16 years of  
43 age or older, even if such a mistaken belief was reasonable.

44 (cf: P.L.2001, c.291, s.1)

45

46 14. Section 1 of P.L.1985, c.126 (C.2A:84A-32.4) is amended to  
47 read as follows:

1       1. a. In prosecutions for aggravated sexual assault, sexual  
2 assault, aggravated criminal sexual contact, criminal sexual contact,  
3 **[or] human trafficking involving sexual activity**, child abuse, or in  
4 any action alleging an abused or neglected child under P.L.1974,  
5 c.119 (C.9:6-8.21 et seq.), the court may, on motion and after  
6 conducting a hearing in camera, order the taking of the testimony of  
7 a witness on closed circuit television at the trial, out of the view of  
8 the jury, defendant, or spectators upon making findings as provided  
9 in subsection b. of this section.

10       b. An order under this section may be made only if the court  
11 finds that the witness is 16 years of age or younger and that there is  
12 a substantial likelihood that the witness would suffer severe  
13 emotional or mental distress if required to testify in open court.  
14 The order shall be specific as to whether the witness will testify  
15 outside the presence of spectators, the defendant, the jury, or all of  
16 them and shall be based on specific findings relating to the impact  
17 of the presence of each.

18       c. A motion seeking closed circuit testimony under subsection  
19 a. of this section may be filed by:

20       (1) The victim or witness or the victim's or witness's attorney,  
21 parent or legal guardian;

22       (2) The prosecutor;

23       (3) The defendant or the defendant's counsel; or

24       (4) The trial judge on the judge's own motion.

25       d. The defendant's counsel shall be present at the taking of  
26 testimony in camera. If the defendant is not present, he and his  
27 attorney shall be able to confer privately with each other during the  
28 testimony by a separate audio system.

29       e. If testimony is taken on closed circuit television pursuant to  
30 the provisions of this act, a stenographic recording of that testimony  
31 shall also be required. A typewritten transcript of that testimony  
32 shall be included in the record on appeal. The closed circuit  
33 testimony itself shall not constitute part of the record on appeal  
34 except on motion for good cause shown.

35 (cf: P.L.1985, c.126, s.1)

36  
37       15. N.J.S.2C:14-7 is amended to read as follows:

38       2C:14-7. a. In prosecutions for aggravated sexual assault, sexual  
39 assault, aggravated criminal sexual contact, criminal sexual contact,  
40 **human trafficking involving sexual activity**, endangering the  
41 welfare of a child in violation of N.J.S.2C:24-4<sub>2</sub>, or the fourth degree  
42 crime of lewdness in violation of subsection b. of N.J.S.2C:14-4,  
43 evidence of the victim's previous sexual conduct shall not be  
44 admitted nor reference made to it in the presence of the jury except  
45 as provided in this section. When the defendant seeks to admit such  
46 evidence for any purpose, the defendant must apply for an order of  
47 the court before the trial or preliminary hearing, except that the  
48 court may allow the motion to be made during trial if the court



1 determines that the evidence is newly discovered and could not  
2 have been obtained earlier through the exercise of due diligence.  
3 After the application is made, the court shall conduct a hearing in  
4 camera to determine the admissibility of the evidence. If the court  
5 finds that evidence offered by the defendant regarding the sexual  
6 conduct of the victim is relevant and highly material and meets the  
7 requirements of subsections c. and d. of this section and that the  
8 probative value of the evidence offered substantially outweighs its  
9 collateral nature or the probability that its admission will create  
10 undue prejudice, confusion of the issues, or unwarranted invasion of  
11 the privacy of the victim, the court shall enter an order setting forth  
12 with specificity what evidence may be introduced and the nature of  
13 the questions which shall be permitted, and the reasons why the  
14 court finds that such evidence satisfies the standards contained in  
15 this section. The defendant may then offer evidence under the order  
16 of the court.

17 b. In the absence of clear and convincing proof to the contrary,  
18 evidence of the victim's sexual conduct occurring more than one  
19 year before the date of the offense charged is presumed to be  
20 inadmissible under this section.

21 c. Evidence of previous sexual conduct with persons other than  
22 the defendant which is offered by any lay or expert witness shall not  
23 be considered relevant unless it is material to proving the source of  
24 semen, pregnancy or disease.

25 d. Evidence of the victim's previous sexual conduct with the  
26 defendant shall be considered relevant if it is probative of whether a  
27 reasonable person, knowing what the defendant knew at the time of  
28 the alleged offense, would have believed that the alleged victim  
29 freely and affirmatively permitted the sexual behavior complained  
30 of.

31 e. Evidence of the manner in which the victim was dressed at  
32 the time an offense was committed shall not be admitted unless  
33 such evidence is determined by the court to be relevant and  
34 admissible in the interest of justice, after an offer of proof by the  
35 proponent of such evidence outside the hearing of the jury or at  
36 such hearing as the court may require, and a statement by the court  
37 of its findings of fact essential to its determination. A statement by  
38 the court of its findings shall also be included in the record.

39 f. For the purposes of this section, "sexual conduct" shall mean  
40 any conduct or behavior relating to sexual activities of the victim,  
41 including but not limited to previous or subsequent experience of  
42 sexual penetration or sexual contact, use of contraceptives, sexual  
43 activities reflected in gynecological records, living arrangement and  
44 life style.

45 (cf: P.L.1995, c.237, s.1)

46

47 16. (New section) a. The Attorney General shall, in consultation  
48 with the Commission on Human Trafficking established by section

1 1 of P.L. , c. (C. ) (pending before the Legislature as this  
2 bill), establish and maintain the participation of the State with either  
3 an existing national, 24-hour toll-free hotline telephone service on  
4 human trafficking that is operating on or after the effective date of  
5 this section or any federally required hotline telephone service, and  
6 shall take appropriate action to publicize the service.

7 b. Unless otherwise established by a federally required hotline  
8 telephone service under federal law, the hotline selected by the  
9 Attorney General, in consultation with the commission, shall be  
10 capable of receiving information from members of the public who  
11 have knowledge of or who believe that an act of human trafficking  
12 in violation of section 1 of P.L.2005, c.77 (C.2C:13-8) is being or  
13 has been committed. The hotline service shall also be capable of  
14 receiving and responding to requests for information from members  
15 of the public concerning human trafficking.

16 c. The Attorney General shall, pursuant to any funds  
17 appropriated or otherwise made available, establish an educational  
18 and public information program concerning the crime of human  
19 trafficking set out in section 1 of P.L.2005, c.77 (C.2C:13-8).

20

21 17. (New section) a. (1) The Attorney General and the Director  
22 of the Division of Criminal Justice in the Department of Law and  
23 Public Safety shall develop and approve a training course and  
24 curriculum on the handling, response procedures, investigation, and  
25 prosecution of human trafficking cases for law enforcement  
26 agencies. This training course shall be reviewed at least every two  
27 years and modified by the Attorney General and Director of the  
28 Division of Criminal Justice from time to time as need may require.

29 (2) The Attorney General shall be responsible for ensuring that  
30 all law enforcement officers attend initial training within 90 days of  
31 appointment or transfer and annual inservice training of at least four  
32 hours as described in this section.

33 (3) The Division of Criminal Justice shall distribute the training  
34 materials and curriculum to all State, county, and local law  
35 enforcement agencies.

36 b. (1) The Division of Criminal Justice, in consultation with the  
37 Department of Community Affairs, shall develop and approve a  
38 training course on the handling and response procedures of  
39 suspected human trafficking activities for owners, operators, and  
40 staff of hotels and motels as defined in the "Hotel and Multiple  
41 Dwelling Law," P.L.1967, c.76 (C.55:13A-1 et seq.). This training  
42 course shall be reviewed at least every two years and modified by  
43 the Division of Criminal Justice, in consultation with the  
44 Department of Community Affairs, from time to time as need may  
45 require.

46 (2) The Department of Community Affairs shall be responsible  
47 for ensuring that all hotel and motel owners, operators, and staff  
48 attend initial training within 90 days of enactment of this section,

1 and annual inservice training of at least four hours as described in  
2 this section.

3 (3) The Department of Community Affairs shall distribute the  
4 training materials and curriculum to all hotels and motels in the  
5 State.

6 c. (1) The Division of Criminal Justice, in consultation with the  
7 Department of Human Services, shall develop and approve a  
8 training course on the handling and response procedures of  
9 suspected human trafficking activities for employees of every  
10 licensed health care facility as defined in section 2 of P.L.1971,  
11 c.136 (C.26:2H-2), including those professionals whose  
12 professional practice is regulated pursuant to Title 45 of the Revised  
13 Statutes. This training course shall be reviewed at least every two  
14 years and modified by the Division of Criminal Justice, in  
15 consultation with the Department of Human Services.

16 (2) The Department of Human Services shall be responsible for  
17 ensuring that all employees of licensed health care facilities attend  
18 initial training within 90 days of enactment of this section, and  
19 annual inservice training of at least four hours as described in this  
20 section.

21 (3) The Department of Human Services shall distribute the  
22 training materials and curriculum to all licensed health care  
23 facilities in the State.

24 d. (1) The Administrative Office of the Courts shall develop and  
25 approve a training course and a curriculum on the handling,  
26 investigation, and response procedures and prosecution of human  
27 trafficking cases for all judges and all judicial personnel. This  
28 training course shall be reviewed at least every two years and  
29 modified by the Administrative Office of the Courts from time to  
30 time as need may require.

31 (2) The Administrative Office of the Courts shall be responsible  
32 for ensuring that all judges and judicial personnel attend initial  
33 training within 90 days of appointment or transfer and annual in-  
34 service training of at least four hours as described in this section.

35 e. The Division of Criminal Justice, the Department of  
36 Community Affairs, the Department of Human Services, and the  
37 Administrative Office of the Courts shall provide that all training on  
38 the handling of human trafficking cases shall include information  
39 concerning the impact of human trafficking on society, the statutory  
40 and case law concerning human trafficking, policies and procedures  
41 as promulgated or ordered by the Attorney General, the Department  
42 of Community Affairs, the Department of Human Services, or the  
43 Supreme Court, or the federal government and the use of available  
44 community resources, support services, sanctions, and treatment  
45 options for victims of human trafficking.

46

47 18. Section 9 of P.L.1985, c.404 (C.52:4B-47) is amended to  
48 read as follows:

1 9. a. The curriculum for police training courses required  
2 pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.) shall include  
3 training on responding to the needs of crime victims, and specific  
4 training on responding to the needs of victims of human trafficking  
5 as defined in section 1 of P.L.2005, c.77 (C.2C:13-8), and on  
6 services available to provide assistance, including information on  
7 federal, State, and local hotlines available to receive reports of and  
8 provide assistance to victims of human trafficking.

9 b. In-service training shall be made available for police officers,  
10 assistant prosecutors, county detectives and investigators on  
11 specialized needs of crime victims and available services.

12 (cf: P.L.1985, c.404, s.9)

13  
14 19. (New section) a. An applicant for licensure as a massage and  
15 bodywork therapist or registration as an employer offering massage  
16 and bodywork therapies under P.L.1999, c.19 (C.45:11-53 et seq.)  
17 and P.L.2007, c.337 (C.45:11-68 et seq.) shall not be eligible for  
18 licensure or registration, as the case may be, and any holder of a  
19 license or registration under P.L.1999, c.19 (C.45:11-53 et seq.) and  
20 P.L.2007, c.337 (C.45:11-68 et seq.) shall have his license or  
21 registration revoked if the New Jersey Board of Massage and  
22 Bodywork Therapy determines, consistent with subsection f. of  
23 section 8 of P.L.1978, c.73 (C.45:1-21), that criminal history record  
24 information exists on file in the Federal Bureau of Investigation,  
25 Identification Division, or in the State Bureau of Identification in  
26 the Division of State Police, which may disqualify that individual  
27 from being licensed or registered.

28 b. An applicant and holder of a license or registration who is  
29 required to undergo a criminal history record background check  
30 pursuant to subsection a. of this section shall submit to the board his  
31 name, address, and fingerprints taken on standard fingerprint cards  
32 by a State or municipal law enforcement agency or by a private  
33 entity under contract with the State. The board is authorized to  
34 exchange fingerprint data with and receive criminal history record  
35 information from the Federal Bureau of Investigation and the  
36 Division of State Police for use in making the determinations  
37 required pursuant to this section.

38 c. Upon receipt of the criminal history record information for a  
39 person from the Federal Bureau of Investigation or the Division of  
40 State Police, the board shall notify the applicant, licensee, or  
41 registered individual, as applicable, in writing, of the person's  
42 qualification or disqualification for licensure or registration under  
43 this section.

44 d. If an applicant, licensee, or registered individual refuses to  
45 consent to, or cooperate in, the securing of a criminal history record  
46 background check, the board shall not issue a license or registration,  
47 as the case may be, or other authorization to the applicant, licensee,  
48 or registered individual.

1 e. All costs associated with performing the criminal history  
2 record background check required by this section shall be borne by  
3 the applicant for licensure or registration or the holder of any  
4 license or registration.

5 f. The New Jersey Board of Massage and Bodywork Therapy,  
6 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410  
7 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate  
8 the purposes of this section.

9  
10 20. Sections 1 and 2 of this act shall take effect immediately, and  
11 the remaining sections shall take effect on the first day of the second  
12 month next following the date of enactment, but the Attorney General,  
13 Commissioner of Community Affairs, Commissioner of Human  
14 Services, the Director of the Administrative Office of the Courts, and  
15 the New Jersey Board of Massage and Bodywork Therapy may take  
16 any anticipatory administrative action in advance thereof as shall be  
17 necessary for the implementation of this act.

#### 18 19 20 STATEMENT

21  
22 This bill revises and expands the State’s human trafficking law  
23 by creating a new human trafficking commission, criminalizing  
24 additional activities related to human trafficking as well as  
25 upgrading certain penalties on existing human trafficking or related  
26 crimes, increasing protections afforded to victims of human  
27 trafficking, and providing for increased training and public  
28 awareness on human trafficking issues.

29 Section 1: The commission. This section would establish a 15-  
30 member Commission on Human Trafficking, to be located in the  
31 Department of Law and Public Safety. The commission would be  
32 directed to evaluate the existing law concerning human trafficking  
33 and the enforcement thereof, and to make recommendations for  
34 legislation, if appropriate. The commission would also be charged  
35 with the responsibility of reviewing existing victim assistance  
36 programs, and promoting a coordinated response by public and  
37 private resources for victims of human trafficking. In addition, the  
38 commission would administer and make expenditures from the  
39 “Human Trafficking Survivor’s Assistance Fund” established by the  
40 bill (see section 2).

41 The commission would consist of: the Attorney General, or his  
42 designee; the Commissioner of Children and Families, or his  
43 designee; the Commissioner of Human Services, or his designee;  
44 one member of the existing New Jersey Human Trafficking Task  
45 Force in the Department of Law and Public Safety, designated by  
46 the Attorney General; two public members appointed by the  
47 Governor based upon the recommendation of the Senate President,  
48 one representing law enforcement and one representing a victim’s

1 assistance organization; one public member appointed by the  
2 Governor based upon the recommendation of the Senate Minority  
3 Leader representing either a non-profit health care facility or mental  
4 health services; two public members appointed by the Governor  
5 based upon the recommendation of the Speaker of the General  
6 Assembly, one representing law enforcement and one representing a  
7 victim's assistance organization; one public member appointed by  
8 the Governor based upon the recommendation of the Assembly  
9 Minority Leader representing either a non-profit health care facility  
10 or mental health services; and five public members appointed by the  
11 Governor, one of whom shall be a representative of the National  
12 Center for Missing and Exploited Children. All public members  
13 would also be required to possess a background in, or have  
14 specialized knowledge of, the legal, policy, educational, social, or  
15 psychological aspects of human trafficking.

16 The commission would be required to annually report to the  
17 Governor and the Legislature as to its activities, as well as its  
18 findings and recommendations for any needed new laws, services,  
19 or resources for victims of human trafficking.

20 Section 2: The "Human Trafficking Survivor's Assistance  
21 Fund." This section would establish a separate, non-lapsing,  
22 dedicated fund in the General Fund known as the "Human  
23 Trafficking Survivor's Assistance Fund." The Commission on  
24 Human Trafficking would administer the fund, using the monies for  
25 the provision of services to victims of human trafficking, to  
26 promote awareness of human trafficking, and the development,  
27 establishment, operation, and maintenance of the "John School  
28 Diversion Program" created pursuant to section 10 of the bill.

29 Section 3: Human trafficking – expanding criminal liability. The  
30 existing definition of human trafficking would be expanded by this  
31 section. It would incorporate actions involving abduction, fraud,  
32 deceit or other deception, and abuses of power, as recognized means  
33 of accomplishing human trafficking.

34 This section would also establish criminal negligence for  
35 licensed owners or drivers of commercial passenger vehicles with  
36 respect to the negligent participation in transporting human  
37 trafficking victims, and make any other professionally licensed  
38 person criminally liable for negligently permitting an act of human  
39 trafficking on, within, or using that person's property or services.  
40 A "professionally licensed person" is defined under the section as  
41 any person required by law to obtain, from a governmental  
42 department, agency, board, or commission of the State or any  
43 political subdivision of the State, a license, permit, certificate,  
44 approval, registration, charter, or similar form of business or  
45 professional authorization in order to operate a business or as a  
46 professional in this State.

47 Criminal negligence in this context means that the commercially  
48 licensed vehicle owner or driver, or other professionally licensed

1 person, should be aware of a substantial and unjustifiable risk that a  
2 material element of an act of human trafficking exists or will result  
3 from the person's conduct; this risk must be of such a nature and  
4 degree that the professionally licensed person's failure to perceive it  
5 involves a gross deviation from the standard of care that a  
6 reasonable person would observe if in that professionally licensed  
7 person's situation. See N.J.S.2C:2-2.

8 Negligently permitting an act of human trafficking would be  
9 established as a crime of the fourth degree. Such crime is ordinarily  
10 punishable by a term of imprisonment of up to 18 months, a fine of  
11 up to \$10,000, or both. See N.J.S.2C:43-3 and -6. However, while  
12 the section does not modify the ordinary term of imprisonment, it  
13 does alter the possible fine amount. Pursuant to the section's  
14 provisions, an offender, notwithstanding the ordinary fine amount,  
15 would be subject to a fine of up to \$25,000, to be deposited in the  
16 "Human Trafficking Survivor's Assistance Fund." Additionally,  
17 upon conviction, the court would revoke any license, permit,  
18 certificate, approval, registration, charter, or similar form of  
19 business or professional authorization required by law concerning  
20 the operation of that person's business or profession.

21 Finally, the section increases the minimum fine amount for any  
22 other form of criminal human trafficking already established in law  
23 by this section as a crime of the first degree (e.g., recruiting persons  
24 for trafficking, financing a trafficking operation). A crime of the  
25 first degree is ordinarily punishable by a fine of up to \$200,000, but  
26 the bill's provisions would establish that the fine be at least  
27 \$25,000, with the added directive that the monies be deposited in  
28 the "Human Trafficking Survivor's Assistance Fund."

29 Section 4: Civil action for human trafficking. This section would  
30 establish a new civil action for human trafficking, permitting any  
31 person injured as a result of human trafficking, including acts  
32 resulting in the loss of money or property, real or personal, to file  
33 an action in any court of competent jurisdiction. The action could  
34 be brought whether or not a criminal prosecution of human  
35 trafficking occurred.

36 In any such civil action, in addition to any other appropriate legal  
37 or equitable relief, an award of damages would include an amount  
38 reflecting the income or value of the injured party's labor or  
39 services to the defendant, similar to the victim's restitution required  
40 of a criminal defendant upon conviction of a human trafficking  
41 violation.

42 Section 5: Ownership and leasing of premises for human  
43 trafficking. This section would create two crimes concerning  
44 premises used for human trafficking, including a residential home,  
45 apartment, hotel, or motel: (1) a person who knowingly owns,  
46 controls, manages, or supervises any premises where human  
47 trafficking is regularly carried on; and (2) a person who knowingly  
48 leases or otherwise permits any premises controlled by the actor,

1 alone or in association with others, to be regularly used for human  
2 trafficking, or fails to make a reasonable effort to abate such use by  
3 ejecting the tenant or notifying law enforcement authorities. Both  
4 would be categorized as a crime of the first degree, ordinarily  
5 punishable by a term of imprisonment for 10 to 20 years, a fine of  
6 up to \$200,000, or both; however, the bill's provisions would  
7 establish that the fine be at a minimum \$25,000. All fines from a  
8 violation of this section would be deposited in the "Human  
9 Trafficking Survivor's Assistance Fund."

10 These crimes are based on similar crimes in the statutory scheme  
11 concerning prostitution found in N.J.S.2C:34-1, but would be  
12 focused on human trafficking, which, as described in section 1 of  
13 P.L.2005, c.77 (C.2C:13-8), does not just incorporate engaging in  
14 sexual activity but may include forced labor or services by victims.

15 Sections 6 and 7: Removal of tenants due to human trafficking.  
16 These sections amend sections 2 and 3 of P.L.1974, c.49 (C.2A:18-  
17 61.1 and -61.2) concerning the grounds and expedited timing for  
18 removal of tenants, to add a conviction for human trafficking within  
19 or upon a leased premises, building, or complex of buildings as a  
20 basis for removal.

21 The inclusion of a human trafficking conviction would add to the  
22 current law's list of various criminal offenses for which tenant  
23 removal is expressly permitted. These other offenses include: drug  
24 offenses; offenses under N.J.S.2C:12-1 (assault) or N.J.S.2C:12-3  
25 (terroristic threats) against the landlord, a member of the landlord's  
26 family, or an employee of the landlord; and offenses under  
27 N.J.S.2C:20-1 et al. involving theft of property from the landlord,  
28 the leased premises, or other tenants residing in the same premises,  
29 building, or complex.

30 Section 8: Prostitution. This section amends N.J.S.2C:34-1  
31 concerning prostitution.

32 The definition of "prostitution" would be expanded to recognize  
33 that the prohibited sexual activity may be performed in exchange  
34 for something of economic "or other value," intending that a direct  
35 economic benefit need not be derived in order to establish the crime  
36 of prostitution.

37 It would also upgrade the criminal penalty for two existing types  
38 of promoting prostitution. First, transporting a person into or  
39 within this State with the purpose to promote that person's engaging  
40 in prostitution, or procuring or paying for transportation with that  
41 purpose would be upgraded from a crime of the fourth degree to a  
42 crime of the third degree (imprisonment of three to five years; fine  
43 of up to \$15,000; or both). Second, knowingly leasing or otherwise  
44 permitting a place controlled by the actor, alone or in association  
45 with others, to be regularly used for prostitution or promotion of  
46 prostitution, or failure to make a reasonable effort to abate such use  
47 by ejecting the tenant, notifying law enforcement authorities, or  
48 through other legally available means would also be upgraded from



1 a crime of the fourth degree crime to a crime of the third degree  
2 (same sentencing parameters as above).

3 In addition, the amendments would expand the availability of an  
4 affirmative defense against a prosecution for engaging in prostitution,  
5 by allowing any person, regardless of age, to claim the defense of  
6 being a victim compelled to engage in sexual activity.

7 Section 9: Procedure to vacate a criminal conviction for  
8 prostitution due to being a human trafficking victim. This section  
9 would permit any person, convicted and serving a sentence as  
10 provided for by the Criminal Code (Title 2C) for engaging in  
11 prostitution, to move to have the sentence reviewed by a court and  
12 vacated, reduced, or altered, on the grounds that the defendant was a  
13 victim of human trafficking. A court would consider all relevant  
14 circumstances in making a determination, including whether the  
15 defendant's victimization constituted a significant contributing factor  
16 to the criminal behavior, regardless of whether the defendant raised  
17 this factor as a defense at trial.

18 Section 10: John School Diversion Program. This section would  
19 require a person who is convicted of engaging a prostitute ("johns")  
20 to participate in a newly established "John School Diversion  
21 Program." The section would impose a penalty of \$1,000 on each  
22 defendant, to be deposited in the "Human Trafficking Survivor's  
23 Assistance Fund." These monies (and others in the fund) would be  
24 dedicated to the development, establishment, operation, and  
25 maintenance of the program.

26 The program would be administered by the Administrative  
27 Office of the Courts. The program would educate those persons who  
28 have been convicted of engaging a prostitute about the risks  
29 involved in their unlawful activity. Defendants would be informed  
30 about the health risks connected with the crime, the legal  
31 ramifications of their unlawful activity, the terms of imprisonment  
32 for subsequent offenses, and the correlation between prostitution  
33 and human trafficking.

34 The program is modeled after similar "john school" programs  
35 which have been implemented in Buffalo, New York; Brooklyn,  
36 New York; Pittsburgh, Pennsylvania; and West Palm Beach,  
37 Florida.

38 Sections 11 and 12: Advertising commercial sexual abuse of a  
39 minor. This section would make it a crime of the first degree  
40 (imprisonment of 10 to 20 years; fine of at least \$25,000 but not  
41 more than \$200,000; or both) to commit an offense related to  
42 advertising commercial sexual abuse of a minor. A person would  
43 be guilty of this offense if the person: (1) knowingly publishes,  
44 disseminates, or displays, or causes directly or indirectly, to be  
45 published, disseminated, or displayed, any advertisement for a  
46 commercial sex act, which is to take place in this State and which  
47 includes the depiction of a minor; or (2) knowingly purchases  
48 advertising in this State for a commercial sex act which includes the

1 depiction of a minor. An “advertisement for a commercial sex act”  
2 is defined as any advertisement or offer in electronic or print media,  
3 including the Internet, which includes either an explicit or implicit  
4 offer for a commercial sex act to occur in this State. A  
5 “commercial sex act” is defined as any act of sexual contact, sexual  
6 penetration, or other prohibited act that can endanger a minor and  
7 for which something of value is given or received by any person.

8 The section specifies that it would not be a defense that the  
9 defendant did not know the actual age of the minor depicted in an  
10 advertisement; however, it would be a defense if the defendant  
11 made a reasonable, bona fide attempt to ascertain the actual age of  
12 the minor depicted in the advertisement by requiring, prior to  
13 publication, dissemination, or display of the advertisement, a  
14 production of a driver's license, marriage license, birth certificate,  
15 or other governmental or educational identification card or paper of  
16 the minor depicted in the advertisement. To invoke this defense,  
17 the defendant would be required to produce for inspection by law  
18 enforcement a record of the identification used to verify the age of  
19 the person depicted in the advertisement.

20 As with several of the other crimes created or modified by this  
21 bill, the fine imposed for advertising commercial sexual abuse of a  
22 minor (at least \$25,000) would be deposited in the “Human  
23 Trafficking Survivor’s Assistance Fund.”

24 The sponsor intends this section to address the problem of escort  
25 services whose advertisements include minors being sold for sex,  
26 which constitutes a form of sex trafficking and abuse.

27 This section is modeled after a recently enacted Washington state  
28 law, 2012 Wash. Laws c.138 (Wash. Rev. Code Ann. 9.68A.104),  
29 and Connecticut state law, 2012 Conn. Acts 12-141 (not yet  
30 allocated, effective October 1, 2012), that created criminal offenses  
31 related to advertising commercial sexual abuse of a minor.

32 Section 13: Endangering the welfare of children. This section  
33 would increase the criminal penalties for some offenses concerning  
34 endangering the welfare of children. It increases, from a crime of  
35 the fourth degree to a crime of the third degree (imprisonment of  
36 three to five years; fine of up to \$15,000; or both), knowingly  
37 possessing or knowingly viewing any photograph, film, videotape,  
38 computer program or file, video game, or any other reproduction or  
39 reconstruction which depicts a child engaging in a prohibited sexual  
40 act or in the simulation of such an act.

41 Sections 14 and 15: Protecting victims who testify in  
42 prosecutions. This section takes existing criminal procedures  
43 established to protect victims, particularly minors, participating in  
44 the prosecution of various crimes (usually those involving sexual  
45 victimization, such as sexual assault or endangering the welfare of  
46 children), and would expand these procedures to cover prosecutions  
47 for human trafficking.

1        Thus, whenever the crime of human trafficking involved sexual  
2 activity (as defined in paragraph (2) of subsection a. of  
3 N.J.S.2C:34-1), the section would permit, upon appropriate  
4 application, closed circuit testimony by a minor victim taken  
5 outside the presence of spectators, the criminal defendant, the jury,  
6 or all such parties. Additionally, for any victim regardless of age,  
7 the section, expanding the State's rape shield law, would prevent  
8 admissibility in evidence of previous sexual conduct or manner of  
9 dress, unless the value of such evidence is first determined by a  
10 court to be "relevant and highly material" and the value of its  
11 submission substantially outweighed the probability it would create  
12 an unwarranted invasion of privacy of the victim, undue prejudice,  
13 or other concern related to the administration of justice in  
14 prosecuting the case.

15        Section 16: Human trafficking hotline. This section would  
16 require the Attorney General, in consultation with the Commission  
17 on Human Trafficking (see section 1 of the bill), to establish and  
18 maintain the participation of the State with either an existing,  
19 national 24-hour toll-free telephone hotline service on human  
20 trafficking, or any federally required hotline telephone service  
21 created under federal law. Unless otherwise established by a  
22 federally required hotline telephone service under federal law, the  
23 hotline telephone service selected by the Attorney General, in  
24 consultation with the commission, would be required to receive  
25 information from members of the public who have knowledge of or  
26 who believe that an act of human trafficking is being or has been  
27 committed. The hotline would also be required to receive and  
28 respond to requests for information from members of the public  
29 concerning human trafficking. In addition, the section would  
30 require the Attorney General, pursuant to any funds appropriated or  
31 otherwise made available, to establish an educational and public  
32 information program concerning the crime of human trafficking.

33        Section 17: Training programs on human trafficking for  
34 governmental and non-governmental personnel. This section would  
35 require the Division of Criminal Justice, the Department of  
36 Community Affairs, the Department of Human Services, and the  
37 Administrative Office of the Courts to develop and approve training  
38 courses and curricula on the handling, response, investigation, and  
39 prosecution of human trafficking for various governmental and non-  
40 governmental personnel, including law enforcement officers, judges  
41 and judicial personnel, hotel and motel owners, operators and staff,  
42 and licensed health care facility employees. The courses and  
43 curricula would include information concerning the impact of  
44 human trafficking on society, the statutory and case law concerning  
45 human trafficking, policies and procedures of the State, and the use  
46 of available community resources, support services, sanctions, and  
47 treatment options for victims of human trafficking.

1 The Attorney General would be responsible for the training of  
2 law enforcement officers. The training for judges and judicial  
3 personnel would be the responsibility of the Administrative Office  
4 of the Courts. The training for hotel and motel owners, operators,  
5 and staff would be the responsibility of the Department of  
6 Community Affairs. The training for employees of licensed health  
7 care facilities, including those professionals whose professional  
8 practice is regulated pursuant to Title 45 of the Revised Statutes,  
9 would be the responsibility of the Department of Human Services.

10 Section 18: Expanding police training curricula to include  
11 human trafficking victims' assistance. This section would provide  
12 that the curricula for police training courses shall also include  
13 specific training on responding to the needs of victims of the crime  
14 of human trafficking.

15 Section 19: Massage and bodywork therapist background checks.  
16 This section would require applicants, and those persons already  
17 licensed as massage and bodywork therapists or registered as  
18 employers offering massage and bodywork therapies under the  
19 provisions of the "Massage and Bodywork Therapist Licensing  
20 Act," P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337  
21 (C.45:11-68 et seq.), to submit to a State and federal criminal  
22 history background check, to determine whether those persons are  
23 fit to be so licensed or registered. The section provides that if the  
24 New Jersey Board of Massage and Bodywork Therapy found an  
25 applicant for licensure as a massage and bodywork therapist or an  
26 individual already so licensed, or an applicant for registration or an  
27 individual already so registered as an employer offering massage  
28 and bodywork therapies, to have been convicted of, or engaged in  
29 acts constituting any crime or offense involving moral turpitude or  
30 relating adversely to the activities regulated by the board, that  
31 applicant would not be eligible for such licensure or registration,  
32 and an individual who already holds a license or registration would  
33 have that license or registration revoked.

34 If an applicant, licensee, or registered individual refused to  
35 consent to, or cooperate in, the securing of a criminal history record  
36 background check, the board would not issue a license or  
37 registration, as the case may be, or other authorization to the  
38 applicant, licensee, or registered individual.

39 All costs associated with performing a criminal history record  
40 background check would be borne by the applicant for licensure or  
41 registration or the holder of any license or registration.

42 Section 20: Effective date. Sections 1 and 2 of the bill,  
43 establishing the Commission on Human Trafficking and the  
44 "Human Trafficking Survivor's Assistance Fund," would take effect  
45 immediately, and the remaining sections would take effect on the  
46 first day of the second month next following the date of enactment,  
47 but the Attorney General, Commissioner of Community Affairs,  
48 Commissioner of Human Services, Director of the Administrative

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1 Office of the Courts, and New Jersey Board of Massage and  
2 Bodywork Therapy could take any anticipatory administrative  
3 action in advance thereof as shall be necessary for the bill's  
4 implementation.

# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### **SENATE, No. 2239**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 13, 2012

The Senate Judiciary Committee reports favorably and with committee amendments Senate Bill No. 2239.

This bill, as amended, titled the “Human Trafficking Prevention, Protection, and Treatment Act,” revises and expands the State’s human trafficking law by creating a new human trafficking commission, criminalizing additional activities related to human trafficking as well as upgrading certain penalties on existing human trafficking or related crimes, increasing protections afforded to victims of human trafficking, and providing for increased training and public awareness on human trafficking.

*Section 1: The commission.* This section would establish a 15-member Commission on Human Trafficking, to be located in the Division of Criminal Justice in the Department of Law and Public Safety. The commission would be directed to evaluate the existing law concerning human trafficking and the enforcement thereof, and to make recommendations for legislation, if appropriate. The commission would also be charged with the responsibility of reviewing existing victim assistance programs, and promoting a coordinated response by public and private resources for victims of human trafficking.

The commission would consist of: the Attorney General, or his designee; the Commissioner of Children and Families, or his designee; the Commissioner of Human Services, or his designee; a county prosecutor, appointed by the Governor based upon the recommendation of the County Prosecutors Association of the State of New Jersey; one member of the existing New Jersey Human Trafficking Task Force in the Department of Law and Public Safety, designated by the Attorney General; two public members appointed by the Governor based upon the recommendation of the Senate President, one representing law enforcement and one representing a victim’s assistance organization; one public member appointed by the Governor based upon the recommendation of the Senate Minority Leader representing either a non-profit health care facility or mental health services; two public members appointed by the Governor based upon the recommendation of the Speaker of the General Assembly, one

representing law enforcement and one representing a victim's assistance organization; one public member appointed by the Governor based upon the recommendation of the Assembly Minority Leader representing either a non-profit health care facility or mental health services; and four public members appointed by the Governor, one of whom shall be a representative of the National Center for Missing and Exploited Children. All public members would also be required to possess a background in, or have specialized knowledge of, the legal, policy, educational, social, or psychological aspects of human trafficking.

The commission would be required to annually report to the Governor and the Legislature as to its activities, as well as its findings and recommendations for any needed new laws, services, or resources for victims of human trafficking.

Section 2: The "Human Trafficking Survivor's Assistance Fund."

This section would establish a separate, non-lapsing, dedicated fund in the General Fund known as the "Human Trafficking Survivor's Assistance Fund." The Attorney General would administer the fund, using the monies for: the provision of services to victims of human trafficking; to promote awareness of human trafficking; and the development, maintenance, revision, and distribution of materials related to (1) the "John School Rehabilitative Program," an instructional program for convicted patrons of prostitutes ("johns") on individual and societal dangers related to prostitution and human trafficking schemes, established by section 11 of the bill, and (2) the training courses on human trafficking mandated for various professions as detailed in section 19 of the bill. All expenditures from the fund would be made by the Attorney General, in consultation with the Commission on Human Trafficking, and the Attorney General could not make or withhold expenditures based upon the recipient's cooperation in law enforcement investigations or prosecutions, or lack thereof.

Section 3: Human trafficking – expanding criminal liability. The existing definition of human trafficking would be expanded by this section. It would incorporate actions involving abduction, fraud, deceit or other deception, and abuses of power, as recognized means of accomplishing human trafficking.

This section would also establish criminal liability for licensed owners or drivers of commercial passenger vehicles with respect to their reckless participation in transporting human trafficking victims, and make any other professionally licensed person criminally liable for recklessly permitting an act of human trafficking on, within, or using that person's property or services. A "professionally licensed person" is defined under the section as any person required by law to obtain, from a governmental department, agency, board, or commission of the State or any political subdivision of the State, a license, permit, certificate, approval, registration, charter, or similar form of business

or professional authorization in order to operate a business or as a professional in this State.

Criminal recklessness in this context means that the commercially licensed vehicle owner or driver, or other professionally licensed person, consciously disregards a substantial and unjustifiable risk that a material element of an act of human trafficking exists or will result from the person's conduct; this risk must be of such a nature and degree that, considering the nature and purpose of the conduct and circumstances known to the professionally licensed person, its disregard involves a gross deviation from the standard of conduct that a reasonable person would observe if in that professionally licensed person's situation. See N.J.S.2C:2-2.

Recklessly permitting an act of human trafficking would be established as a crime of the fourth degree. Such crime is ordinarily punishable by a term of imprisonment of up to 18 months, a fine of up to \$10,000, or both. See N.J.S.2C:43-3 and -6. However, while the section does not modify the ordinary term of imprisonment, it does alter the possible fine amount. Pursuant to the section's provisions, an offender, notwithstanding the ordinary fine amount, would be subject to a fine of up to \$25,000, to be deposited in the "Human Trafficking Survivor's Assistance Fund" (section 2, above). Additionally, upon conviction, the court would revoke any license, permit, certificate, approval, registration, charter, or similar form of business or professional authorization required by law concerning the operation of that person's business or profession.

Finally, the section increases the minimum fine amount for any other form of criminal human trafficking already established in law as a crime of the first degree under section 1 of P.L.2005, c.77 (C.2C:13-8) (e.g., recruiting persons for trafficking, financing a trafficking operation). A crime of the first degree is ordinarily punishable by a fine of up to \$200,000 with no defined minimum, but the bill's provisions would establish that the fine be in an amount of not less than \$25,000, with the added directive that the monies be deposited in the "Human Trafficking Survivor's Assistance Fund."

Section 4: Civil action for human trafficking. This section would establish a new civil action for human trafficking, permitting any person injured as a result of human trafficking, including acts resulting in the loss of money or property, real or personal, to file an action in any court of competent jurisdiction. The action could be brought whether or not a criminal prosecution of human trafficking occurred.

In any such civil action, in addition to any other appropriate legal or equitable relief, including damages for pain and suffering, recovery of reasonable costs for necessary medical, dental, and psychological services and punitive damages, an award of damages would include an amount reflecting the income or value of the injured party's labor or services to the defendant, similar to the victim's restitution required of a criminal defendant upon conviction of a human trafficking violation. The injured person could also recover reasonable attorney's fees and



costs.

Section 5: Ownership and leasing of premises for human trafficking. This section would create two crimes concerning premises used for human trafficking, including a residential home, apartment, hotel, or motel: (1) a person who knowingly owns, controls, manages, or supervises any premises where human trafficking is regularly carried on; and (2) a person who knowingly leases or otherwise permits any premises controlled by the actor, alone or in association with others, to be regularly used for human trafficking, or fails to make a reasonable effort to abate such use by ejecting the tenant or notifying law enforcement authorities. Both would be categorized as a crime of the first degree, ordinarily punishable by a term of imprisonment for 10 to 20 years, a fine of up to \$200,000, or both; however, the bill's provisions would establish that the fine be at a minimum \$25,000. All fines from a violation of this section would be deposited in the "Human Trafficking Survivor's Assistance Fund."

These crimes are based on similar crimes in the statutory scheme concerning prostitution found in N.J.S.2C:34-1, but would be focused on human trafficking, which, as described in section 1 of P.L.2005, c.77 (C.2C:13-8), does not just incorporate engaging in sexual activity but may include forced labor or services by victims.

Section 6: Assisting human trafficking or procuring the services of trafficking victims. This section would establish a crime for either: (1) knowingly providing services, resources, or assistance intended for use in furthering criminal human trafficking; or (2) procuring or attempting to procure a person to engage in sexual activity, or to provide labor or services, whether for himself or another person, knowing or understanding there is a substantial likelihood that the person was a human trafficking victim. These actions would be categorized as a crime of the second degree, ordinarily punishable by a term of imprisonment for five to 10 years, a fine of up to \$150,000, or both; the bill's provisions would additionally establish that imprisonment include a period of parole ineligibility of one-third to one-half of the term imposed, or three years, whichever is greater, and that the fine be at a minimum \$15,000. All fines from a violation of this section would be deposited in the "Human Trafficking Survivor's Assistance Fund."

Sections 7 and 8: Removal of tenants due to human trafficking. These sections amend sections 2 and 3 of P.L.1974, c.49 (C.2A:18-61.1 and -61.2) concerning the grounds and expedited timing for removal of tenants, to add a finding of civil liability or a criminal conviction for human trafficking committed within or upon a leased premises, building, or complex of buildings as a basis for removal.

The inclusion of a human trafficking violation would add to the current law's list of various criminal or civil offenses for which tenant removal is expressly permitted. Other criminal offenses listed include: drug offenses; offenses under N.J.S.2C:12-1 (assault) or N.J.S.2C:12-3 (terroristic threats) against the landlord, a member of the landlord's

family, or an employee of the landlord; and offenses under N.J.S.2C:20-1 et al. involving theft of property from the landlord, the leased premises, or other tenants residing in the same premises, building, or complex.

Section 9: Prostitution. This section amends N.J.S.2C:34-1 concerning prostitution.

The crime of prostitution would be altered to differentiate between “johns,” the patrons who engage in prostitution, and the person performing prostitution by personally offering sexual activity in exchange for something of economic value. Engaging in prostitution as a patron would constitute a disorderly persons offense (imprisonment up to six months; fine of up to \$1,000; or both), except that a second or third conviction would constitute a crime of the fourth degree (imprisonment of up to 18 months; a fine of up to \$10,000; or both), and a fourth or subsequent conviction would constitute a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both). As to the person performing prostitution by offering sexual activity, this action would also be a disorderly persons offense, except that a second or subsequent conviction would constitute a crime of the fourth degree.

Several existing categories of prostitution activity involving minors would also be upgraded. *Promoting prostitution* that involved a person under 18 years of age would be upgraded from a crime of the second degree to a crime of the first degree (imprisonment of 10 to 20 years; fine of up to \$200,000; or both). Actions concerning *engaging in prostitution* with a person under 18 years of age would be upgraded from a crime of the third degree to a crime of the second degree (imprisonment of five to 10 years; fine of up to \$150,000; or both).

It would additionally upgrade two other existing types of promoting prostitution. First, transporting a person into or within this State with the purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose would be upgraded from a crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both). Second, knowingly leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or promotion of prostitution, or failure to make a reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or through other legally available means would also be upgraded from a crime of the fourth degree to a crime of the third degree (same sentencing parameters as above).

In addition to any fine, fee, assessment, or penalty authorized under the Criminal Code for prostitution and related offenses, other than for an offense involving patrons engaging in prostitution or persons who personally offer sexual activity, the section would provide for the assessment of an additional penalty of at least \$10,000

but not more than \$50,000, except if the offense involved promotion of the prostitution of a person under 18 years of age, this additional penalty would be at least \$25,000. The additional penalty would be deposited in the “Human Trafficking Survivor’s Assistance Fund.”

Lastly, the section would expand the availability of an affirmative defense against a prosecution for engaging in prostitution, by allowing any person, regardless of age, to claim the defense of being a victim compelled to engage in sexual activity.

Section 10: Procedure to vacate and expunge a criminal conviction for prostitution and related offenses due to being a human trafficking victim. This section would permit any person convicted of prostitution and related offenses, loitering for the purpose of engaging in prostitution, or a similar local ordinance to file an application with the Superior Court, in accordance with the Rules of Court, to have the conviction vacated on grounds that the defendant was, at the time of the offense, a victim of human trafficking pursuant to either the State human trafficking law or as defined by the federal law in paragraph (14) of 22 U.S.C. s.7102. The same application may also seek an order for the expungement of any reference to the defendant’s arrest, conviction, and proceedings in any records in the custody of any involved court, or law enforcement or correctional agency.

Section 11: John School Rehabilitative Program. This section would require a person who is convicted of a disorderly persons offense for engaging in prostitution as a patron (the “john”) to participate in a newly established “John School Rehabilitative Program.” The program would be an instructional program on individual and societal dangers related to prostitution and human trafficking schemes, offered in one or more locations throughout the State by a county or local governmental entity, or a nonprofit or other private provider. The instructional program and each provider thereof would be approved by the Attorney General, in consultation with the Commission on Human Trafficking (see section 1 of the bill). The program would include information intended to increase the participant’s awareness of the causes of prostitution and its relationship to human trafficking, the health risks connected with prostitution, the consequences of convictions for prostitution or human trafficking, and the effects of trafficking on its victims.

The section would also impose a penalty of \$500 on each person convicted of engaging in prostitution as a patron, to be deposited in the “Human Trafficking Survivor’s Assistance Fund.” This penalty would be in addition to any other fine, fee, assessment, or penalty authorized under the Criminal Code.

The program is modeled after similar “john school” programs which have been implemented in Buffalo, New York; Brooklyn, New York; Pittsburgh, Pennsylvania; and West Palm Beach, Florida.

Section 12: Advertising commercial sexual abuse of a minor. This section would make it a crime of the first degree (imprisonment of 10

to 20 years; fine of at least \$25,000 but not more than \$200,000; or both) to commit an offense related to advertising commercial sexual abuse of a minor. A person would be guilty of this offense if the person: (1) knowingly publishes, disseminates, or displays, or causes directly or indirectly, to be published, disseminated, or displayed, any advertisement for a commercial sex act, which is to take place in this State and which includes the depiction of a minor; or (2) knowingly purchases advertising in this State for a commercial sex act which includes the depiction of a minor. An “advertisement for a commercial sex act” is defined as any advertisement or offer in electronic or print media, including the Internet, which includes either an explicit or implicit offer for a commercial sex act to occur in this State. A “commercial sex act” is defined as any act of sexual contact, sexual penetration, or other prohibited act that can endanger a minor and for which something of value is given or received by any person.

The section specifies that it would not be a defense that the defendant: (1) did not know the actual age of the minor depicted in an advertisement; or (2) claims to know the age of the person depicted, unless there is appropriate proof of age obtained and produced. Accordingly, it would be a defense if the defendant made a reasonable, bona fide attempt to ascertain the actual age of the minor depicted in the advertisement by requiring, prior to publication, dissemination, or display of the advertisement, a production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper of the minor depicted in the advertisement. To invoke this defense, the defendant would be required to produce for inspection by law enforcement a record of the identification used to verify the age of the person depicted in the advertisement.

As with several of the other crimes created or modified by this bill, the fine imposed for advertising commercial sexual abuse of a minor (at least \$25,000) would be deposited in the “Human Trafficking Survivor’s Assistance Fund.”

This section is modeled after a recently enacted Washington state law, 2012 Wash. Laws c.138 (Wash. Rev. Code Ann. 9.68A.104), and Connecticut state law, 2012 Conn. Acts 12-141 (not yet allocated, effective October 1, 2012), that created criminal offenses related to advertising commercial sexual abuse of a minor.

Section 13: Endangering the welfare of children. This section raises the age for children subject to protection under the endangering the welfare of children statute, from 16 to 18 years of age, so that the age is consistent with the age of 18 defining a child in the prostitution and related offenses statute, N.J.S.2C:34-1. It would also increase the criminal penalties for some offenses concerning endangering the welfare of children. It increases, from a crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both), knowingly possessing or knowingly viewing

any photograph, film, videotape, computer program or file, video game, or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act.

Section 14: Use of wiretapping activities for human trafficking and prostitution investigations. This section would permit law enforcement investigators to utilize wiretapping and other forms of communications eavesdropping with respect to criminal investigations involving human trafficking violations, or involving more serious prostitution and related offenses punishable by imprisonment for more than one year.

Section 15: Making human trafficking a bail restricted crime. Human trafficking would be added to the statutory list of crimes for which various bail restrictions are enforced. Among the restrictions, a person charged with human trafficking could only post the required amount of bail in the form of full cash, surety bond, or bail bond secured by real property situated in this State with unencumbered equity equal to the bail amount plus \$20,000, with a presumption in favor of posting in the form of full cash and not the other options.

Sections 16 and 17: Protecting victims who testify in prosecutions. These sections take existing criminal procedures established to protect victims, particularly minors, participating in the prosecution of various crimes (usually those involving sexual victimization, such as sexual assault or endangering the welfare of children), and would expand such procedures to cover prosecutions for human trafficking.

Thus, whenever the crime of human trafficking involved sexual activity (as defined in paragraph (2) of subsection a. of N.J.S.2C:34-1), the new provisions would permit, upon appropriate application, closed circuit testimony by a minor victim taken outside the presence of spectators, the criminal defendant, the jury, or all such parties. Additionally, for any victim regardless of age, the provisions would expand the State's rape shield law to prevent admissibility in evidence of previous sexual conduct or manner of dress, unless the value of such evidence is first determined by a court to be "relevant and highly material" and the value of its submission substantially outweighed the probability it would create an unwarranted invasion of privacy of the victim, undue prejudice, or other concern related to the administration of justice in prosecuting the case.

Section 18: Human trafficking hotline. This section would require the Attorney General, in consultation with the Commission on Human Trafficking (see section 1 of the bill), to establish and maintain the participation of the State in the national, 24-hour toll-free telephone hotline service on human trafficking that is operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized under federal law. The Attorney General, in consultation with the commission, would also ensure that any State hotline telephone number be directly linked to the national

hotline service, so that any telephone call to the State number would be immediately and directly forwarded to that national service.

In addition, the section would require the Attorney General in consultation with the commission, and pursuant to any funds appropriated or otherwise made available, to establish an educational and public information program concerning the crime of human trafficking.

Section 19: Training programs on human trafficking for governmental and non-governmental personnel. This section would require the Police Training Commission, the Department of Community Affairs, the Department of Health, and the Administrative Office of the Courts to develop and approve training courses on the handling, response, investigation, and prosecution of human trafficking for various governmental and non-governmental personnel, including law enforcement officers, judges and judicial personnel, hotel and motel owners, operators and staff, and licensed health care facility employees. These courses would be reviewed at least every two years and modified from time to time as need may require.

The Police Training Commission would be responsible for the training of law enforcement officers as part of the police training courses required pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.). The training for appropriate judges and judicial personnel would be the responsibility of the Administrative Office of the Courts, and accomplished through annual in-service judicial training programs or other means. The training for hotel and motel owners, operators, and staff would be the responsibility of the Department of Community Affairs, or alternatively an approved Statewide nonprofit trade association with demonstrated experience in providing course offerings, and the department would determine, in consultation with the Commission on Human Trafficking (section 1 of the bill), appropriate staff to undergo the required one-time training. The training for employees of licensed health care facilities, including those professionals whose professional practice is regulated pursuant to Title 45 of the Revised Statutes, would be the responsibility of the Department of Health, or alternatively an approved Statewide nonprofit trade association with demonstrated experience in providing course offerings, and this department would determine, in consultation with the commission, appropriate employees to undergo the required one-time training.

For hotel, motel, and health care facility personnel, verifiable completion of the training course would be handled by the appropriate executive branch department with oversight authority for the particular facility, tied to that department's ability to prevent issuance, maintenance, or renewal of any necessary license, permit, or other operating requirement for failures by personnel in meeting the training requirements.

All hotel, motel, and health care facility personnel currently engaged in their profession as of the effective date of the training requirement would be required to complete the one-time training within one year of the effective date; all new person engaging in their profession for the first time after the effective date would be required to complete the one-time training within six months of the first date of engaging in such profession.

Section 20: Expanding police training curricula to include human trafficking victims' assistance. This section would provide that the curricula for police training courses must also include specific training on responding to the needs of victims of the crime of human trafficking.

Section 21: Massage and bodywork therapist background checks. This section would require applicants, and those persons already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies under the provisions of the "Massage and Bodywork Therapist Licensing Act," P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et seq.), to be subject to a criminal history record background check, consistent with the provisions of current statutory law on the issue, section 8 of P.L.1978, c.73 (C.45:1-21), and supporting regulations promulgated by the New Jersey Board of Massage and Bodywork Therapy. The background check could result in a refusal to issue a license or certificate, or suspension or revocation of an existing license or certificate.

Section 22: Effective date. Sections 1 and 2 of the bill, establishing the Commission on Human Trafficking and the "Human Trafficking Survivor's Assistance Fund," would take effect immediately, and the remaining sections would take effect on the first day of the second month next following the date of enactment, but the Attorney General, Commissioner of Community Affairs, Commissioner of Health, Director of the Administrative Office of the Courts, and New Jersey Board of Massage and Bodywork Therapy could take any anticipatory administrative action in advance thereof as shall be necessary for the bill's implementation.

The committee amendments to the bill:

- add a county prosecutor as a named member of the Commission on Human Trafficking;
- narrow the duties of the Commission on Human Trafficking so that it only serves as a consulting and advisory body;
- provide for the administration of the "Human Trafficking Survivor's Assistance Fund" by the Attorney General, with all expenditures from the fund handled by the Attorney General in consultation with the commission;
- state that the Attorney General could not make or withhold expenditures from the fund based upon the recipient's cooperation in law enforcement investigations or prosecutions, or lack thereof;

- replace references to criminal *negligence* with criminal *recklessness* as the culpability standard for several new human trafficking crimes established by the bill;
- establish that the newly expanded definitions for human trafficking crimes would only apply to criminal acts occurring after the bill's provisions took effect, and the definitions in place prior to the bill's enactment would continue to be applied for any prosecution of human trafficking that occurred prior to enactment, without regard, reference, or comparison to the newer definitions;
- provide for the recovery of costs for medical, dental, and psychological services, punitive damages, and attorney's fees for the victim in civil actions for human trafficking violations;
- create a new crime of knowingly assisting human trafficking or knowingly procuring the services of a trafficking victim;
- permit a finding of either civil liability or a criminal conviction for human trafficking committed within or upon leased premises as grounds for the removal of tenants;
- upgrade several categories of prostitution and related offenses (such as promoting prostitution) to establish harsher penalties, and alter the scope of prostitution to differentiate between patrons engaging in prostitution ("johns") and persons performing prostitution by personally offering sexual activity in exchange for something of economic value;
- establish an additional penalty for prostitution and related offenses, other than for patrons engaging in prostitution or persons who personally offer sexual activity, which is generally at least \$10,000 but not more than \$50,000, to be deposited in the "Human Trafficking Survivor's Assistance Fund";
- eliminate the original process for vacating sentences, and replace it with a process allowing any person convicted of prostitution and related offenses, loitering for the purpose of engaging in prostitution, or a similar local ordinance to file an application with the Superior Court to vacate a conviction, which may also include a request to expunge related records;
- rename the "John School Diversion Program" the "John School Rehabilitative Program," and specify that only persons convicted of a disorderly persons offense for engaging in prostitution (the "johns") would be ordered to attend the program;
- remove administration of the "john school" program from the Administrative Office of the Courts, and instead provide for an instructional program offered by an approved county or local governmental entity, or a nonprofit or other private provider;
- establish that it would be no defense to the new crime of advertising commercial sexual abuse of a minor that the defendant claims to know the age of the person depicted in an advertisement, unless there is appropriate proof of age obtained and produced;
- eliminate provisions that would have added the new crime of advertising commercial sexual abuse of a minor to the list of crimes



requiring registration and monitoring as a Megan's Law violation pursuant to section 2 of P.L.1994, c.133 (C.2C:7-2), as the focus of Megan's Law, dealing with local oversight of individual perpetrators, diverges greatly from many elements of the new crime targeting commercial entities;

- raise the age for children subject to protection under the endangering the welfare of children statute from 16 to 18 years of age, so that the age is consistent with the age of 18 defining a child in the prostitution and related offenses statute;

- permit law enforcement investigators to utilize wiretapping and other forms of eavesdropping with respect to criminal investigations involving human trafficking violations, or involving more serious prostitution and related offenses punishable by imprisonment for more than one year;

- make human trafficking a bail restricted crime;

- clarify that the Attorney General, in consultation with the commission, would maintain the State's participation in the national hotline telephone service on human trafficking that is operated pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized under federal law;

- require that any State hotline telephone number be directly linked to the national hotline telephone service;

- alter the creation and administration of training courses for governmental and non-governmental personnel, to give the Commission on Human Trafficking a greater consulting role, and require police training to be handled by the existing Police Training Commission, while appropriate judges and judicial personnel would receive training through annual in-service judicial training programs or other means, and appropriate hotel, motel, and health care facility personnel would be subject to a one-time required course, which could be provided by an approved Statewide nonprofit course provider;

- provide that for hotel, motel, and health care facility personnel, verifiable completion of the training course would be handled by the appropriate executive branch department with oversight authority for the particular facility, tied to that department's ability to prevent issuance, maintenance, or renewal of any necessary license, permit, or other operating requirement; and

- recognize and codify the existing statutory and regulatory criminal history record background checks for massage and bodywork therapists, instead of establishing a detailed, separate process as set forth in the underlying bill.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

### **SENATE, No. 2239**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 4, 2013

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2239 (1R), with committee amendments.

As amended, this bill, the “Human Trafficking Prevention, Protection, and Treatment Act,” revises and expands the State’s human trafficking law by creating a new human trafficking commission, criminalizing additional activities related to human trafficking as well as upgrading certain penalties on existing human trafficking or related crimes, increasing protections afforded to victims of human trafficking, and providing for increased training and public awareness on human trafficking.

*Section 1: The commission.* This section establishes a 15-member Commission on Human Trafficking, to be located in the Division of Criminal Justice in the Department of Law and Public Safety. The bill directs the commission to evaluate the existing law concerning human trafficking and the enforcement thereof, and to make recommendations for legislation, if appropriate. The commission is also charged with the responsibility of reviewing existing victim assistance programs, and promoting a coordinated response by public and private resources for victims of human trafficking.

The commission would consist of: the Attorney General, or the Attorney General’s designee; the Commissioner of Children and Families, or the commissioner’s designee; the Commissioner of Human Services, or the commissioner’s designee; a county prosecutor, appointed by the Governor based upon the recommendation of the County Prosecutors Association of the State of New Jersey; one member of the existing New Jersey Human Trafficking Task Force in the Department of Law and Public Safety, designated by the Attorney General; two public members appointed by the Governor based upon the recommendation of the Senate President, one representing law enforcement and one representing a victim’s assistance organization; one public member appointed by the Governor based upon the recommendation of the Senate Minority Leader representing either a non-profit health care facility or mental health services; two public

members appointed by the Governor based upon the recommendation of the Speaker of the General Assembly, one representing law enforcement and one representing a victim's assistance organization; one public member appointed by the Governor based upon the recommendation of the Assembly Minority Leader representing either a non-profit health care facility or mental health services; and four public members appointed by the Governor, one of whom shall be a representative of a child advocacy organization concerning missing, abducted, or exploited children, and one of whom shall be a human trafficking survivor. All public members are required to have experience with, possess a background in, or demonstrate a specialized knowledge of, the legal, policy, educational, social, or psychological aspects of human trafficking.

The bill requires the commission to annually report to the Governor and the Legislature as to its activities, as well as its findings and recommendations for any needed new laws, services, or resources for victims of human trafficking.

Section 2: The "Human Trafficking Survivor's Assistance Fund."

This section establishes a separate, non-lapsing, dedicated fund in the General Fund known as the "Human Trafficking Survivor's Assistance Fund." The Attorney General would administer the fund, using the monies for: the provision of services to victims of human trafficking; to promote awareness of human trafficking; the preparation and distribution of materials for the "John School Rehabilitative Program" (detailed in section 11), and the operation of this program; and the preparation and distribution of materials related to training courses on human trafficking mandated for various professions (detailed in section 19 of the bill), and the operation of these training courses.

All expenditures from the fund would be made by the Attorney General in consultation with the Commission on Human Trafficking. With respect to the receipt of expenditures by any provider of services to human trafficking victims, such receipt could not be based or otherwise conditioned upon the cooperation of that provider regarding any law enforcement investigation or prosecution, or lack thereof.

Section 3: Human trafficking – expanding criminal liability. This section clarifies aspects of the existing definition of human trafficking and expands the definition for criminal activity as it relates to younger victims.

The existing crime of committing human trafficking by "threats of serious bodily harm or physical restraint" is altered to be more consistent with other criminal provisions set forth throughout the Criminal Code (Title 2C of the New Jersey Statutes), so that it would read "causing or threatening to cause serious bodily harm or physical restraint."

Further, the section adds two more descriptive prongs concerning human trafficking actions, which would clarify and highlight common actions that could otherwise be prosecuted under the existing statutory prongs, but warrant separate enumeration due to their common nature:

human trafficking by means of fraud, deceit, or misrepresentation; and human trafficking by facilitating access to a controlled dangerous substance or controlled substance analog.

The section also addresses the human trafficking of younger victims to engage in sexual activity by making a person liable for a crime of the first degree for knowingly holding, recruiting, luring, enticing, harboring, transporting, providing, or obtaining, by any means, a child under 18 years of age to engage in such activity. A person would be criminally liable whether or not that person mistakenly believed that the child was 18 years of age or older, even if that mistaken belief was reasonable. Making this action a crime of the first degree matches the degree of crime already applied to the other forms of human trafficking established in law under section 1 of P.L.2005, c.77 (C.2C:13-8) (for example, recruiting persons for trafficking, or financing a trafficking operation).

A crime of the first degree is ordinarily punishable by a term of imprisonment of 10 to 20 years, a fine of up to \$200,000 with no defined minimum, or both. However, human trafficking of younger victims carry a mandatory minimum term of imprisonment of either 20 years during which a person is not eligible for parole, or a specific term between 20 years and life, of which the person shall serve 20 years before being parole eligible. Additionally, the section establishes a minimum fine amount for this or any other defined human trafficking crime, so that any ordered fine be not less than \$25,000, with the added directive that the monies be deposited in the “Human Trafficking Survivor’s Assistance Fund.”

Section 4: Civil action for human trafficking. This section establishes a new civil action for human trafficking, permitting any person injured as a result of human trafficking, including acts resulting in the loss of money or property, real or personal, to file an action in any court of competent jurisdiction against the actor and all those acting in concert with that actor who committed the human trafficking offense. The action could be brought whether or not a criminal prosecution of human trafficking occurred.

In any such civil action, in addition to any other appropriate legal or equitable relief, including damages for pain and suffering, recovery of reasonable costs for necessary medical, dental, and psychological services and punitive damages, an award of damages would include an amount reflecting the income or value of the injured party’s labor or services to the defendant, similar to the victim’s restitution required of a criminal defendant upon conviction of a human trafficking violation. The injured person could also recover reasonable attorney’s fees and costs.

Section 5: Assisting human trafficking or procuring the services of trafficking victims (renumbered; previously designated as section 6). The committee amendments omit section 5, ownership or leasing of premises for human trafficking, as the target offenses are covered

under the broader, new crimes that were originally described in section 6 of the underlying bill. These new crimes address: (1) knowingly providing services, resources, or assistance intended for use in furthering criminal human trafficking; and (2) procuring or attempting to procure a person to engage in sexual activity, or to provide labor or services, whether for the procurer or another, knowing or understanding there is a substantial likelihood that the person was a human trafficking victim.

Both actions are categorized as a crime of the second degree, ordinarily punishable by a term of imprisonment for five to 10 years, a fine of up to \$150,000, or both; the section's provisions additionally establish that imprisonment include a period of parole ineligibility of one-third to one-half of the term imposed, or three years, whichever is greater, and that the fine be at a minimum \$15,000. All fines from a violation of this section would be deposited in the "Human Trafficking Survivor's Assistance Fund." As further punishment, the court would also direct the appropriate governmental agency to revoke any form of business or professional authorization, such as a license, permit or registration, if the convicted person's business or profession was used in the course of the crime.

Section 6: Conspiracy to commit human trafficking. This section, newly added by the amendments, would make a conspiracy to commit a crime of human trafficking as set forth in section 1 of P.L.2005, c.77 (C.2C:13-8) a crime of the first degree (imprisonment of 10-20 years; up to \$200,000 fine; or both). Without this addition to the bill, conspiracy to commit human trafficking would remain a crime of the second degree (imprisonment of five to 10 years; up to \$150,000 fine; or both), because human trafficking is a crime of the first degree; ordinarily, under the grading of criminal conspiracy set forth in N.J.S.2C:5-4, conspiracy to commit a crime of the first degree is considered to be a crime of the second degree.

Sections 7 and 8: Removal of tenants due to human trafficking. These sections amend sections 2 and 3 of P.L.1974, c.49 (C.2A:18-61.1 and -61.2) concerning the grounds and expedited timing for removal of tenants, to add a finding of civil liability or a criminal conviction for human trafficking committed within or upon a leased premises, building, or complex of buildings as a basis for removal.

The inclusion of a human trafficking violation adds to the current law's list of various criminal or civil offenses for which tenant removal is expressly permitted. Other criminal offenses listed include: drug offenses; offenses under N.J.S.2C:12-1 (assault) or N.J.S.2C:12-3 (terroristic threats) against the landlord, a member of the landlord's family, or an employee of the landlord; and offenses under N.J.S.2C:20-1 et al. involving theft of property from the landlord, the leased premises, or other tenants residing in the same premises, building, or complex.

Section 9: Prostitution. This section amends N.J.S.2C:34-1 concerning prostitution.

The section alters the crime of prostitution to differentiate between the patrons who engage in prostitution, the “johns,” and the person performing prostitution by personally offering sexual activity in exchange for something of economic value. Engaging in prostitution as a patron would constitute a disorderly persons offense (imprisonment up to six months; fine of up to \$1,000; or both), except that a second or third conviction would constitute a crime of the fourth degree (imprisonment of up to 18 months; a fine of up to \$10,000; or both), and a fourth or subsequent conviction would constitute a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both). As to the person performing prostitution by offering sexual activity, this action would also be a disorderly persons offense, except that a second or subsequent conviction would constitute a crime of the fourth degree.

Regarding the above described disorderly persons offense for prostitution (first offense: engaging in prostitution as a patron; or personally offering sexual activity in exchange for something of economic value), the ordinary fine of up to \$1,000 imposed upon a person by a municipal court for such offense would be paid into the municipal treasury of the municipality in which the offense was committed.

Several existing categories of prostitution activity involving minors are also “upgraded” by the bill. *Promoting prostitution* that involved a person under 18 years of age is upgraded from a crime of the second degree to a crime of the first degree (imprisonment of 10 to 20 years; fine of up to \$200,000; or both). Actions concerning *engaging in prostitution* with a person under 18 years of age are upgraded from a crime of the third degree to a crime of the second degree (imprisonment of five to 10 years; fine of up to \$150,000; or both).

The bill additionally upgrades two other existing types of promoting prostitution. First, transporting a person into or within this State with the purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose is upgraded from a crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both). Second, knowingly leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or promotion of prostitution, or failure to make a reasonable effort to abate that use by ejecting the tenant, notifying law enforcement authorities, or through other legally available means is also upgraded from a crime of the fourth degree to a crime of the third degree (same sentencing parameters as above).

In addition to any fine, fee, assessment, or penalty authorized under the Criminal Code for prostitution and related offenses, other

than for an offense involving patrons engaging in prostitution or persons who personally offer sexual activity, the bill provides for the assessment of an additional penalty of at least \$10,000 but not more than \$50,000, except if the offense involved promotion of the prostitution of a person under 18 years of age, this additional penalty would be at least \$25,000. The additional penalty would be deposited in the “Human Trafficking Survivor’s Assistance Fund.”

The section also expands the availability of an affirmative defense against a prosecution for engaging in prostitution, by allowing any person, regardless of age, to claim the defense of being a victim compelled to engage in sexual activity.

Section 10: Procedure to vacate and expunge a criminal conviction for prostitution and related offenses due to being a human trafficking victim. This section permits a person convicted of prostitution and related offenses, loitering for the purpose of engaging in prostitution, or a similar local ordinance to file an application with the Superior Court, in accordance with the Rules of Court, to have the conviction vacated on grounds that the defendant was, at the time of the offense, a victim of human trafficking pursuant to either the State human trafficking law or as defined by the federal law in paragraph (14) of 22 U.S.C. s.7102. The same application may also seek an order for the expungement of any reference to the defendant’s arrest, conviction, and proceedings in any records in the custody of any involved court, or law enforcement or correctional agency.

Section 11: John School Rehabilitative Program. This section requires a person who is convicted of a disorderly persons offense for engaging in prostitution as a patron (the “john”) to participate in a newly established “John School Rehabilitative Program.” While participation is mandatory, a prosecutor, by motion, could request that participation be waived. The program would be an instructional program, providing information intended to increase the participant’s awareness of the causes of prostitution and its relationship to human trafficking, the health risks connected with prostitution, the consequences of convictions for prostitution or human trafficking, and the effects of trafficking on its victims.

For any person ordered to participate, the person would be assessed a fee of \$500, to be collected by the court and forwarded to the “Human Trafficking Survivor’s Assistance Fund.” From this fee, \$200 would be retained in the fund, and the remaining \$300 would be distributed as follows: \$200 to the approved provider of the program attended by the person; and \$100 to the law enforcement agency that arrested the person resulting in that person’s conviction.

The “John School Rehabilitative Program” would consist of instructional programs offered in one or more locations through the State: (1) by a county or local governmental entity, if that county or local governmental entity demonstrates an interest in establishing a program (which could alternatively be provided by a nonprofit or other

private entity) and the proposed program receives approval from the Attorney General in consultation with the Commission on Human Trafficking; and (2) by the State, to be established within six months of the effective date of this section of the bill, based upon the Attorney General approving, in consultation with the commission, an instructional program to be provided by one or more nonprofit or other private providers.

*Section 12: Advertising commercial sexual abuse of a minor.* This section makes it a crime of the first degree (imprisonment of 10 to 20 years; fine of at least \$25,000 but not more than \$200,000; or both) to commit an offense related to advertising commercial sexual abuse of a minor. A person would be guilty of this offense if the person: (1) knowingly publishes, disseminates, or displays, or causes directly or indirectly, to be published, disseminated, or displayed, any advertisement for a commercial sex act, which is to take place in this State and which includes the depiction of a minor; or (2) knowingly purchases advertising in this State for a commercial sex act which includes the depiction of a minor. An “advertisement for a commercial sex act” is defined as any advertisement or offer in electronic or print media, including the Internet, which includes either an explicit or implicit offer for a commercial sex act to occur in this State. A “commercial sex act” is defined as any act of sexual contact, sexual penetration, or other prohibited act that can endanger a minor and for which something of value is given or received by any person.

The section specifies that it would not be a defense that the defendant: (1) did not know the actual age of the minor depicted in an advertisement; or (2) claims to know the age of the person depicted, unless there is appropriate proof of age obtained and produced. Accordingly, it would be a defense if the defendant made a reasonable, bona fide attempt to ascertain the actual age of the minor depicted in the advertisement by requiring, prior to publication, dissemination, or display of the advertisement, a production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper of the minor depicted in the advertisement. To invoke this defense, the defendant would be required to produce for inspection by law enforcement a record of the identification used to verify the age of the person depicted in the advertisement.

As with several of the other crimes created or modified by this bill, the fine imposed for advertising commercial sexual abuse of a minor (at least \$25,000) would be deposited in the “Human Trafficking Survivor’s Assistance Fund.”

This section is modeled after a recently enacted Washington state law, 2012 Wash. Laws c.138 (Wash. Rev. Code Ann. 9.68A.104), and Connecticut state law, 2012 Conn. Acts 12-141 (not yet allocated, effective October 1, 2012), that created criminal offenses related to advertising commercial sexual abuse of a minor.



Section 13: Endangering the welfare of children. This section raises the age for children subject to protection under the endangering the welfare of children statute, from 16 to 18 years of age, so that the age is consistent with the age of 18 defining a child in the prostitution and related offenses statute, N.J.S.2C:34-1. It also increases the criminal penalties for some offenses concerning endangering the welfare of children. It increases, from a crime of the fourth degree to a crime of the third degree (imprisonment of three to five years; fine of up to \$15,000; or both), knowingly possessing or knowingly viewing any photograph, film, videotape, computer program or file, video game, or any other reproduction or reconstruction which depicts a child engaging in a prohibited sexual act or in the simulation of such an act.

Section 14: Use of wiretapping activities for human trafficking and prostitution investigations. This section would permit law enforcement investigators to utilize wiretapping and other forms of communications eavesdropping with respect to criminal investigations involving human trafficking violations, or involving more serious prostitution and related offenses punishable by imprisonment for more than one year.

Section 15: Making human trafficking a bail restricted crime. The section adds human trafficking to the statutory list of crimes for which various bail restrictions are enforced. Among the restrictions, a person charged with human trafficking could only post the required amount of bail in the form of full cash, surety bond, or bail bond secured by real property situated in this State with unencumbered equity equal to the bail amount plus \$20,000, with a presumption in favor of posting in the form of full cash and not the other options.

Sections 16 and 17: Protecting victims who testify in prosecutions. These sections take existing criminal procedures established to protect victims, particularly minors, participating in the prosecution of various crimes (usually those involving sexual victimization, such as sexual assault or endangering the welfare of children), and expand these procedures to cover prosecutions for human trafficking.

Thus, whenever the crime of human trafficking involves sexual activity (as defined in paragraph (2) of subsection a. of N.J.S.2C:34-1), the provisions permit, upon appropriate application, closed circuit testimony by a minor victim taken outside the presence of spectators, the criminal defendant, the jury, or all such parties. Additionally, for any victim regardless of age, provisions expand the State's rape shield law to prevent admissibility in evidence of previous sexual conduct or manner of dress, unless the value of such evidence is first determined by a court to be "relevant and highly material" and the value of its submission substantially outweighs the probability it would create an unwarranted invasion of privacy of the victim, undue prejudice, or other concern related to the administration of justice in prosecuting the case.

Section 18: Human trafficking hotline. This section requires the Attorney General, in consultation with the Commission on Human Trafficking, to coordinate the State's involvement with the national, 24-hour toll-free telephone hotline service on human trafficking that is operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized under federal law.

Section 19: Training programs on human trafficking for governmental and non-governmental personnel. This section requires the Police Training Commission, the Department of Community Affairs, the Department of Health, and the Administrative Office of the Courts to develop and approve training courses on the handling, response, investigation, and prosecution of human trafficking for various governmental and non-governmental personnel, including law enforcement officers, judges and judicial personnel, hotel and motel owners, operators and staff, and licensed health care facility employees. The section requires that these courses be reviewed at least every two years and modified from time to time as need may require.

The Police Training Commission would be responsible for the training of law enforcement officers as part of the police training courses required pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.). The training for appropriate judges and judicial personnel would be the responsibility of the Administrative Office of the Courts, and accomplished through annual in-service judicial training programs or other means. The training for hotel and motel owners, operators, and staff would be the responsibility of the Department of Community Affairs, or alternatively an approved Statewide nonprofit trade association with demonstrated experience in providing course offerings, and the department would determine, in consultation with the Commission on Human Trafficking, appropriate staff to undergo the required one-time training. The training for employees of licensed health care facilities, including those professionals whose professional practice is regulated pursuant to Title 45 of the Revised Statutes, would be the responsibility of the Department of Health, or alternatively an approved Statewide nonprofit trade association with demonstrated experience in providing course offerings, and the department would determine, in consultation with the commission, appropriate employees to undergo the required one-time training.

For hotel, motel, and health care facility personnel, verifiable completion of the training course would be handled by the appropriate executive branch department with oversight authority for the particular facility, tied to that department's ability to prevent issuance, maintenance, or renewal of any necessary license, permit, or other operating requirement for failures by personnel in meeting the training requirements.

The section requires that all hotel, motel, and health care facility personnel currently engaged in their profession as of the effective date of the section complete the one-time training within one year of the effective date; all new persons engaging in their profession for the first time after the effective date are required to complete the one-time training within six months of the first date of engaging in that profession.

Section 20: Expanding police training curricula to include human trafficking victims' assistance. This section provides that the curricula for police training courses would also include specific training on responding to the needs of victims of the crime of human trafficking.

Section 21: Massage and bodywork therapist background checks. This section requires applicants, and those persons already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies under the provisions of the "Massage and Bodywork Therapist Licensing Act," P.L.1999, c.19 (C.45:11-53 et seq.) and P.L.2007, c.337 (C.45:11-68 et seq.), to be subject to a criminal history record background check, consistent with the provisions of current statutory law on the issue, section 8 of P.L.1978, c.73 (C.45:1-21), and supporting regulations promulgated by the New Jersey Board of Massage and Bodywork Therapy. The background check could result in a refusal to issue a license or certificate, or suspension or revocation of an existing license or certificate.

Section 22: Effective date. Sections 1 and 2 of the bill, establishing the Commission on Human Trafficking and the "Human Trafficking Survivor's Assistance Fund," take effect immediately, and the remaining sections take effect on the first day of the second month next following the date of enactment, but the Attorney General, Commissioner of Community Affairs, Commissioner of Health, Director of the Administrative Office of the Courts, and New Jersey Board of Massage and Bodywork Therapy could take any anticipatory administrative action in advance thereof as necessary for the bill's implementation.

As amended by the committee, these amendments make this bill identical Assembly Bill No. 3352 (3R), with committee amendments.

#### COMMITTEE AMENDMENTS:

The committee amendments to the bill:

- alter the qualifying criteria of one public member of the 15-member Commission on Human Trafficking, so that this member would be a human trafficking survivor; and the public member representing the National Center for Missing and Exploited Children would instead be broadened to be a representative of "a child advocacy organization concerning missing, abducted, or exploited children";
- specify that the commission is tasked with promoting public awareness of the national, 24-hour toll-free hotline telephone

service on human trafficking, operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized under federal law;

- clarify, concerning expenditures from the “Human Trafficking Survivor’s Assistance Fund,” that the receipt of expenditures by any provider of services to human trafficking victims could not be based or otherwise conditioned upon the cooperation of that provider regarding any law enforcement investigation or prosecution, or lack thereof;
- eliminate the expanded definitions of human trafficking presented in the underlying version of the bill, as well as eliminate the new crimes of (1) professionally licensed owners or drivers recklessly participating in the transportation of human trafficking victims, and (2) any other professionally licensed person recklessly permitting an act of human trafficking on, within, or using that licensed person’s property or services;
- make consistent the crime of committing human trafficking by “threats of serious bodily harm or physical restraint” with other criminal provisions set forth throughout the Criminal Code (Title 2C), so that it instead reads “causing or threatening to cause serious bodily harm or physical restraint”;
- add two more descriptive prongs concerning human trafficking actions for trafficking by means of fraud, deceit, or misrepresentation, and for trafficking by facilitating access to a controlled dangerous substance or controlled substance analog;
- address the human trafficking of younger victims to engage in sexual activity by making a person strictly liable for a crime of the first degree for knowingly holding, recruiting, luring, enticing, harboring, transporting, providing, or obtaining, by any means, a child under 18 years of age to engage in such activity;
- clarify that a civil action for human trafficking may be brought against the actor and all those acting in concert with that actor who committed a human trafficking offense;
- omit underlying section 5, ownership or leasing of premises for human trafficking, as the target offenses are covered under the broader, new crimes of assisting human trafficking and procuring the services of trafficking victims that remain in the bill;
- provide, for the new crimes of assisting human trafficking and procuring the services of trafficking victims, several permissive inferences that allow a jury to find that the defendant had the requisite knowledge in order to help establish potential criminal liability for the criminal action being prosecuted;
- additionally provide, for the new crime of procuring the services of a trafficking victim, a rebuttable presumption that the defendant knew, and that a reasonable person would conclude there was a substantial likelihood, that a person was a human trafficking victim if the person was subjected to significant restrictions on the

person's freedom of movement or ability to communicate with others;

- add a new section (section 6), making conspiracy to commit a crime of human trafficking a crime of the first degree
- direct, with respect to the fine of up to \$1,000 imposed upon a person by a municipal court for a disorderly persons offense for prostitution (first offense: engaging in prostitution as a patron; or personally offering sexual activity in exchange for something of economic value), that such fine be paid into the municipal treasury of the municipality in which the offense was committed;
- modify the "John School Rehabilitative Program," so that while it remains mandatory for any person convicted of a disorderly persons offense for engaging in prostitution as a patron, the prosecutor, by motion, could request that this participation be waived;
- further modify the program, so that it consists of instructional programs offered in one or more locations throughout the State, by a county or local governmental entity, if such entity demonstrates an interest in establishing a program (which could alternatively be provided by a nonprofit or other private entity), and also by the State, to be established within six months of the effective date of the appropriate section (section 11), based upon the Attorney General approving, in consultation with the Commission on Human Trafficking, an instructional program to be provided by one or more nonprofit or other private providers;
- require, with respect to the operation of instructional programs under the "John School Rehabilitative Program," that the Attorney General notify the Administrative Office of the Courts concerning each program's establishment and approval, and provide that a court would only sentence a person to participate in such program following the Attorney General's notice;
- remove the requirement that the Attorney General establish and maintain the State's participation in the national, 24-hour toll-free hotline telephone service on human trafficking, operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized by federal law, as well as the requirement for a direct link between this hotline and any State hotline telephone service, and instead more broadly provide for the Attorney General to simply "coordinate the State's involvement" with the national telephone service; and
- expressly indicate that monies from the "Human Trafficking Survivor's Assistance Fund" may be utilized to support the operation of the various training programs developed pursuant to section 19 of the bill for law enforcement officers, judges and judicial personnel, hotel and motel owners, operators and staff, and licensed health care facility employees.

FISCAL IMPACT:

The OLS notes that the bill would generate indeterminate costs and revenues. Revenues collected from fines which are currently imposed would be shifted from the General Fund to the Human Trafficking Survivor's Assistance Fund. New revenues for newly created offenses would be deposited into the Human Trafficking Survivor's Assistance Fund. Costs associated with the bill would arise as a result of the following provisions:

1) Establishment of the Commission on Human Trafficking within the Division of Criminal Justice in the Department of Law and Public Safety would generate an indeterminate expenditure for the Department of Law and Public Safety.

2) New and upgraded crimes would generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of these new and enhanced crimes or the amount to be collected.

3) The creation of a new civil action for victims of human trafficking, and provisions allowing landlords to evict tenants who participate in human trafficking would generate additional indeterminate trial costs for the Judiciary.

4) The vacation and record expungement of convictions of prostitution and related offenses on the grounds that the defendant was a victim of human trafficking could generate nominal costs to the Judiciary for the necessary court time to process these actions.

5) Making human trafficking a bail restricted crime would increase the costs to the counties for housing these offenders by an indeterminate amount.

6) Coordination of the State's involvement in the national 24-hour toll-free telephone hotline service on human trafficking would generate indeterminate additional costs for the Attorney General.

7) Expansion of police training curricula to include human trafficking victims' assistance would generate a one-time cost for the development of the required curricula.

8) The requirement that applicants and those individuals already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies be subject to criminal history record background checks would generate no additional government costs, but would generate costs to massage and bodywork therapists and their employers.

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 2239

## STATE OF NEW JERSEY 215th LEGISLATURE

DATED: MARCH 21, 2013

### SUMMARY

- Synopsis:** The “Human Trafficking Prevention, Protection, and Treatment Act.”
- Type of Impact:** General Fund expenditure, Human Trafficking Survivor’s Assistance Fund revenue.
- Agencies Affected:** Department of Law and Public Safety, Department of Corrections, Judiciary, County and Municipal governments.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Year 1</u></b>	<b><u>Year 2</u></b>	<b><u>Year 3</u></b>
<b>State Cost</b>	Indeterminate – See comments below		
<b>State Revenue</b>	Indeterminate – See comments below		

- The Office of Legislative Services (OLS) notes that the bill would generate indeterminate costs and revenues as enumerated beginning on page 3 of this fiscal estimate.
- Revenues collected from fines which are currently imposed would be shifted from the General Fund to the Human Trafficking Survivor’s Assistance Fund. New revenues for newly created offenses will also be deposited into the Human Trafficking Survivor’s Assistance Fund.

### BILL DESCRIPTION

Senate Bill No. 2239 (2R) of 2012, titled the “Human Trafficking Prevention, Protection, and Treatment Act,” revises and expands the State’s human trafficking law by creating a new human trafficking commission, criminalizing additional activities related to human trafficking as well as upgrading certain penalties on existing human trafficking or related crimes, increasing protections afforded to victims of human trafficking, and providing for increased training and public awareness on human trafficking. The bill’s provisions include:

- The establishment of a 15-member Commission on Human Trafficking, to be located in the Division of Criminal Justice in the Department of Law and Public Safety.
- The creation of a separate, non-lapsing, dedicated fund in the General Fund known as the “Human Trafficking Survivor’s Assistance Fund” to be administered by the Attorney General.
- Expansion of the definition for criminal activity as it relates to younger victims.
- Establishment of a new civil action for human trafficking, permitting any person injured as a result of human trafficking to file an action in any court of competent jurisdiction against the actor and all those acting in concert with that actor who committed the human trafficking offense.
- Creation of new crimes for a person who: (1) knowingly providing services, resources, or assistance intended for use in furthering criminal human trafficking; and (2) procuring or attempting to procure a person to engage in sexual activity, or to provide labor or services, whether for the procurer or another, knowing or understanding there is a substantial likelihood that the person was a human trafficking victim.
- Making a conspiracy to commit a crime of human trafficking a crime of the first degree.
- Providing for the inclusion of a human trafficking violation to the current law’s list of criminal or civil offenses for which tenant removal is expressly permitted.
- Altering the crime of prostitution to differentiate between the patrons who engage in prostitution, the “johns,” and the person performing prostitution by personally offering sexual activity in exchange for something of economic value.
- Upgrading several existing categories of prostitution activity involving minors as well as upgrading other existing types of promoting prostitution.
- Providing for the assessment of an additional penalty of at least \$10,000 but not more than \$50,000, except if the offense involved promotion of the prostitution of a person under 18 years of age, this additional penalty would be at least \$25,000 and would be deposited in the “Human Trafficking Survivor’s Assistance Fund.”
- Permitting a person convicted of prostitution and related offenses, loitering for the purpose of engaging in prostitution, or a similar local ordinance to file an application with the Superior Court to have the conviction vacated on grounds that the defendant was, at the time of the offense, a victim of human trafficking. The same application may also seek an order for the expungement of any reference to the defendant’s arrest, conviction, and proceedings in any records in the custody of any involved court, or law enforcement or correctional agency.
- Requiring a person who is convicted of a disorderly persons offense for engaging in prostitution as a patron (the “john”) to participate in a newly established “John School Rehabilitative Program.” While participation is mandatory, a prosecutor could request that participation be waived. For any person ordered to participate, the person would be assessed a fee of \$500, to be forwarded to the “Human Trafficking Survivor’s Assistance Fund.” From this fee, \$200 would be retained in the fund, and the remaining \$300 would be distributed as follows: \$200 to the approved provider of the program attended by the person; and \$100 to the law enforcement agency that arrested the person resulting in that person’s conviction.
- Making it a crime of the first degree to commit an offense related to advertising commercial sexual abuse of a minor. The fine imposed for advertising commercial sexual abuse of a minor (at least \$25,000) would be deposited in the “Human Trafficking Survivor’s Assistance Fund.”



- Raising the age for children subject to protection under the endangering the welfare of children statute, from 16 to 18 years of age, so that the age is consistent with the age of 18 defining a child in the prostitution and related offenses statute, N.J.S.2C:34-1. It also increases the criminal penalties for some offenses concerning endangering the welfare of children.
- Permitting law enforcement investigators to use wiretapping and other forms of communications eavesdropping with respect to criminal investigations involving human trafficking violations, or involving more serious prostitution and related offenses punishable by imprisonment for more than one year.
- Adding human trafficking to the statutory list of crimes for which various bail restrictions are enforced.
- Expanding existing criminal procedures established to protect victims, particularly minors, participating in the prosecution of various crimes to cover prosecutions for human trafficking.
- Requiring the Attorney General, in consultation with the Commission on Human Trafficking, to coordinate the State's involvement with the national, 24-hour toll-free telephone hotline service on human trafficking.
- Requiring the Police Training Commission, the Department of Community Affairs, the Department of Health, and the Administrative Office of the Courts to develop and administer training courses on the handling, response, investigation, and prosecution of human trafficking for various governmental and non-governmental personnel.
- Requiring applicants, and those persons already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies under the provisions of the "Massage and Bodywork Therapist Licensing Act," to be subject to a criminal history record background check.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS notes that the bill would generate indeterminate costs and revenues. Revenues collected from fines which are currently imposed would be shifted from the General Fund to the Human Trafficking Survivor's Assistance Fund. New revenues for newly created offenses would also be deposited into the Human Trafficking Survivor's Assistance Fund. Costs for various entities would be generated as follows:

- Establishment of the Commission on Human Trafficking within the Division of Criminal Justice in the Department of Law and Public Safety would generate an indeterminate expenditure for the Department of Law and Public Safety.
- New and upgraded crimes would generate additional costs for the Judiciary for trial costs, and for the Department of Corrections to house the convicted offenders. The OLS notes that there is not enough information with which to determine the number of individuals who would be convicted of these enhanced crimes or the amount to be collected.

However, the OLS notes that the average cost to house an inmate in a State correctional facility is \$43,000 per year.

- The creation of a new civil action for victims of human trafficking, and provisions allowing landlords to evict tenants who participate in human trafficking would generate additional indeterminate trial costs for the Judiciary.
- The vacation and record expungement of convictions of prostitution and related offenses on the grounds that the defendant was a victim of human trafficking could generate nominal costs to the Judiciary for the necessary court time to process these actions.
- Making human trafficking a bail restricted crime would increase the costs to the counties for housing these offenders by an indeterminate amount.
- Coordination of the State's involvement in the national 24-hour toll-free telephone hotline service on human trafficking would generate indeterminate additional costs for the Attorney General.
- Expansion of police training curricula to include human trafficking victims' assistance would generate a one-time cost for the development of the required curricula.
- The cost of training law enforcement officers would be covered by the Police Training Commission; the cost of training judges and judicial personnel would be the responsibility of the Judiciary; the cost of training hotel and motel owners, operators, and staff would be the responsibility of the Department of Community Affairs, or alternatively an approved Statewide nonprofit trade association; and the cost of training for employees of licensed health care facilities, would be the responsibility of the Department of Health, or alternatively an approved Statewide nonprofit trade association. Training costs are indeterminate.
- The requirement that applicants and those individuals already licensed as massage and bodywork therapists or registered as employers offering massage and bodywork therapies be subject to criminal history record background checks would generate no additional government costs, but would generate costs to massage and bodywork therapists and their employers.

*Section: Judiciary*

*Analyst: Anne Raughley  
Principal Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

## Governor Chris Christie Signs Bipartisan Human Trafficking Prevention, Protection and Treatment Act

Monday, May 06, 2013 Tags: [Bill Action](#)

### *Measure Strengthens Existing Laws and Increases Penalties for Human Trafficking*

**Trenton, NJ** – Taking action to prevent human trafficking and raise awareness of the issue, Governor Chris Christie today signed the bipartisan “Human Trafficking Prevention, Protection, and Treatment Act” to strengthen state law by increasing penalties for and providing resources to prevent human trafficking in New Jersey. The legislation is a comprehensive update and expansion to state law and creates the Commission on Human Trafficking to review laws and enforcement and make recommendations to state policy makers; establishes a ‘Human Trafficking Survivor’s Assistance Fund’ to provide victims’ services, promote awareness, and develop training and educational materials; and increases both financial penalties and prison time for those who traffic individuals.

Coupled with the measure, the Governor also signed bills designating each January as “Human Trafficking Prevention Month” and January 11th as “Human Trafficking Awareness Day.”

“As public officials, we have a solemn responsibility to prevent and protect citizens from the dark world of human trafficking,” said Governor Christie. “This comprehensive and bipartisan approach strengthens and expands the state’s ongoing efforts to aggressively combat this brutal practice, and also ensures that the victims of human trafficking receive the treatment they need. This bill is a big step forward toward protecting the most vulnerable members of our society, and I am proud to sign it into law.”

Last year, the Christie Administration, through the Attorney General’s Office, made fighting human trafficking a top priority, creating a new Human Trafficking Unit and issuing a statewide law enforcement directive to increase prosecutions of human trafficking and rescue victims. Under Attorney General Chiesa’s leadership, the new unit has already made significant arrests. According to the New Jersey Division of Criminal Justice, 179 cases of human trafficking were reported to the Division between September 2005 and March 2012. They included 93 victims trafficked for labor, 60 for sex, and 26 for both labor and sex trafficking.

Also, in taking action on additional pending legislation, Governor Christie sought to properly balance protecting the privacy of employees and job candidates and an employer’s ability to appropriately screen job candidates, manage their personnel, and protect their business assets and proprietary information by returning A-2878 to the Legislature with recommendations to enhance the measure.

The complete list of legislation acted on by Governor Christie includes:

#### **BILLS SIGNED:**

**A-3352/S-2239 (Vainieri Huttie, McHose, Barnes, Tucker, Fuentes, Stender, Sumter, Dancer, Munoz/Pou, Vitale, Gill)** - The “Human Trafficking Prevention, Protection and Treatment Act”

**AJR-55/SJR-44 (Vainieri Huttie, Stender, Wagner, Quijano/Buono, Cunningham)** – Designates January of each year as “Human Trafficking Prevention Month”

**AJR-56/SJR-60 (Vainieri Huttie, Stender, Wagner, Quijano, Jasey/Buono, Scutari)** – Designates January 11 of each year as “Human Trafficking Awareness Day”

**A-893/S-2257 (McHose/Oroho)** – Establishes a process for renewal of DOE issued authorization of certified educational facilities manager

**A-2555/ SCS for S-1681 (Tucker, Wilson, Conaway/Beach, Sarlo)** – Permits chief administrator of MVC to waive CDL skills test for certain applicants with military experience operating commercial motor vehicles

**A-2882/S-2034 (Albano, Mosquera, Eustace, Benson, C. J. Brown/Whelan, Beach)** - Requires professional boards to provide credits toward requirements for licensure for veterans with substantially equivalent training

**A-3080/SCS for S-2166, 2336 (Schaer, Lampitt, Giblin, Mosquera/Madden, Sweeney, Thompson, Weinberg)** – Requires health benefits coverage for refills of prescription eye drops under certain conditions

**A-3410/S-2482 (Diegnan, Jasey, Watson Coleman, Jimenez/Ruiz, Allen)** – Requires school districts provide pupil

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directory information to county vocational schools upon request

**A-3642/ S-2502 (Ramos, Schaer, Stender, Moriarty/Gill, Beach)** – Requires homeowners insurance consumer information brochure to contain one page summary of policy

**BILLS VETOED:**

**A-2878/SCS for S1915, 1898 (Burzichelli, Greewald, Ramos, Conaway, Caride/Sweeney, Whelan, O'Toole, Allen)** - **CONDITIONAL** - Prohibits requirement to disclose user name, password, or other means for accessing account or service through electronic communications device by employers

**A-2982/S-2226 (Burzichelli, Quijano, Wimberly/Whelan)** - **CONDITIONAL** – Gives State Lottery winners option of remaining anonymous for one year

**A-3614/S-2422 (Prieto, Watson Coleman, Benson, Diegnan, DeAngelo, Wisniewski/Weinberg, Buono)** – **ABSOLUTE** - Requires that contract for private operation of State Lottery be subject to approval by Legislature

Copies of the Governor's veto messages.

A-2878 [pdf 18kB]

A-2982 [pdf 27kB]

A-3614 [pdf 7.9kB]

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