

2C:13-8

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 77

NJSA: 2C:13-8 (Establishes crime of human trafficking)

BILL NO: A2730 (Substituted for S1848/1877)

SPONSOR(S): Stender and others

DATE INTRODUCED: May 6, 2004

COMMITTEE: **ASSEMBLY:** Judiciary
SENATE: Judiciary

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 14, 2005

SENATE: March 14, 2005

DATE OF APPROVAL: April 26, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) Assembly Committee Substitute (2nd reprint) for A2730 enacted

A2730

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

S1848/1877

[SPONSOR'S STATEMENT \(S1848\):](#) (Begins on page 11 of original bill) [Yes](#)

[SPONSOR'S STATEMENT \(S1877\):](#) (Begins on page 4 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

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P.L. 2005, CHAPTER 77, *approved April 26, 2005*
Assembly Committee Substitute (*Second Reprint*) for
Assembly, No. 2730

1 AN ACT concerning ¹[victims of]¹ human trafficking ¹[.]¹ and
2 amending and supplementing various parts of the statutory law.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 ¹[1. N.J.S.2C:13-1 is amended to read as follows:

8 2C:13-1. Kidnapping. a. Holding for ransom, reward or as a
9 hostage. A person is guilty of kidnapping if he unlawfully removes
10 another from the place where he is found or if he unlawfully confines
11 another with the purpose of holding that person for ransom or reward
12 or as a shield or hostage.

13 b. Holding for other purposes. A person is guilty of kidnapping if
14 he unlawfully removes another from his place of residence or business,
15 or a substantial distance from the vicinity where he is found, or if he
16 unlawfully confines another for a substantial period, with any of the
17 following purposes:

18 (1) To facilitate commission of any crime or flight thereafter;

19 (2) To inflict bodily injury on or to terrorize the victim or another;

20 (3) To interfere with the performance of any governmental or
21 political function; or

22 (4) To permanently deprive a parent, guardian or other lawful
23 custodian of custody of the victim.

24 c. Grading of kidnapping. (1) Except as provided in paragraph (2)
25 of this subsection, kidnapping is a crime of the first degree and upon
26 conviction thereof, a person may, notwithstanding the provisions of
27 paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an
28 ordinary term of imprisonment between 15 and 30 years. If the actor
29 releases the victim unharmed and in a safe place prior to apprehension,
30 it is a crime of the second degree.

31 (2) Kidnapping is a crime of the first degree and upon conviction
32 thereof, an actor shall be sentenced to a term of imprisonment by the
33 court, if the victim of the kidnapping is less than 16 years of age and
34 if during the kidnapping:

35 (a) A crime under N.J.S.2C:14-2 **[or]** ¹ subsection a. of
36 N.J.S.2C:14-3 , N.J.S.2C:34-1 or section 3 of P.L. , c. (C.)(now
37 pending before the Legislature as section 3 of this bill) is committed
38 against the victim;

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:

¹ Senate SJU committee amendments adopted February 3, 2005.

² Senate floor amendments adopted February 14, 2005.

1 (b) A crime under subsection b. of N.J.S.2C:24-4 is committed
2 against the victim; or

3 (c) The actor sells or delivers the victim to another person for
4 pecuniary gain other than in circumstances which lead to the return of
5 the victim to a parent, guardian or other person responsible for the
6 general supervision of the victim.

7 Notwithstanding the provisions of paragraph (1) of subsection a.
8 of N.J.S.2C:43-6, the term of imprisonment imposed under this
9 paragraph shall be either a term of 25 years during which the actor
10 shall not be eligible for parole, or a specific term between 25 years and
11 life imprisonment, of which the actor shall serve 25 years before being
12 eligible for parole; provided, however, that the crime of kidnapping
13 under this paragraph and underlying aggravating crimes listed in
14 subparagraph (a), (b) or (c) of this paragraph shall merge for purposes
15 of sentencing. If the actor is convicted of the criminal homicide of a
16 victim of a kidnapping under the provisions of chapter 11, any
17 sentence imposed under provisions of this paragraph shall be served
18 consecutively to any sentence imposed pursuant to the provisions of
19 chapter 11.

20 d. "Unlawful" removal or confinement. A removal or confinement
21 is unlawful within the meaning of this section and of sections 2C:13-2
22 and 2C:13-3, if it is accomplished by force, threat or deception, or, in
23 the case of a person who is under the age of 14 or is incompetent, if
24 it is accomplished without the consent of a parent, guardian or other
25 person responsible for general supervision of his welfare.

26 e. It is an affirmative defense to a prosecution under paragraph (4)
27 of subsection b. of this section, which must be proved by clear and
28 convincing evidence, that:

29 (1) The actor reasonably believed that the action was necessary to
30 preserve the victim from imminent danger to his welfare. However, no
31 defense shall be available pursuant to this subsection if the actor does
32 not, as soon as reasonably practicable but in no event more than 24
33 hours after taking a victim under his protection, give notice of the
34 victim's location to the police department of the municipality where the
35 victim resided, the office of the county prosecutor in the county where
36 the victim resided, or the Division of Youth and Family Services in the
37 Department of Human Services;

38 (2) The actor reasonably believed that the taking or detaining of
39 the victim was consented to by a parent, or by an authorized State
40 agency; or

41 (3) The victim, being at the time of the taking or concealment not
42 less than 14 years old, was taken away at his own volition by his
43 parent and without purpose to commit a criminal offense with or
44 against the victim.

45 f. It is an affirmative defense to a prosecution under paragraph (4)
46 of subsection b. of this section that a parent having the right of

1 custody reasonably believed he was fleeing from imminent physical
2 danger from the other parent, provided that the parent having custody,
3 as soon as reasonably practicable:

4 (1) Gives notice of the victim's location to the police department
5 of the municipality where the victim resided, the office of the county
6 prosecutor in the county where the victim resided, or the Division of
7 Youth and Family Services in the Department of Human Services; or

8 (2) Commences an action affecting custody in an appropriate
9 court.

10 g. As used in subsections e. and f. of this section, "parent" means
11 a parent, guardian or other lawful custodian of a victim.

12 (cf: P.L.1999, c.190, s.1)]¹

13

14 ¹[2. N.J.S.2C:13-2 is amended to read as follows:

15 2C:13-2. A person commits a crime of the third degree if he
16 knowingly:

17 a. Restrains another unlawfully in circumstances exposing the
18 other to risk of serious bodily injury[; or].

19 b. [Holds another in a condition of involuntary servitude.

20 The creation by the actor of circumstances resulting in a belief by
21 another that he must remain in a particular location shall for purposes
22 of this section be deemed to be a holding in a condition of involuntary
23 servitude.

24 In any prosecution under subsection b., it is an affirmative defense
25 that the person held was a child less than 18 years old and the actor
26 was a relative or legal guardian of such child and his sole purpose was
27 to assume control of such child.] (Deleted by amendment, P.L. .
28 c. (C.)(now pending before the Legislature as this bill).

29 (cf: N.J.S.2C:13-2)]¹

30

31 ¹[3. (New section) Involuntary servitude. a. A person commits
32 a crime of the first degree if he knowingly holds another in a condition
33 of involuntary servitude by knowingly providing or obtaining the labor
34 or services of another:

35 (1) by causing or threatening to cause serious bodily harm or
36 physical restraint against the person or any other person;

37 (2) by means of any scheme, plan or pattern intended to cause the
38 person to believe that the person or any other person would suffer
39 serious bodily harm or physical restraint;

40 (3) by committing a violation of N.J.S.2C:13-5 against the person;

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

1 (5) by means of the abuse or threatened abuse of the law or legal
2 process.

3 b. The creation by the actor of circumstances resulting in a belief
4 by another that he must remain in a particular location shall for the
5 purposes of this section be deemed to be a holding in a condition of
6 involuntary servitude.

7 c. In addition to any other disposition authorized by law, any
8 person who violates the provisions of this section shall be sentenced
9 to make restitution to the victim. The court shall award to the victim
10 restitution which is the greater of:

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

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

21 In any prosecution under this section it is an affirmative defense
22 that the person held was a child less than 18 years old and the actor
23 was a relative or legal guardian of such child and his sole purpose was
24 to assume control of such child.]¹

25

26 ¹[4.]1¹ (New section). Human trafficking. a¹ A person
27 commits the crime of human trafficking if he ¹:

28 (1)¹ knowingly holds,¹ recruits, lures, entices,
29 harbors,¹transports,¹ provides or obtains ¹[the labor or services of
30 another which involves involuntary servitude in violation of section 3
31 of P.L. , c. (C.)(now pending before the Legislature as section 3 of
32 this bill), promotes prostitution in violation of N.J.S.2C:34-1 or
33 benefits financially or otherwise by receiving] . by any means, another,
34 to engage in sexual activity as defined in paragraph (2) of subsection
35 a. of N.J.S.2C:34-1 or to provide labor or services:

36 (a) by threats of serious bodily harm or physical restraint against
37 the person or any other person;

38 (b) by means of any scheme, plan or pattern intended to cause the
39 person to believe that the person or any other person would suffer
40 serious bodily harm or physical restraint;

41 (c) by committing a violation of N.J.S.2C:13-5 against the person;
42 or

43 (d) by destroying, concealing, removing, confiscating, or
44 possessing any passport, immigration-related document as defined in
45 section 1 of P.L.1997, c.1 (C.2C:21-31), or other document issued by
46 a governmental agency to any person which could be used as a means

1 of verifying the person's identity or age or any other personal
2 identifying information; or

3 (e) by means of the abuse or threatened abuse of the law or legal
4 process; or

5 (2) receives¹ anything of value from participation as an organizer,
6 supervisor, financier or manager in a scheme or course of conduct
7 which ¹[involves involuntary servitude in violation of the provisions
8 of section 3 of P.L. , c. (C.)(now pending before the Legislature as
9 section 3 of this bill) or N.J.S.2C:34-1. Human trafficking is a crime
10 of the first degree] violates paragraph (1) of this subsection¹.

11 ¹b. An offense under this section constitutes a crime of the first
12 degree¹

13 ¹[A victim of human trafficking may not be prosecuted for the
14 crimes of involuntary servitude or human trafficking in violation of
15 sections 3 or 4 of P.L. ,c. (C.)(now pending before this Legislature
16 as sections 3 or 4 of this bill) or prostitution under N.J.S.2C:34-1.]

17 c. It is an affirmative defense to prosecution for a violation of this
18 section that, during the time of the alleged commission of the offense
19 of human trafficking created by this section, the defendant was a
20 victim of human trafficking.

21 d.¹ Notwithstanding the provisions of ¹[paragraph (1) of
22 subsection a. of]¹ N.J.S.2C:43-6, the term of imprisonment imposed
23 ¹[under this paragraph] for a crime of the first degree under
24 paragraph (2) of subsection a.¹ shall be either a term of ¹[30] 20¹
25 years during which the actor shall not be eligible for parole, or a
26 specific term between ¹[30] 20¹ years and life imprisonment, of which
27 the actor shall serve ¹[30] 20¹ years before being eligible for parole.

28 ¹e.¹ In addition to any other disposition authorized by law, any
29 person who violates the provisions of this section shall be sentenced
30 to make restitution to any victim ¹[in violation of this section. Such
31 restitution shall be in accordance with the terms set forth in subsection
32 c. of paragraph 3 of P.L. , c. (C.) (now pending before the
33 Legislature as section 3 of this bill). The court shall award to the
34 victim restitution which is the greater of:

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

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

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

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

3 a. As used in this section:

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

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

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

17 (4) "Promoting prostitution" is:

18 (a) Owning, controlling, managing, supervising or otherwise
19 keeping, alone or in association with another, a house of prostitution
20 or a prostitution business;

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

23 (c) Encouraging, inducing, recruiting, luring, enticing, harboring,
24 providing, or obtaining, or otherwise purposely causing another to
25 become or remain a prostitute , including destroying, concealing,
26 removing, confiscating, or possessing any passport, immigration-
27 related document as defined in section 1 of P.L.1997, c.1 (C.2C:21-
28 31), or other document issued by a governmental agency to any person
29 which could be used as a means of verifying the person's identity or
30 age or any other personal identifying information;

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

32 (e) Procuring a prostitute for a patron;

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

36 (g) Leasing or otherwise permitting a place controlled by the actor,
37 alone or in association with others, to be regularly used for
38 prostitution or promotion of prostitution, or failure to make a
39 reasonable effort to abate such use by ejecting the tenant, notifying
40 law enforcement authorities, or other legally available means.

41 b. A person commits an offense if:

42 (1) The actor engages in prostitution;

43 (2) The actor promotes prostitution;

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

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

3 (5) The actor compels another to engage in or promote
4 prostitution;

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

6 (7) The actor knowingly engages in prostitution with a person
7 under the age of 18, or if the actor enters into or remains in a house of
8 prostitution for the purpose of engaging in sexual activity with a child
9 under the age of 18, or if the actor solicits or requests a child under
10 the age of 18 to engage in sexual activity. It shall be no defense to a
11 prosecution under this paragraph that the actor mistakenly believed
12 that the child was 18 years of age or older, even if such mistaken belief
13 was reasonable.

14 c. Grading of offenses under subsection b.

15 (1) An offense under subsection b. constitutes a crime of the
16 ~~[second]~~ first degree if the offense falls within paragraph (3) or (4)
17 of that subsection. An offense under subsection b. constitutes a crime
18 of the second degree if the offense falls within paragraph (5) of that
19 subsection.

20 (2) An offense under subsection b. constitutes a crime of the third
21 degree if the offense falls within paragraph ~~[(5),]~~(6) or (7) of that
22 subsection.

23 (3) An offense under paragraph (2) of subsection b. constitutes a
24 crime of the ~~[third]~~ first degree if the conduct falls within the
25 definition of promoting prostitution as set forth in subparagraph (a),
26 (b), ~~[or]~~ (c) ~~.(f) or (g)~~ of paragraph (4) of subsection a. ~~[Otherwise~~
27 ~~the offense is]~~ An offense under paragraph (2) of subsection b.
28 constitutes a crime of the fourth degree if the conduct falls within the
29 definition of promoting prostitution as set forth in subparagraph (d) or
30 (e) of paragraph (4) of subsection a of this section.

31 (4) An offense under subsection b. constitutes a disorderly persons
32 offense if the offense falls within paragraph (1) of that subsection
33 except that a second or subsequent conviction for such an offense
34 constitutes a crime of the fourth degree. In addition, where a motor
35 vehicle was used in the commission of any offense under paragraph (1)
36 of subsection b. the court shall suspend for six months the driving
37 privilege of any such offender who has a valid driver's license issued
38 by this State. Upon conviction, the court shall immediately collect the
39 offender's driver's license and shall forward it, along with a report
40 stating the first and last day of the suspension imposed pursuant to this
41 paragraph, to the Division of Motor Vehicles.

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

1 e. In addition to any other disposition authorized by law, any
2 person who promotes prostitution in violation of paragraph (2) of
3 subsection b., if the violation is based upon subparagraph (a), (b), (c),
4 (f) or (g) of paragraph (4) of subsection a., or paragraph (3) or (4) of
5 subsection b., shall be sentenced to make restitution to any victim
6 encouraged, induced, recruited, lured, enticed, harbored, caused, or
7 transported into or within this State, to engage in prostitution. Such
8 restitution shall be in accordance with the terms set forth in subsection
9 c. of paragraph 3 of P.L. , c. (C.) (now pending before the
10 Legislature as section 3 of this bill.)
11 (cf: P.L.1999, c.9, s.1)]¹

12

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

14 2C:34-1. Prostitution and Related Offenses.

15 a. As used in this section:

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

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

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

29 (4) "Promoting prostitution" is:

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

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

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

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

38 (e) Procuring a prostitute for a patron;

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

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

1 b. A person commits an offense if:

2 (1) The actor engages in prostitution;

3 (2) The actor promotes prostitution;

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

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

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 of
14 prostitution for the purpose of engaging in sexual activity with a child
15 under the age of 18, or if the actor solicits or requests a child under
16 the age of 18 to engage in sexual activity. It shall be no defense to a
17 prosecution under this paragraph that the actor mistakenly believed
18 that the child was 18 years of age or older, even if such mistaken belief
19 was reasonable.

20 c. Grading of offenses under subsection b.

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

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

27 (3) An offense under paragraph (2) of subsection b. constitutes a
28 crime of the third degree if the conduct falls within subparagraph (a),
29 (b), or (c) of paragraph (4) of subsection a. Otherwise the offense is
30 a crime of the fourth degree.

31 (4) An offense under subsection b. constitutes a disorderly persons
32 offense if the offense falls within paragraph (1) of that subsection
33 except that a second or subsequent conviction for such an offense
34 constitutes a crime of the fourth degree. In addition, where a motor
35 vehicle was used in the commission of any offense under paragraph (1)
36 of subsection b. the court shall suspend for six months the driving
37 privilege of any such offender who has a valid driver's license issued
38 by this State. Upon conviction, the court shall immediately collect the
39 offender's driver's license and shall forward it, along with a report
40 stating the first and last day of the suspension imposed pursuant to this
41 paragraph, to the Division of Motor Vehicles.

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

1 e. It is an affirmative defense to prosecution for a violation of this
2 section that, during the time of the alleged commission of the offense,
3 the defendant was a victim of human trafficking pursuant to section
4 1 of P.L. c. , (C.) (now pending before the Legislature as
5 section 1 of this bill).¹
6 (cf: P.L.1999, c.9, s.1).

7
8 ¹[6.]3.¹ N.J.S.2C:41-1 is amended to read as follows:

9 2C:41-1. Definitions.

10 For purposes of this section and N.J.S.2C:41-2 through
11 N.J.S.2C:41-6:

12 a. "Racketeering activity" means (1) any of the following crimes
13 which are crimes under the laws of New Jersey or are equivalent
14 crimes under the laws of any other jurisdiction:

- 15 (a) murder
- 16 (b) kidnapping
- 17 (c) gambling
- 18 (d) promoting prostitution
- 19 (e) obscenity
- 20 (f) robbery
- 21 (g) bribery
- 22 (h) extortion
- 23 (i) criminal usury
- 24 (j) violations of Title 33 of the Revised Statutes
- 25 (k) violations of Title 54A of the New Jersey Statutes and Title 54
26 of the Revised Statutes
- 27 (l) arson
- 28 (m) burglary
- 29 (n) theft and all crimes defined in chapter 20 of Title 2C of the
30 New Jersey Statutes
- 31 (o) forgery and fraudulent practices and all crimes defined in
32 chapter 21 of Title 2C of the New Jersey Statutes
- 33 (p) fraud in the offering, sale or purchase of securities
- 34 (q) alteration of motor vehicle identification numbers
- 35 (r) unlawful manufacture, purchase, use or transfer of firearms
- 36 (s) unlawful possession or use of destructive devices or explosives
- 37 (t) violation of sections 112 through 116 inclusive of the "Casino
38 Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)
- 39 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
40 and all crimes involving illegal distribution of a controlled dangerous
41 substance or controlled substance analog, except possession of less
42 than one ounce of marijuana
- 43 (v) violation of subsection b. of N.J.S.2C:24-4 except for
44 subparagraph (b) of paragraph (5) of subsection b.
- 45 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16), leader
46 of firearms trafficking network

- 1 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
2 weapons training for illegal activities
- 3 (y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism.
- 4 (z) violation of ¹[sections 3 and 4] section 1¹ of P.L. .c.
5 (C.) (now pending before the Legislature as ¹[sections 3 and 4]
6 section 1¹ of this bill) ¹human trafficking¹.
- 7 (2) any conduct defined as "racketeering activity" under Title 18,
8 U.S.C.s.1961(1)(A), (B) and (D).
- 9 b. "Person" includes any individual or entity or enterprise as
10 defined herein holding or capable of holding a legal or beneficial
11 interest in property.
- 12 c. "Enterprise" includes any individual, sole proprietorship,
13 partnership, corporation, business or charitable trust, association, or
14 other legal entity, any union or group of individuals associated in fact
15 although not a legal entity, and it includes illicit as well as licit
16 enterprises and governmental as well as other entities.
- 17 d. "Pattern of racketeering activity" requires
- 18 (1) Engaging in at least two incidents of racketeering conduct one
19 of which shall have occurred after the effective date of this act and the
20 last of which shall have occurred within 10 years (excluding any period
21 of imprisonment) after a prior incident of racketeering activity; and
- 22 (2) A showing that the incidents of racketeering activity embrace
23 criminal conduct that has either the same or similar purposes, results,
24 participants or victims or methods of commission or are otherwise
25 interrelated by distinguishing characteristics and are not isolated
26 incidents.
- 27 e. "Unlawful debt" means a debt
- 28 (1) Which was incurred or contracted in gambling activity which
29 was in violation of the law of the United States, a state or political
30 subdivision thereof; or
- 31 (2) Which is unenforceable under state or federal law in whole or
32 in part as to principal or interest because of the laws relating to usury.
- 33 f. "Documentary material" includes any book, paper, document,
34 writing, drawing, graph, chart, photograph, phonorecord, magnetic or
35 recording or video tape, computer printout, other data compilation
36 from which information can be obtained or from which information can
37 be translated into useable form or other tangible item.
- 38 g. "Attorney General" includes the Attorney General of New
39 Jersey, his assistants and deputies. The term shall also include a
40 county prosecutor or his designated assistant prosecutor if a county
41 prosecutor is expressly authorized in writing by the Attorney General
42 to carry out the powers conferred on the Attorney General by this
43 chapter.
- 44 h. "Trade or commerce" shall include all economic activity
45 involving or relating to any commodity or service.
46 (cf: P.L.2002, c.26, s.18).

1 ¹[7. N.J.S.2C:64-1 is amended to read as follows:

2 2C:64-1. Property Subject to Forfeiture.

3 a. Any interest in the following shall be subject to forfeiture and no
4 property right shall exist in them:

5 (1) Controlled dangerous substances, firearms which are unlawfully
6 possessed, carried, acquired or used, illegally possessed gambling
7 devices, untaxed cigarettes and untaxed special fuel. These shall be
8 designated prima facie contraband.

9 (2) All property which has been, or is intended to be, utilized in
10 furtherance of an unlawful activity, including, but not limited to,
11 conveyances intended to facilitate the perpetration of illegal acts, or
12 buildings or premises maintained for the purpose of committing
13 offenses against the State.

14 (3) Property which has become or is intended to become an
15 integral part of illegal activity, including, but not limited to, money
16 which is earmarked for use as financing for an illegal gambling
17 enterprise.

18 (4) Proceeds of illegal activities, including, but not limited to,
19 property or money obtained as a result of the sale of prima facie
20 contraband as defined by subsection a. (1), proceeds of illegal
21 gambling, prostitution, bribery and extortion.

22 (5) All property which has been, or is intended to be, utilized in
23 furtherance of unlawful activities as set forth in P.L. , c. (C.) (now
24 pending before the Legislature as this bill), as well as all proceeds of
25 unlawful activities related to human trafficking as set forth in P.L. ,
26 c. (C.) (now pending before the Legislature as this bill).

27 b. Any article subject to forfeiture under this chapter may be
28 seized by the State or any law enforcement officer as evidence pending
29 a criminal prosecution pursuant to section 2C:64-4 or, when no
30 criminal proceeding is instituted, upon process issued by any court of
31 competent jurisdiction over the property, except that seizure without
32 such process may be made when not inconsistent with the Constitution
33 of this State or the United States, and when

34 (1) The article is prima facie contraband; or

35 (2) The property subject to seizure poses an immediate threat to
36 the public health, safety or welfare.

37 c. For the purposes of this section:

38 "Untaxed special fuel" means diesel fuel, No. 2 fuel oil and
39 kerosene on which the motor fuel tax imposed pursuant to
40 R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or
41 transferred in this State in a manner not authorized pursuant to
42 R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).

43 (cf: P.L.1992, c.23, s.70)]¹

44

45 ¹[8.] 4.¹ Section 11 of P.L.1971, c.317 (C.52:4B-11) is amended
46 to read as follows:

1 11. The board may order the payment of compensation in
2 accordance with the provisions of this act for personal injury or death
3 which resulted from:

4 a. an attempt to prevent the commission of crime or to arrest a
5 suspected criminal or in aiding or attempting to aid a police officer so
6 to do, or

7 b. the commission or attempt to commit any of the following
8 offenses:

9 (1) aggravated assault;

10 (2) (Deleted by amendment, P.L.1995, c.135).

11 (3) threats to do bodily harm;

12 (4) lewd, indecent, or obscene acts;

13 (5) indecent acts with children;

14 (6) kidnapping;

15 (7) murder;

16 (8) manslaughter;

17 (9) aggravated sexual assault, sexual assault, aggravated criminal
18 sexual contact, criminal sexual contact;

19 (10) any other crime involving violence including domestic
20 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
21 section 3 of P.L.1991, c.261 (C.2C:25-19);

22 (11) burglary;

23 (12) tampering with a cosmetic, drug or food product;

24 (13) a violation of ¹[sections 3 or 4] human trafficking, section
25 ¹ of P.L. , c. (C.) (now pending before the Legislature as
26 ¹[sections 3 or 4] section 1¹ of this bill); or

27 c. the commission of a violation of R.S.39:4-50, section 5 of
28 P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236
29 (C.12:7-34.19) or section 3 of P.L.1952, c.157 (C.12:7-46); or

30 d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a law
31 enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or
32 unlawful taking of a motor vehicle pursuant to subsection b., c. or d.
33 of N.J.S.2C:20-10 where injuries to the victim occur in the course of
34 operating an automobile in furtherance of the offense.

35 (cf: P.L.1995,c.135,s.4).

36
37 ²5. Section 6 of P.L.1985, c.404 (C.52:4B-44) is amended to read
38 as follows:

39 6. a. The Attorney General shall, through the Office of
40 Victim-Witness Advocacy in the Division of Criminal Justice in the
41 Department of Law and Public Safety and in consultation with the
42 county prosecutors, promulgate standards for law enforcement
43 agencies to ensure that the rights of crime victims are enforced.

44 b. The standards shall require that the Office of Victim-Witness
45 Advocacy in the Division of Criminal Justice and each county
46 prosecutor's office provide the following services upon request for

- 1 victims and witnesses involved in the prosecution of a case:
- 2 (1) Orientation information about the criminal justice system and
- 3 the victim's and witness's role in the criminal justice process;
- 4 (2) Notification of any change in the case status and of final
- 5 disposition;
- 6 (3) Information on crime prevention and on available responses to
- 7 witness intimidation;
- 8 (4) Information about available services to meet needs resulting
- 9 from the crime and referrals to service agencies, where appropriate;
- 10 (5) Advance notice of the date, time and place of the defendant's
- 11 initial appearance before a judicial officer, submission to the court of
- 12 any plea agreement, the trial and sentencing;
- 13 (6) Advance notice of when presence in court is not needed;
- 14 (7) Advice about available compensation, restitution and other
- 15 forms of recovery and assistance in applying for government
- 16 compensation;
- 17 (8) A waiting or reception area separate from the defendant for
- 18 use during court proceedings;
- 19 (9) An escort or accompaniment for intimidated victims or
- 20 witnesses during court appearances;
- 21 (10) Information about directions, parking, courthouse and
- 22 courtroom locations, transportation services and witness fees, in
- 23 advance of court appearances;
- 24 (11) Assistance for victims and witnesses in meeting special needs
- 25 when required to make court appearances, such as transportation and
- 26 child care arrangements;
- 27 (12) Assistance in making travel and lodging arrangements for
- 28 out-of-State witnesses;
- 29 (13) Notification to employers of victims and witnesses, if
- 30 cooperation in the investigation or prosecution causes absence from
- 31 work;
- 32 (14) Notification of the case disposition, including the trial and
- 33 sentencing;
- 34 (15) Assistance to victims in submitting a written statement to a
- 35 representative of the county prosecutor's office about the impact of the
- 36 crime prior to the prosecutor's final decision concerning whether
- 37 formal charges will be filed;
- 38 (16) Advice to victims about their right to make a statement about
- 39 the impact of the crime for inclusion in the presentence report or at
- 40 time of parole consideration, if applicable;
- 41 (17) Notification to victims of the right to make an in-person
- 42 statement, prior to sentencing, directly to the sentencing court
- 43 concerning the impact of the crime;
- 44 (18) Expediting the return of property when no longer needed as
- 45 evidence;
- 46 (19) Advise and counsel, or refer for advice or counseling, victims

1 of sexual assault, or other criminal acts involving a risk of transmission
2 of disease, concerning available medical testing and assist such victims,
3 or refer such victims for assistance, in obtaining appropriate testing,
4 counseling and medical care and in making application to the Victims
5 of Crime Compensation Board for compensation for the costs of such
6 testing, counseling and care;

7 (20) Assistance to victims in submitting a written impact statement
8 to a representative of the county prosecutor's office concerning the
9 impact of the crime which shall be considered prior to the prosecutor's
10 accepting a negotiated plea agreement containing recommendations as
11 to sentence and assistance to victims in securing an explanation of the
12 terms of any such agreement and the reasons for the agreement;

13 (21) Notification to the victim of the defendant's release from
14 custody which shall include:

15 (a) notice of the defendant's escape from custody and return to
16 custody following escape;

17 (b) notice of any other release from custody, including placement
18 in an Intensive Supervision Program or other alternative disposition,
19 and any associated conditions of release;

20 (c) notice of the filing by an inmate of an application for
21 commutation of sentence pursuant to N.J.S.2A:167-4 and its
22 disposition;

23 (d) notice of parole consideration pursuant to provisions of
24 P.L.1979, c.441 (C.30:4-123.45 et seq.); and

25 (e) notice of the pending release of an inmate due to expiration of
26 sentence; and

27 (22) Interpreting services for victims and witnesses when necessary
28 to assist a victim or witness who is hearing impaired or
29 developmentally disabled as defined in section 3 of P.L.1977, c.82
30 (C.30:6D-3) to understand questions and frame answers.

31 c. In a case involving a victim of aggravated sexual assault or
32 sexual assault as defined in subsection a. or c. of N.J.S.2C:14-2, the
33 Office of Victim-Witness Advocacy or the county prosecutor's office
34 involved in the case shall:

35 (1) Notify the victim of the victim's right to obtain an approved
36 serological test for acquired immune deficiency syndrome (AIDS) or
37 infection with the human immunodeficiency virus (HIV) or any other
38 related virus identified as a probable causative agent of AIDS, and
39 assist the victim, or refer the victim for assistance, in obtaining a test
40 and appropriate counseling and medical care;

41 (2) Notify the victim of the victim's right to obtain a court order
42 pursuant to subsection a. of section 4 of P.L.1993, c.364
43 (C.2C:43-2.2) requiring the offender to submit to an approved
44 serological test for acquired immune deficiency syndrome (AIDS) or
45 infection with the human immunodeficiency virus (HIV) or any other
46 related virus identified as a probable causative agent of AIDS in the

1 event that the offender is indicted, formally charged, convicted or
2 adjudicated delinquent;

3 (3) Communicate the request of a victim who agrees to seek an
4 order pursuant to subsection a. of section 4 of P.L.1993, c.364
5 (C.2C:43-2.2) to the prosecutor handling the case and notify the
6 victim or arrange for the victim to be notified of the test result; and

7 (4) Assist the victim in applying to the Victims of Crime
8 Compensation Board for compensation for the costs of testing,
9 counseling and medical care.

10 d. The Attorney General shall, through the Office of
11 Victim-Witness Advocacy and in consultation with the Commissioner
12 of the Department of Health and Senior Services, the [Director of the
13 Division] Superintendent of State Police and representatives of
14 providers of sexual assault services, to be designated by the Director
15 of the Office of Victim-Witness Advocacy, coordinate the
16 establishment of standard protocols for the provision of information
17 and services to victims of sexual assault, and shall make such
18 protocols available to victims upon request.

19 e. In a case involving a victim of human trafficking as defined in
20 section 1 of P.L. c. , (C.) (now pending before the Legislature as
21 section 1 of this bill) the Office of Victim-Witness Advocacy or the
22 county prosecutor's office involved in the case shall ensure that the
23 victim of human trafficking obtains assistance in receiving any
24 available benefits or services, including assistance in receiving any
25 necessary certifications or endorsements needed to be recognized as
26 having federal T non-immigrant status for the purpose of receiving any
27 federal benefits or services available pursuant to the "Trafficking
28 Victims Protection Reauthorization Act of 2003," 22 U.S.C. section
29 7101 et seq.

30 f. The Attorney General shall, through the Office of
31 Victim-Witness Advocacy and in consultation with the Commissioner
32 of the Department of Health and Senior Services, the Superintendent
33 of State Police and representatives of providers of services to victims
34 of human trafficking, to be designated by the Director of the Office of
35 Victim-Witness Advocacy, coordinate the establishment of standard
36 protocols for the provision of information and services to victims of
37 human trafficking, including coordination of efforts with the
38 appropriate federal authorities pursuant to the "Trafficking Victims
39 Protection Reauthorization Act of 2003," 22 U.S.C. section 7101 et
40 seq. and shall make such protocols available to victims upon request.²
41 (cf: P.L.1996, c.114, s.1)

42

43 ¹[9.] ²[5.1] 6.² This act shall take effect immediately.

1

2

3 Establishes crime of human trafficking; adds to racketeering;

4 authorizes victim compensation and services; provides certain

5 affirmative defenses.

ASSEMBLY, No. 2730

STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 6, 2004

Sponsored by:

Assemblywoman LINDA STENDER
District 22 (Middlesex, Somerset and Union)
Assemblyman UPENDRA J. CHIVUKULA
District 17 (Middlesex and Somerset)

Co-Sponsored by:

Assemblymen Diegnan and Mayer

SYNOPSIS

Establishes new crimes concerning forced labor and sex trafficking.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/14/2004)

1 AN ACT concerning victims of human trafficking and supplementing
2 chapters 13 and 34 of Title 2C of the New Jersey Statutes.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. a. A person commits a crime of the second degree if the person
8 knowingly provides or obtains the labor or services of another:

9 (1) by threats of serious bodily harm or physical restraint against
10 the person or any other person;

11 (2) by means of any scheme, plan, or pattern intended to cause the
12 person to believe that the person or any other person would suffer
13 serious bodily harm or physical restraint; or

14 (3) by committing a violation of N.J.S.2C:13-5 against the person.

15 b. A person commits a crime of the third degree if, while in the
16 course of committing, attempting to commit, or conspiring to commit,
17 a violation of subsection a. of this section, the person destroys,
18 conceals, removes, confiscates, or possesses any passport,
19 immigration-related document as defined in section 1 of P.L.1997, c.1
20 (C.2C:21-31), or other document issued by a governmental agency
21 which could be used as a means of verifying a person's identity or age
22 or any other personal identifying information.

23

24 2. a. A person commits a crime of the second degree if the person:

25 (1) knowingly recruits, lures, entices, harbors, transports, provides,
26 or obtains, by any means, another to engage in sexual activity as
27 defined in paragraph (2) of subsection a. of N.J.S.2C:34-1, in
28 exchange for something of economic value with any other person; or

29 (2) benefits financially or otherwise by receiving anything of value
30 from participation as an organizer, supervisor, financier, or manager
31 in a scheme or course of conduct which violates paragraph (1) of this
32 subsection.

33 b. A person commits a crime of the third degree if, while in the
34 course of committing, attempting to commit, or conspiring to commit,
35 a violation of subsection a. of this section, the person destroys,
36 conceals, removes, confiscates, or possesses any passport,
37 immigration-related document as defined in section 1 of P.L.1997, c.1
38 (C.2C:21-31), or other document issued by a governmental agency
39 which could be used as a means of verifying a person's identity or age
40 or any other personal identifying information.

41

42 3. This act shall take effect immediately.

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STATEMENT

This bill would establish new crimes concerning forced labor and sex trafficking. Both of these activities represent a modern form of slavery, in which ever increasing numbers of persons, primarily women and children, are trafficked across international borders and into this State. Forced labor and sex trafficking would each be categorized as a crime of the second degree, punishable by a term of imprisonment of five to ten years or a fine of up to \$150,000, or both.

Also, if a person destroyed, concealed, or possessed the passport or any other government-issued identifying document of a victim, while in the course of committing, attempting to commit, or conspiring to commit, the crime of forced labor or sex trafficking, the person would be guilty of a crime of the third degree. A crime of the third degree is punishable by a term of imprisonment of three to five years or a fine of up to \$15,000, or both.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2730

STATE OF NEW JERSEY

DATED: SEPTEMBER 13, 2004

The Assembly Judiciary Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2730.

This substitute would establish new crimes concerning human trafficking and sex trafficking. Both of these activities represent a modern form of slavery, in which increasing numbers of persons, primarily women and children, are trafficked across international borders and into this State. Although there are currently laws which can be used to attempt to prosecute some of the underlying trafficking crimes such as prostitution, kidnapping, criminal restraint and criminal coercion, there is no specific law which addresses human trafficking per se.

This substitute would create a comprehensive statute tailored to specifically prohibit human trafficking and to prohibit the wide range of schemes and plans used to entice and lure the victims of human trafficking and to maintain them in their imprisoned environments. This substitute incorporates relevant portions of the "Model State Anti-Trafficking" statute into New Jersey's Criminal Code, Title 2C of the New Jersey Statutes. In so doing, the substitute creates the new crime of human trafficking. The substitute also amends the current criminal restraint statute to remove those provisions concerning involuntary servitude and place those provisions in a separate section in the criminal statutes in order to facilitate the prosecution of these offenses. In addition to insuring the prosecution of these offenses, the substitute would also amend the law to provide the same benefits such as compensation for injury to victims of human trafficking.

Section 1 of the bill amends the kidnapping statute, N.J.S.2C:13-1, to add prostitution, N.J.S.2C:34-1 and human trafficking to the grading provisions in paragraph (2) of subsection c., which provides for mandatory terms of imprisonment for kidnapping in the first degree when the victim is less than 16 years old and during the kidnapping any of the following crimes were committed against the victim: sexual assault, criminal sexual contact, endangering the welfare of a child or if the actor sells or delivers the victim to another person for pecuniary gain other than circumstances which lead to the return of the victim to a parent or other person responsible for the general supervision of the

victim.

Section 2 of the bill amends N.J.S.2C:13-2, criminal restraint, to remove those provisions in the law which concern involuntary servitude. The bill places the crime of involuntary servitude in a separate section under the criminal code.

Section 3 of the bill makes it a crime of the first degree for a person to knowingly hold another in a condition of involuntary servitude by knowingly providing or obtaining the labor or services of another: (1) by causing or threatening to cause serious bodily harm or physical restraint against the person or any other person; (2) by means of any scheme, plan or pattern intended to cause the person to believe that the person or any other person would suffer serious bodily harm or physical restraint; (3) by committing a violation of N.J.S.2C:13-5 (criminal coercion); (4) by destroying, concealing, removing, confiscating, or possessing any passport, immigration-related document or other document issued by a governmental agency to any person which could be used as a means of verifying the person's identity or age or any other personal identifying information; or (5) by means of the abuse or threatened abuse of the law or legal process. A crime of the first degree is punishable by a term of imprisonment of 10-20 years, a fine of up to \$200,000 or both.

The creation by an offender of circumstances resulting in a belief by another that he must remain in a particular location would be deemed to be a holding in a condition of involuntary servitude under the provisions of this section.

This section would also provide for restitution for victims of involuntary servitude. In addition to any other authorized disposition, the court would award to victims of involuntary servitude which is the greater of: (1) the gross income or value to the defendant of the victim's labor or services; or (2) the value of the victim's labor or services as determined by the "New Jersey Prevailing Wage Act," N.J.S.A.34:11-56.25, the "New Jersey State Wage and Hour Law," N.J.S.A.34:11-56a et seq., the Seasonal Farm Labor Act, N.J.S.A.34:9A-1 et seq., the laws concerning the regulation of child labor in chapter 2 of Title 34 of the Revised Statutes, or any other applicable State law, and the "Fair Labor Standards Act of 1938," 29 U.S.C.A. s.201 et seq. or any other applicable federal law.

In any prosecution under involuntary servitude, it would be an affirmative defense that the person held was a child less than 18 years old and the actor was a relative or legal guardian of such child and his sole purpose was to assume control of such child. This provision is currently set out as part of N.J.S.A. 2C:13-2.

Section 4 of the bill creates the new crime of human trafficking. A person would be guilty of the crime of human trafficking if he knowingly recruits, lures, entices, harbors, provides or obtains the labor or services of another which involves involuntary servitude, promoting prostitution or benefits financially or otherwise by receiving anything of value from participation as an organizer, supervisor,

financier or manager in a scheme or course of conduct which involves involuntary servitude or prostitution.

Human trafficking would be a crime of the first degree. This substitute would provide for a mandatory term of imprisonment of 30 years during which time the defendant would not be eligible for parole, or a specific term between 30 years and life imprisonment, of which the defendant would serve 30 years before being eligible for parole.

Under the provisions of the bill, an offender would also be sentenced to make restitution to a victim of human trafficking, similar to the restitution which would be provided under the bill to victims of involuntary servitude. In addition, the bill also provides that victims of human trafficking may not be prosecuted for the crimes of involuntary servitude, human trafficking or prostitution.

Section 5 of the bill would amend the current prostitution statute to expand the definition of "promoting prostitution" to include encouraging, inducing, recruiting, luring, enticing, harboring, providing, or obtaining, or otherwise purposely causing another to become or remain a prostitute, including destroying, concealing, removing, confiscating, or possessing any passport, immigration-related document or other document issued by a governmental agency to any person which could be used as a means of verifying the person's identity or age or any other personal identifying information.

This bill would also amend the gradation scheme for prostitution to more accurately reflect the changes to the definition of "promoting prostitution" and to provide consistency between the prostitution statute and the newly created human trafficking and involuntary servitude crimes. Under the new grading scheme prostitution would be a upgraded from a crime of the second degree to a crime of the first degree if: (1) the defendant knowingly promotes prostitution of a child under 18, whether or not the defendant mistakenly believed that the child was 18; or (2) the defendant promotes prostitution of his child, ward or any other person for whose care the actor is responsible.

The substitute would upgrade promoting prostitution from a crime of the third degree to a crime of the first degree if a person promotes prostitution by: (1) owning, controlling, managing, supervising or otherwise keeping, alone or in association with another, a house of prostitution or a prostitution business; (2) procuring an inmate for a house of prostitution or place in a house of prostitution for one who would be an inmate; (3) encouraging, inducing, recruiting, luring, enticing, harboring, providing, or obtaining, or otherwise purposely causing another to become or remain a prostitute, including destroying, concealing, removing, confiscating, or possessing any passport, immigration-related document or other document issued by a governmental agency to any person which could be used as a means of verifying the person's identity or age or any other personal identifying information; (4) transporting a person into or within this State with purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose; or (5)

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 other legally available means.

The bill would upgrade from a crime of the third degree to a crime of the second degree if the actor compels another to engage in or promote prostitution. The bill would not change the provisions of the statute with regard to crimes of the fourth degree. Thus, it would continue to be a crime of the fourth degree if a person solicits a person to patronize a prostitute or procures a prostitute for a patron. The third degree offense of promoting prostitution of one's spouse or engaging in prostitution with a person under the age of 18 would remain unchanged.

The prostitution laws would also be amended to require the defendant to make restitution to a victim of prostitution, similar to the restitution which would be provided to victims of involuntary servitude and human trafficking.

Section 6 of the bill would amend New Jersey's Racketeering statute, N.J.S.2C:41-1, to include human trafficking and involuntary servitude in the list of offenses which are considered "racketeering activity."

Section 7 of the bill would amend the forfeiture statute, N.J.S. 2C:64-1, to provide that any property or proceeds of any unlawful activity related to human trafficking or involuntary servitude would be subject to forfeiture.

Section 8 of the bill would amend the "Criminal Injuries Compensation Act," N.J.S.52:4B-1et seq., to specifically provide victims of human trafficking and involuntary servitude with the protections and services provided to all victims of violent crimes. This substitute amends N.J.S.A.52:4B-11 by expanding the list of these offenses to include human trafficking and involuntary servitude, thereby entitling victims of these crimes to petition the Violent Crimes Compensation Board (VCCB) for damages resulting from personal injury or death as a result of the crime committed against the victims. Once a victim petitions the board for recovery the victim may also petition the board for any expenses incurred or for any pecuniary loss resulting from personal injury to the victim. These victims of human trafficking and involuntary servitude would then gain access to all the services provided by the VCCB which includes counseling. The victims of these crimes would also have access to the Office of Victim-Witness Assistance which develops and coordinates the Statewide victim-witness rights information program. This program provides victims with representation, with information about the county offices of victim advocacy and with coordinates with the county prosecutors offices and law enforcement agencies to facilitate the victim's participation in the criminal justice system.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 2730**

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 3, 2005

The Senate Judiciary Committee reports favorably and with committee amendments Assembly Committee substitute for Assembly Bill No. 2730 (ACS).

This substitute would establish the new crime of human trafficking. This crime concerns using a person for the purposes of engaging in unlawful sexual activity or providing unlawful labor or services. These activities represent a modern form of slavery, in which increasing numbers of persons, primarily women and children, are trafficked across international borders and into this State. Although there are current laws which may be used to attempt to prosecute some of the underlying trafficking crimes such as prostitution, kidnapping, criminal restraint and criminal coercion, there is no specific law which addresses human trafficking per se.

This substitute creates a statute tailored specifically to prohibit human trafficking and the range of schemes and plans used to lure the victims of human trafficking and maintain them in their imprisoned environments. This substitute incorporates relevant portions of the "Model State Anti-Trafficking" statute into New Jersey's Criminal Code. The substitute amends the law concerning prostitution to provide an affirmative defense for those defendants who are victims of human trafficking. In addition the substitute amends the law to provide victims of human trafficking the same benefits accorded other victims of serious crimes and includes human trafficking within the racketeering statute.

Section 1 of the substitute (as amended) creates the new crime of human trafficking. A person would be guilty of the crime of human trafficking if he knowingly recruits, lures, entices, harbors, transports, provides or obtains, by any means, another, to engage in unlawful sexual activity as defined in N.J.S.A. 2C:34-1 (prostitution) or to provide unlawful labor or services: (a) by threats of serious bodily harm or physical restraint against the person or any other person; (b) by means of any scheme, plan or pattern intended to cause the person to believe that the person or any other person would suffer serious

bodily harm or physical restraint; (c) by committing a violation of N.J.S.2C:13-5 (criminal coercion) against the person; or (d) by destroying, concealing, removing, confiscating, or possessing any passport, immigration-related document as defined in section 1 of P.L.1997, c.1 (C.2C:21-31), or certain other documents issued by a governmental agency; or (e) by means of the abuse or threatened abuse of the law or legal process. Also, a person would be guilty of human trafficking if he receives anything of value from participation as an organizer, supervisor, financier or manager in a human trafficking scheme.

Human trafficking is a crime of the first degree. Under the provisions of the substitute, a mandatory term of imprisonment would be imposed for the first degree crime of human trafficking where the defendant participates in the human trafficking scheme as an organizer, supervisor, financier or manager, pursuant to paragraph (2) of subsection a. The mandatory term of imprisonment for that offense would be for a term of imprisonment of 20 years during which time the defendant would not be eligible for parole, or a specific term between 20 years and life imprisonment, of which the defendant would serve 20 years before being eligible for parole.

The substitute provides an affirmative defense to prosecution if the defendant, during the alleged commission of the offense, was a victim of human trafficking.

Section 1 would also provide for restitution for victims of human trafficking. The court would award to victims of human trafficking the greater of: (1) the gross income or value to the defendant of the victim's labor or services; or (2) the value of the victim's labor or services as determined by the "New Jersey Prevailing Wage Act," N.J.S.A.34:11-56.25 or other applicable State or federal laws.

Section 2 of the substitute (as amended) amends the prostitution statute, N.J.S.A.2C:34-1 to provide an affirmative defense if during the time of the alleged commission of prostitution, the defendant was a victim of human trafficking. In addition, the substitute would amend prostitution to provide that a person must have "knowingly" leased or otherwise permitted a place to be used for prostitution or promotion of prostitution in order to be found guilty of the offense of promoting prostitution.

Section 3 of the substitute (as amended) amends New Jersey's racketeering statute, N.J.S.2C:41-1, to include human trafficking in the list of offenses which are considered "racketeering activity."

Section 4 of the substitute (as amended) amends the "Criminal Injuries Compensation Act," N.J.S.52:4B-1et seq., to specifically provide victims of human trafficking with the protections and services provided to all victims of violent crimes. Victims of human trafficking would gain access to all the services provided by the VCCB and to the Office of Victim-Witness Assistance which develops and coordinates the Statewide victim-witness rights information program.

Committee amendments: The committee amendments omit section

1 of the substitute which amended the kidnapping statute, N.J.S.2C:13-1. The amendments incorporate sexual activity provisions in the new crime of human trafficking.

Section 2 of the substitute amended N.J.S.2C:13-2, criminal restraint, to remove those provisions in the law which concern involuntary servitude which were then placed in a separate section in the criminal code. The amendments no longer place involuntary servitude in a separate section.

Section 3 of the substitute made it a crime of the first degree for a person to knowingly hold another in a condition of involuntary servitude by knowingly providing or obtaining the labor or services of another by certain methods. The committee amendments incorporate labor and services provisions in the new crime of human trafficking.

Section 7 of the substitute would have amended the forfeiture statute, N.J.S. 2C:64-1, to provide that any property or proceeds of any unlawful activity related to human trafficking or involuntary servitude would be subject to forfeiture. The committee amendments remove this section as unnecessary as the forfeiture statute applies to all property used in furtherance of criminal activity and to proceeds of criminal activity.

As amended, this substitute is identical to the Senate Committee Substitute for Senate, Nos. 1848/1877.

STATEMENT TO
[First Reprint]
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2730

with Senate Floor Amendments
(Proposed By Senator GILL)

ADOPTED: FEBRUARY 14, 2005

These floor amendments amend the section of law promulgating standards for law enforcement agencies to ensure that the rights of crime victims are enforced.

These floor amendments add new subsections e. and f. to N.J.S.A. 52:4B-44 concerning victims of human trafficking. These amendments would require the Office of Victim-Witness Advocacy or the county prosecutor's office involved in the case to ensure that the victim of human trafficking obtain assistance in receiving any available benefits or services. Because some of these victims of human trafficking are likely to be persons who do not have United States citizenship status, the amendments would specifically direct law enforcement to provide assistance with regard to any necessary certifications or endorsements needed for the victim to be recognized as having federal T non-immigrant status for the purpose of receiving any federal benefits or services available pursuant to the "Trafficking Victims Protection Reauthorization Act of 2003," 22 U.S.C. section 7101 et. seq.

The floor amendments would also direct the Attorney General, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of the Department of Health and Senior Services, the Superintendent of State Police and representatives of providers of services to victims of human trafficking, to coordinate the establishment of standard protocols for the provision of information and services to these victims.

SENATE, No. 1848

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED OCTOBER 4, 2004

Sponsored by:
Senator NIA H. GILL
District 34 (Essex and Passaic)

SYNOPSIS

Establishes new crimes related to human trafficking and provides for victim compensation.

CURRENT VERSION OF TEXT

As introduced.



S1848 GILL

2

1 AN ACT concerning victims of human trafficking, and amending and
2 supplementing various parts of the statutory law.

3

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

6

7 1. N.J.S.2C:13-1 is amended to read as follows:

8 2C:13-1. Kidnapping. a. Holding for ransom, reward or as a
9 hostage. A person is guilty of kidnapping if he unlawfully removes
10 another from the place where he is found or if he unlawfully confines
11 another with the purpose of holding that person for ransom or reward
12 or as a shield or hostage.

13 b. Holding for other purposes. A person is guilty of kidnapping if
14 he unlawfully removes another from his place of residence or business,
15 or a substantial distance from the vicinity where he is found, or if he
16 unlawfully confines another for a substantial period, with any of the
17 following purposes:

18 (1) To facilitate commission of any crime or flight thereafter;

19 (2) To inflict bodily injury on or to terrorize the victim or another;

20 (3) To interfere with the performance of any governmental or
21 political function; or

22 (4) To permanently deprive a parent, guardian or other lawful
23 custodian of custody of the victim.

24 c. Grading of kidnapping. (1) Except as provided in paragraph (2)
25 of this subsection, kidnapping is a crime of the first degree and upon
26 conviction thereof, a person may, notwithstanding the provisions of
27 paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced to an
28 ordinary term of imprisonment between 15 and 30 years. If the actor
29 releases the victim unharmed and in a safe place prior to apprehension,
30 it is a crime of the second degree.

31 (2) Kidnapping is a crime of the first degree and upon conviction
32 thereof, an actor shall be sentenced to a term of imprisonment by the
33 court, if the victim of the kidnapping is less than 16 years of age and
34 if during the kidnapping:

35 (a) A crime under N.J.S.2C:14-2 [or] , subsection a. of
36 N.J.S.2C:14-3 , N.J.S.2C:34-1 or section 3 of P.L. , c. (C.)(now
37 pending before the Legislature as section 3 of this bill) is committed
38 against the victim;

39 (b) A crime under subsection b. of N.J.S.2C:24-4 is committed
40 against the victim; or

41 (c) The actor sells or delivers the victim to another person for
42 pecuniary gain other than in circumstances which lead to the return of
43 the victim to a parent, guardian or other person responsible for the

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 general supervision of the victim.

2 Notwithstanding the provisions of paragraph (1) of subsection a. of
3 N.J.S.2C:43-6, the term of imprisonment imposed under this
4 paragraph shall be either a term of 25 years during which the actor
5 shall not be eligible for parole, or a specific term between 25 years and
6 life imprisonment, of which the actor shall serve 25 years before being
7 eligible for parole; provided, however, that the crime of kidnapping
8 under this paragraph and underlying aggravating crimes listed in
9 subparagraph (a), (b) or (c) of this paragraph shall merge for purposes
10 of sentencing. If the actor is convicted of the criminal homicide of a
11 victim of a kidnapping under the provisions of chapter 11, any
12 sentence imposed under provisions of this paragraph shall be served
13 consecutively to any sentence imposed pursuant to the provisions of
14 chapter 11.

15 d. "Unlawful" removal or confinement. A removal or confinement
16 is unlawful within the meaning of this section and of sections 2C:13-2
17 and 2C:13-3, if it is accomplished by force, threat or deception, or, in
18 the case of a person who is under the age of 14 or is incompetent, if
19 it is accomplished without the consent of a parent, guardian or other
20 person responsible for general supervision of his welfare.

21 e. It is an affirmative defense to a prosecution under paragraph (4)
22 of subsection b. of this section, which must be proved by clear and
23 convincing evidence, that:

24 (1) The actor reasonably believed that the action was necessary to
25 preserve the victim from imminent danger to his welfare. However, no
26 defense shall be available pursuant to this subsection if the actor does
27 not, as soon as reasonably practicable but in no event more than 24
28 hours after taking a victim under his protection, give notice of the
29 victim's location to the police department of the municipality where the
30 victim resided, the office of the county prosecutor in the county where
31 the victim resided, or the Division of Youth and Family Services in the
32 Department of Human Services;

33 (2) The actor reasonably believed that the taking or detaining of
34 the victim was consented to by a parent, or by an authorized State
35 agency; or

36 (3) The victim, being at the time of the taking or concealment not
37 less than 14 years old, was taken away at his own volition by his
38 parent and without purpose to commit a criminal offense with or
39 against the victim.

40 f. It is an affirmative defense to a prosecution under paragraph (4)
41 of subsection b. of this section that a parent having the right of
42 custody reasonably believed he was fleeing from imminent physical
43 danger from the other parent, provided that the parent having custody,
44 as soon as reasonably practicable:

45 (1) Gives notice of the victim's location to the police department
46 of the municipality where the victim resided, the office of the county

1 prosecutor in the county where the victim resided, or the Division of
2 Youth and Family Services in the Department of Human Services; or

3 (2) Commences an action affecting custody in an appropriate court.

4 g. As used in subsections e. and f. of this section, "parent" means
5 a parent, guardian or other lawful custodian of a victim.

6 (cf: P.L.1999, c.190, s.1)

7

8 2. N.J.S.2C:13-2 is amended to read as follows:

9 2C:13-2. A person commits a crime of the third degree if he
10 knowingly:

11 a. Restrains another unlawfully in circumstances exposing the other
12 to risk of serious bodily injury[; or].

13 b. [Holds another in a condition of involuntary servitude.

14 The creation by the actor of circumstances resulting in a belief by
15 another that he must remain in a particular location shall for purposes
16 of this section be deemed to be a holding in a condition of involuntary
17 servitude.

18 In any prosecution under subsection b., it is an affirmative defense
19 that the person held was a child less than 18 years old and the actor
20 was a relative or legal guardian of such child and his sole purpose was
21 to assume control of such child.] (Deleted by amendment, P.L. .c.
22 (C.) (now pending before the Legislature as this bill).

23 (cf: N.J.S.2C:13-2)

24

25 3. (New section) Involuntary servitude. a. A person commits a
26 crime of the first degree if he knowingly holds another in a condition
27 of involuntary servitude by knowingly providing or obtaining the labor
28 or services of another:

29 (1) by causing or threatening to cause serious bodily harm or
30 physical restraint against the person or any other person;

31 (2) by means of any scheme, plan or pattern intended to cause the
32 person to believe that the person or any other person would suffer
33 serious bodily harm or physical restraint;

34 (3) by committing a violation of N.J.S.2C:13-5 against the person;

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

41 (5) by means of the abuse or threatened abuse of the law or legal
42 process.

43 b. The creation by the actor of circumstances resulting in a belief
44 by another that he must remain in a particular location shall for the
45 purposes of this section be deemed to be a holding in a condition of
46 involuntary servitude.

1 c. In addition to any other disposition authorized by law, any
2 person who violates the provisions of this section shall be sentenced
3 to make restitution to the victim. The court shall award to the victim
4 restitution which is the greater of:

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

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

15 In any prosecution under this section it is an affirmative defense
16 that the person held was a child less than 18 years old and the actor
17 was a relative or legal guardian of such child and his sole purpose was
18 to assume control of such child.

19
20 4. (New section). Human trafficking. A person commits a crime
21 of human trafficking if he knowingly recruits, lures, entices, harbors,
22 provides or obtains the labor or services of another which involves
23 involuntary servitude in violation of section 3 of P.L. , c. (C.)(now
24 pending before the Legislature as section 3 of this bill), promotes
25 prostitution in violation of N.J.S.2C:34-1 or benefits financially or
26 otherwise by receiving anything of value from participation as an
27 organizer, supervisor, financier or manager in a scheme or course of
28 conduct which involves involuntary servitude in violation of the
29 provisions of section 3 of P.L. , c. (C.)(now pending before the
30 Legislature as section 3 of this bill) or N.J.S.2C:34-1. Human
31 trafficking is a crime of the first degree.

32 A victim of human trafficking may not be prosecuted for the crimes
33 of involuntary servitude or human trafficking in violation of sections
34 3 or 4 of P.L. ,c. (C.)(now pending before this Legislature as
35 sections 3 or 4 of this bill) or prostitution under N.J.S.2C:34-1.

36 Notwithstanding the provisions of paragraph (1) of subsection a. of
37 N.J.S.2C:43-6, the term of imprisonment imposed under this
38 paragraph shall be either a term of 30 years during which the actor
39 shall not be eligible for parole, or a specific term between 30 years and
40 life imprisonment, of which the actor shall serve 30 years before being
41 eligible for parole.

42 In addition to any other disposition authorized by law, any person
43 who violates the provisions of this section shall be sentenced to make
44 restitution to any victim in violation of this section. Such restitution
45 shall be in accordance with the terms set forth in subsection c. of
46 paragraph 3 of P.L. , c. (C.) (now pending before the Legislature
47 as section 3 of this bill.)

- 1 5. N.J.S.2C:34-1 is amended to read as follows:
2 2C:34-1. Prostitution and Related Offenses.
3 a. As used in this section:
4 (1) "Prostitution" is sexual activity with another person in
5 exchange with any person for something of economic value, or the
6 offer or acceptance of an offer to engage in sexual activity in exchange
7 with any person for something of economic value.
8 (2) "Sexual activity" includes, but is not limited to, sexual
9 intercourse, including genital-genital, oral-genital, anal-genital, and
10 oral-anal contact, whether between persons of the same or opposite
11 sex; masturbation; touching of the genitals, buttocks, or female
12 breasts; sadistic or masochistic abuse and other deviate sexual
13 relations.
14 (3) "House of prostitution" is any place where prostitution or
15 promotion of prostitution is regularly carried on by one person under
16 the control, management or supervision of another.
17 (4) "Promoting prostitution" is:
18 (a) Owning, controlling, managing, supervising or otherwise
19 keeping, alone or in association with another, a house of prostitution
20 or a prostitution business;
21 (b) Procuring an inmate for a house of prostitution or place in a
22 house of prostitution for one who would be an inmate;
23 (c) Encouraging, inducing, recruiting, luring, enticing, harboring,
24 providing, or obtaining, or otherwise purposely causing another to
25 become or remain a prostitute , including destroying, concealing,
26 removing, confiscating, or possessing any passport, immigration-
27 related document as defined in section 1 of P.L.1997, c.1 (C.2C:21-
28 31), or other document issued by a governmental agency to any person
29 which could be used as a means of verifying the person's identity or
30 age or any other personal identifying information;
31 (d) Soliciting a person to patronize a prostitute;
32 (e) Procuring a prostitute for a patron;
33 (f) Transporting a person into or within this State with purpose to
34 promote that person's engaging in prostitution, or procuring or paying
35 for transportation with that purpose; or
36 (g) Leasing or otherwise permitting a place controlled by the actor,
37 alone or in association with others, to be regularly used for
38 prostitution or promotion of prostitution, or failure to make a
39 reasonable effort to abate such use by ejecting the tenant, notifying
40 law enforcement authorities, or other legally available means.
41 b. A person commits an offense if:
42 (1) The actor engages in prostitution;
43 (2) The actor promotes prostitution;
44 (3) The actor knowingly promotes prostitution of a child under 18
45 whether or not the actor mistakenly believed that the child was 18
46 years of age or older, even if such mistaken belief was reasonable;
47 (4) The actor knowingly promotes prostitution of the actor's child,

1 ward, or any other person for whose care the actor is responsible;

2 (5) The actor compels another to engage in or promote
3 prostitution;

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

5 (7) The actor knowingly engages in prostitution with a person
6 under the age of 18, or if the actor enters into or remains in a house of
7 prostitution for the purpose of engaging in sexual activity with a child
8 under the age of 18, or if the actor solicits or requests a child under
9 the age of 18 to engage in sexual activity. It shall be no defense to a
10 prosecution under this paragraph that the actor mistakenly believed
11 that the child was 18 years of age or older, even if such mistaken belief
12 was reasonable.

13 c. Grading of offenses under subsection b.

14 (1) An offense under subsection b. constitutes a crime of the
15 ~~[second]~~ first degree if the offense falls within paragraph (3) or (4)
16 of that subsection. An offense under subsection b. constitutes a crime
17 of the second degree if the offense falls within paragraph (5) of that
18 subsection.

19 (2) An offense under subsection b. constitutes a crime of the third
20 degree if the offense falls within paragraph ~~[(5),]~~(6) or (7) of that
21 subsection.

22 (3) An offense under paragraph (2) of subsection b. constitutes a
23 crime of the ~~[third]~~ first degree if the conduct falls within the
24 definition of promoting prostitution as set forth in subparagraph (a),
25 (b), ~~[or]~~ (c) ~~.(f) or (g)~~ of paragraph (4) of subsection a. ~~[Otherwise~~
26 ~~the offense is]~~ An offense under paragraph (2) of subsection b.
27 constitutes a crime of the fourth degree if the conduct falls within the
28 definition of promoting prostitution as set forth in subparagraph (d) or
29 (e) of paragraph (4) of subsection a of this section.

30 (4) An offense under subsection b. constitutes a disorderly persons
31 offense if the offense falls within paragraph (1) of that subsection
32 except that a second or subsequent conviction for such an offense
33 constitutes a crime of the fourth degree. In addition, where a motor
34 vehicle was used in the commission of any offense under paragraph (1)
35 of subsection b. the court shall suspend for six months the driving
36 privilege of any such offender who has a valid driver's license issued
37 by this State. Upon conviction, the court shall immediately collect the
38 offender's driver's license and shall forward it, along with a report
39 stating the first and last day of the suspension imposed pursuant to this
40 paragraph, to the Division of Motor Vehicles.

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

46 e. In addition to any other disposition authorized by law, any
47 person who promotes prostitution in violation of paragraph (2) of

1 subsection b., if the violation is based upon subparagraph (a), (b), (c),
2 (f) or (g) of paragraph (4) of subsection a., or paragraph (3) or (4) of
3 subsection b., shall be sentenced to make restitution to any victim
4 encouraged, induced, recruited, lured, enticed, harbored, caused, or
5 transported into or within this State, to engage in prostitution. Such
6 restitution shall be in accordance with the terms set forth in subsection
7 c. of paragraph 3 of P.L. , c. (C.) (now pending before the
8 Legislature as section 3 of this bill.)
9 (cf: P.L.1999, c.9, s.1)

10

11 6. N.J.S.2C:41-1 is amended to read as follows:

12 2C:41-1. Definitions.

13 For purposes of this section and N.J.S.2C:41-2 through
14 N.J.S.2C:41-6:

15 a. "Racketeering activity" means (1) any of the following crimes
16 which are crimes under the laws of New Jersey or are equivalent
17 crimes under the laws of any other jurisdiction:

18 (a) murder

19 (b) kidnapping

20 (c) gambling

21 (d) promoting prostitution

22 (e) obscenity

23 (f) robbery

24 (g) bribery

25 (h) extortion

26 (i) criminal usury

27 (j) violations of Title 33 of the Revised Statutes

28 (k) violations of Title 54A of the New Jersey Statutes and Title 54
29 of the Revised Statutes

30 (l) arson

31 (m) burglary

32 (n) theft and all crimes defined in chapter 20 of Title 2C of the
33 New Jersey Statutes

34 (o) forgery and fraudulent practices and all crimes defined in
35 chapter 21 of Title 2C of the New Jersey Statutes

36 (p) fraud in the offering, sale or purchase of securities

37 (q) alteration of motor vehicle identification numbers

38 (r) unlawful manufacture, purchase, use or transfer of firearms

39 (s) unlawful possession or use of destructive devices or explosives

40 (t) violation of sections 112 through 116 inclusive of the "Casino
41 Control Act," P.L.1977, c.110 (C.5:12-112 through 5:12-116)

42 (u) violation of N.J.S.2C:35-4, N.J.S.2C:35-5 or N.J.S.2C:35-6
43 and all crimes involving illegal distribution of a controlled dangerous
44 substance or controlled substance analog, except possession of less
45 than one ounce of marijuana

46 (v) violation of subsection b. of N.J.S.2C:24-4 except for
47 subparagraph (b) of paragraph (5) of subsection b.

- 1 (w) violation of section 1 of P.L.1995, c.405 (C.2C:39-16), leader
2 of firearms trafficking network
- 3 (x) violation of section 1 of P.L.1983, c.229 (C.2C:39-14),
4 weapons training for illegal activities
- 5 (y) violation of section 2 of P.L.2002, c.26 (C.2C:38-2), terrorism.
6 (z) violation of sections 3 and 4 of P.L. .c. (C.)(now pending
7 before the Legislature as sections 3 and 4 of this bill).
- 8 (2) any conduct defined as "racketeering activity" under Title 18,
9 U.S.C.s.1961(1)(A), (B) and (D).
- 10 b. "Person" includes any individual or entity or enterprise as
11 defined herein holding or capable of holding a legal or beneficial
12 interest in property.
- 13 c. "Enterprise" includes any individual, sole proprietorship,
14 partnership, corporation, business or charitable trust, association, or
15 other legal entity, any union or group of individuals associated in fact
16 although not a legal entity, and it includes illicit as well as licit
17 enterprises and governmental as well as other entities.
- 18 d. "Pattern of racketeering activity" requires
19 (1) Engaging in at least two incidents of racketeering conduct one
20 of which shall have occurred after the effective date of this act and the
21 last of which shall have occurred within 10 years (excluding any period
22 of imprisonment) after a prior incident of racketeering activity; and
23 (2) A showing that the incidents of racketeering activity embrace
24 criminal conduct that has either the same or similar purposes, results,
25 participants or victims or methods of commission or are otherwise
26 interrelated by distinguishing characteristics and are not isolated
27 incidents.
- 28 e. "Unlawful debt" means a debt
29 (1) Which was incurred or contracted in gambling activity which
30 was in violation of the law of the United States, a state or political
31 subdivision thereof; or
32 (2) Which is unenforceable under state or federal law in whole or
33 in part as to principal or interest because of the laws relating to usury.
- 34 f. "Documentary material" includes any book, paper, document,
35 writing, drawing, graph, chart, photograph, phonorecord, magnetic or
36 recording or video tape, computer printout, other data compilation
37 from which information can be obtained or from which information can
38 be translated into useable form or other tangible item.
- 39 g. "Attorney General" includes the Attorney General of New
40 Jersey, his assistants and deputies. The term shall also include a
41 county prosecutor or his designated assistant prosecutor if a county
42 prosecutor is expressly authorized in writing by the Attorney General
43 to carry out the powers conferred on the Attorney General by this
44 chapter.
- 45 h. "Trade or commerce" shall include all economic activity
46 involving or relating to any commodity or service.
47 (cf: P.L.2002, c.26, s.18).

1 7. N.J.S.2C:64-1 is amended to read as follows:

2 2C:64-1. Property Subject to Forfeiture.

3 a. Any interest in the following shall be subject to forfeiture and no
4 property right shall exist in them:

5 (1) Controlled dangerous substances, firearms which are unlawfully
6 possessed, carried, acquired or used, illegally possessed gambling
7 devices, untaxed cigarettes, untaxed special fuel, unlawful sound
8 recordings and audiovisual works and items bearing a counterfeit
9 mark. These shall be designated prima facie contraband.

10 (2) All property which has been, or is intended to be, utilized in
11 furtherance of an unlawful activity, including, but not limited to,
12 conveyances intended to facilitate the perpetration of illegal acts, or
13 buildings or premises maintained for the purpose of committing
14 offenses against the State.

15 (3) Property which has become or is intended to become an
16 integral part of illegal activity, including, but not limited to, money
17 which is earmarked for use as financing for an illegal gambling
18 enterprise.

19 (4) Proceeds of illegal activities, including, but not limited to,
20 property or money obtained as a result of the sale of prima facie
21 contraband as defined by subsection a. (1), proceeds of illegal
22 gambling, prostitution, bribery and extortion.

23 (5) All property which has been, or is intended to be, utilized in
24 furtherance of unlawful activities as set forth in P.L. , c. (C.) (now
25 pending before the Legislature as this bill), as well as all proceeds of
26 unlawful activities related to human trafficking as set forth in P.L. ,
27 c. (C.) (now pending before the Legislature as this bill).

28 b. Any article subject to forfeiture under this chapter may be seized
29 by the State or any law enforcement officer as evidence pending a
30 criminal prosecution pursuant to section 2C:64-4 or, when no criminal
31 proceeding is instituted, upon process issued by any court of
32 competent jurisdiction over the property, except that seizure without
33 such process may be made when not inconsistent with the Constitution
34 of this State or the United States, and when

35 (1) The article is prima facie contraband; or

36 (2) The property subject to seizure poses an immediate threat to
37 the public health, safety or welfare.

38 c. For the purposes of this section:

39 "Items bearing a counterfeit mark" means items bearing a
40 counterfeit mark as defined in N.J.S.2C:21-32.

41 "Unlawful sound recordings and audiovisual works" means sound
42 recordings and audiovisual works as those terms are defined in
43 N.J.S.2C:21-21 which were produced in violation of N.J.S.2C:21-21.

44 "Untaxed special fuel" means diesel fuel, No. 2 fuel oil and
45 kerosene on which the motor fuel tax imposed pursuant to
46 R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or
47 transferred in this State in a manner not authorized pursuant to

1 R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).
2 (cf: P.L.2004, c.150, s.3)

3
4 8. Section 11 of P.L. 1971, c. 317 (C.52:4B-11) is amended to
5 read as follows:

6 11. The board may order the payment of compensation in
7 accordance with the provisions of this act for personal injury or death
8 which resulted from:

9 a. an attempt to prevent the commission of crime or to arrest a
10 suspected criminal or in aiding or attempting to aid a police officer so
11 to do, or

12 b. the commission or attempt to commit any of the following
13 offenses:

14 (1) aggravated assault;

15 (2) (Deleted by amendment, P.L.1995, c.135).

16 (3) threats to do bodily harm;

17 (4) lewd, indecent, or obscene acts;

18 (5) indecent acts with children;

19 (6) kidnapping;

20 (7) murder;

21 (8) manslaughter;

22 (9) aggravated sexual assault, sexual assault, aggravated criminal
23 sexual contact, criminal sexual contact;

24 (10) any other crime involving violence including domestic
25 violence as defined by section 3 of P.L.1981, c.426 (C.2C:25-3) or
26 section 3 of P.L.1991, c.261 (C.2C:25-19);

27 (11) burglary;

28 (12) tampering with a cosmetic, drug or food product;

29 (13) a violation of sections 3 or 4 of P.L. , c. (C.) (now
30 pending before the Legislature as sections 3 or 4 of this bill); or

31 c. the commission of a violation of R.S.39:4-50, section 5 of
32 P.L.1990, c.103 (C.39:3-10.13), section 19 of P.L.1954, c.236
33 (C.12:7-34.19) or section 3 of P.L.1952, c.157 (C.12:7-46); or

34 d. theft of an automobile pursuant to N.J.S.2C:20-2, eluding a law
35 enforcement officer pursuant to subsection b. of N.J.S.2C:29-2 or
36 unlawful taking of a motor vehicle pursuant to subsection b., c. or d.
37 of N.J.S.2C:20-10 where injuries to the victim occur in the course of
38 operating an automobile in furtherance of the offense.

39 (cf: P.L.1995,c.135,s.4).

40

41 9.This act shall take effect immediately.

42

43

44

STATEMENT

45

46 This bill would establish new crimes concerning human trafficking
47 and sex trafficking. Both of these activities represent a modern form

1 of slavery, in which increasing numbers of persons, primarily women
2 and children, are trafficked across international borders and into this
3 State. Although there are currently laws which can be used to attempt
4 to prosecute some of the underlying trafficking crimes such as
5 prostitution, kidnapping, criminal restraint and criminal coercion,
6 there is no specific law which addresses human trafficking per se.

7 This bill would create a comprehensive statute tailored to
8 specifically prohibit human trafficking and to prohibit the wide range
9 of schemes and plans used to entice and lure the victims of human
10 trafficking and to maintain them in their imprisoned environments. This
11 bill would incorporate relevant portions of the "Model State Anti-
12 Trafficking" statute into New Jersey's Criminal Code, Title 2C of the
13 New Jersey Statutes. In so doing, the bill creates the new crime of
14 human trafficking. The bill would also amend the current criminal
15 restraint statute to remove those provisions concerning involuntary
16 servitude and place those provisions in a separate section in the
17 criminal statutes in order to facilitate the prosecution of these offenses.
18 In addition to insuring the prosecution of these offenses, the bill would
19 also amend the law to provide the same benefits such as compensation
20 for injury to victims of human trafficking.

21 *Section 1* of the bill amends the kidnapping statute, N.J.S.2C:13-1,
22 to add prostitution, N.J.S.2C:34-1 and human trafficking to the
23 grading provisions in paragraph (2) of subsection c., which provides
24 for mandatory terms of imprisonment for kidnapping in the first degree
25 when the victim is less than 16 years old and during the kidnapping
26 any of the following crimes were committed against the victim: sexual
27 assault, criminal sexual contact, endangering the welfare of a child or
28 if the actor sells or delivers the victim to another person for pecuniary
29 gain other than circumstances which lead to the return of the victim to
30 a parent or other person responsible for the general supervision of the
31 victim.

32 *Section 2* of the bill amends N.J.S.2C:13-2, criminal restraint, to
33 remove those provisions in the law which concern involuntary
34 servitude. The bill places the crime of involuntary servitude in a
35 separate section under the criminal code.

36 *Section 3* of the bill makes it a crime of the first degree for a
37 person to knowingly hold another in a condition of involuntary
38 servitude by knowingly providing or obtaining the labor or services of
39 another: (1) by causing or threatening to cause serious bodily harm or
40 physical restraint against the person or any other person; (2) by means
41 of any scheme, plan or pattern intended to cause the person to believe
42 that the person or any other person would suffer serious bodily harm
43 or physical restraint; (3) by committing a violation of N.J.S.2C:13-5
44 (criminal coercion); (4) by destroying, concealing, removing,
45 confiscating, or possessing any passport, immigration-related
46 document or other document issued by a governmental agency to any
47 person which could be used as a means of verifying the person's

1 identity or age or any other personal identifying information; or (5) by
2 means of the abuse or threatened abuse of the law or legal process. A
3 crime of the first degree is punishable by a term of imprisonment of
4 10-20 years, a fine of up to \$200,000 or both.

5 The creation by an offender of circumstances resulting in a belief
6 by another that he must remain in a particular location would be
7 deemed to be a holding in a condition of involuntary servitude under
8 the provisions of this section.

9 This section would also provide for restitution for victims of
10 involuntary servitude. In addition to any other authorized disposition,
11 the court would award to victims of involuntary servitude which is the
12 greater of: (1) the gross income or value to the defendant of the
13 victim's labor or services; or (2) the value of the victim's labor or
14 services as determined by the "New Jersey Prevailing Wage Act,"
15 N.J.S.A.34:11-56.25, the "New Jersey State Wage and Hour Law,"
16 N.J.S.A.34:11-56a et seq., the Seasonal Farm Labor Act,
17 N.J.S.A.34:9A-1 et seq., the laws concerning the regulation of child
18 labor in chapter 2 of Title 34 of the Revised Statutes, or any other
19 applicable State law, and the "Fair Labor Standards Act of 1938," 29
20 U.S.C.A. s.201 et seq. or any other applicable federal law.

21 In any prosecution under involuntary servitude, it would be an
22 affirmative defense that the person held was a child less than 18 years
23 old and the actor was a relative or legal guardian of such child and his
24 sole purpose was to assume control of such child. This provision is
25 currently set out as part of N.J.S.A. 2C:13-2.

26 *Section 4* of the bill creates the new crime of human trafficking. A
27 person would be guilty of the crime of human trafficking if he
28 knowingly recruits, lures, entices, harbors, provides or obtains the
29 labor or services of another which involves involuntary servitude,
30 promoting prostitution or benefits financially or otherwise by receiving
31 anything of value from participation as an organizer, supervisor,
32 financier or manager in a scheme or course of conduct which involves
33 involuntary servitude or prostitution.

34 Human trafficking would be a crime of the first degree. This bill
35 would provide for a mandatory term of imprisonment of 30 years
36 during which time the defendant would not be eligible for parole, or
37 a specific term between 30 years and life imprisonment, of which the
38 defendant would serve 30 years before being eligible for parole.

39 Under the provisions of the bill, an offender would also be
40 sentenced to make restitution to a victim of human trafficking, similar
41 to the restitution which would be provided under the bill to victims of
42 involuntary servitude. In addition, the bill also provides that victims of
43 human trafficking may not be prosecuted for the crimes of involuntary
44 servitude, human trafficking or prostitution.

45 *Section 5* of the bill would amend the current prostitution statute to
46 expand the definition of "promoting prostitution" to include
47 encouraging, inducing, recruiting, luring, enticing, harboring,

1 providing, or obtaining, or otherwise purposely causing another to
2 become or remain a prostitute, including destroying, concealing,
3 removing, confiscating, or possessing any passport, immigration-
4 related document or other document issued by a governmental agency
5 to any person which could be used as a means of verifying the person's
6 identity or age or any other personal identifying information.

7 This bill would also amend the gradation scheme for prostitution to
8 more accurately reflect the changes to the definition of "promoting
9 prostitution" and to provide consistency between the prostitution
10 statute and the newly created human trafficking and involuntary
11 servitude crimes. Under the new grading scheme prostitution would
12 be a upgraded from a crime of the second degree to a crime of the first
13 degree if: (1) the defendant knowingly promotes prostitution of a child
14 under 18, whether or not the defendant mistakenly believed that the
15 child was 18; or (2) the defendant promotes prostitution of his child,
16 ward or any other person for whose care the actor is responsible.

17 The bill would upgrade promoting prostitution from a crime of the
18 third degree to a crime of the first degree if a person promotes
19 prostitution by: (1) owning, controlling, managing, supervising or
20 otherwise keeping, alone or in association with another, a house of
21 prostitution or a prostitution business; (2) procuring an inmate for a
22 house of prostitution or place in a house of prostitution for one who
23 would be an inmate; (3) encouraging, inducing, recruiting, luring,
24 enticing, harboring, providing, or obtaining, or otherwise purposely
25 causing another to become or remain a prostitute, including
26 destroying, concealing, removing, confiscating, or possessing any
27 passport, immigration-related document or other document issued by
28 a governmental agency to any person which could be used as a means
29 of verifying the person's identity or age or any other personal
30 identifying information; (4) transporting a person into or within this
31 State with purpose to promote that person's engaging in prostitution,
32 or procuring or paying for transportation with that purpose; or (5)
33 leasing or otherwise permitting a place controlled by the actor, alone
34 or in association with others, to be regularly used for prostitution or
35 promotion of prostitution, or failure to make a reasonable effort to
36 abate such use by ejecting the tenant, notifying law enforcement
37 authorities, or other legally available means.

38 The bill would upgrade from a crime of the third degree to a crime
39 of the second degree if the actor compels another to engage in or
40 promote prostitution. The bill would not change the provisions of the
41 statute with regard to crimes of the fourth degree. Thus, it would
42 continue to be a crime of the fourth degree if a person solicits a person
43 to patronize a prostitute or procures a prostitute for a patron. The
44 third degree offense of promoting prostitution of one's spouse or
45 engaging in prostitution with a person under the age of 18 would
46 remain unchanged.

47 The prostitution laws would also be amended to require the

1 defendant to make restitution to a victim of prostitution, similar to the
2 restitution which would be provided to victims of involuntary
3 servitude and human trafficking.

4 *Section 6* of the bill would amend New Jersey's Racketeering
5 statute, N.J.S.2C:41-1, to include human trafficking and involuntary
6 servitude in the list of offenses which are considered "racketeering
7 activity."

8 *Section 7* of the bill would amend the forfeiture statute, N.J.S.
9 2C:64-1, to provide that any property or proceeds of any unlawful
10 activity related to human trafficking or involuntary servitude would be
11 subject to forfeiture.

12 *Section 8* of the bill would amend the "Criminal Injuries
13 Compensation Act," N.J.S.52:4B-1 et seq., to specifically provide
14 victims of human trafficking and involuntary servitude with the
15 protections and services provided to all victims of violent crimes. This
16 bill amends N.J.S.A.52:4B-11 by expanding the list of these offenses
17 to include human trafficking and involuntary servitude, thereby
18 entitling victims of these crimes to petition the Violent Crimes
19 Compensation Board (VCCB) for damages resulting from personal
20 injury or death as a result of the crime committed against the victims.
21 Once a victim petitions the board for recovery the victim may also
22 petition the board for any expenses incurred or for any pecuniary loss
23 resulting from personal injury to the victim. These victims of human
24 trafficking and involuntary servitude would then gain access to all the
25 services provided by the VCCB which includes counseling. The
26 victims of these crimes would also have access to the Office of Victim-
27 Witness Assistance which develops and coordinates the Statewide
28 victim-witness rights information program. This program provides
29 victims with representation, with information about the county offices
30 of victim advocacy and with coordinates with the county prosecutors
31 offices and law enforcement agencies to facilitate the victim's
32 participation in the criminal justice system.

SENATE, No. 1877

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED OCTOBER 4, 2004

Sponsored by:

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

Senator LEONARD LANCE

District 23 (Warren and Hunterdon)

Co-Sponsored by:

Senators Kyrillos, T.Kean and Connors

SYNOPSIS

Establishes new crimes of forced labor or services, sexual servitude, and human trafficking.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/14/2004)

1 AN ACT establishing new crimes concerning human trafficking, and
2 supplementing Title 2C of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Definitions as used in this chapter:

8 a. "Coercion" means any act which is defined as criminal coercion
9 by N.J.S.2C:13-5.

10 b. "Commercial sexual activity" means any act of sexual
11 penetration or sexual contact as defined by N.J.S.2C:14-1, prohibited
12 sexual act as defined by N.J.S.2C:24-4, or sexual activity as defined
13 by N.J.S.2C:34-1 with another person, in which something of
14 economic value is given, promised to, or received in exchange for the
15 activity by any person.

16 c. "Financial harm" means theft of property by extortion, as defined
17 by N.J.S.2C:20-5.

18 d. "Labor" means work of economic or financial value.

19 e. "Services" means an ongoing relationship between persons in
20 which one person performs activities under the supervision of, or for
21 the benefit of, another. Commercial sexual activity and sexually-
22 explicit performances shall be considered forms of service under this
23 chapter, but nothing in this chapter shall be construed to legitimize or
24 legalize prostitution.

25 f. "Sexually-explicit performance" means an act by a person with
26 the purpose to sexually arouse or sexually gratify another, or degrade
27 or humiliate the person.

28 g. "Trafficking victim" means a victim of any of the crimes set
29 forth in this chapter.

30

31 2. Forced labor or services. a. A person commits a crime if the
32 person knowingly provides or obtains the labor or services of another
33 by:

34 (1) causing or threatening to cause serious bodily harm to any
35 person;

36 (2) physically restraining or threatening to physically restrain any
37 person;

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

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

45 (5) coercion; or

46 (6) causing or threatening to cause financial harm to any person.

1 b. A violation of subsection a. of this section is graded as follows:

2 (1) an offense under paragraph (1) or (2) is a crime of the first
3 degree;

4 (2) an offense under paragraph (3) or (4) is a crime of the second
5 degree; and

6 (3) an offense under paragraph (5) or (6) is a crime of the third
7 degree.

8

9 3. Sexual servitude of a minor. a. A person commits a crime of
10 the first degree if the person knowingly recruits, entices, harbors,
11 transports, provides or obtains by any means, or attempts to recruit,
12 entice, harbor, provide, or obtain by any means, any person under 18
13 years of age, with the purpose of causing the person to engage in
14 commercial sexual activity or a sexually-explicit performance.

15 b. If the violation of this section involves causing or threatening to
16 cause serious bodily harm against the person, then the term of
17 imprisonment shall, notwithstanding the provisions of paragraph (1)
18 of subsection a. of N.J.S.2C:43-6, be between 15 and 25 years.

19

20 4. Trafficking of persons for forced labor or services. A person
21 commits a crime of the first degree if the person:

22 a. knowingly recruits, entices, harbors, transports, provides, or
23 obtains by any means, or attempts to recruit, entice, harbor, transport,
24 provide, or obtain by any means, another person, for the purpose of
25 violating any of the provisions of P.L. , c. (C.) (now pending before
26 the Legislature as this bill); or

27 b. benefits financially or otherwise by receiving anything of value
28 from participation as an organizer, supervisor, financier, or manager
29 in a scheme or course of conduct which violates any of the provisions
30 of P.L. , c. (C.) (now pending before the Legislature as this bill).

31

32 5. Restitution. In addition to any other disposition authorized by
33 law, any person who violates any of the provisions of P.L. , c.
34 (C.) (now pending before the Legislature as this bill) shall be
35 sentenced to make restitution to the victim. The court shall award the
36 victim restitution which includes the greater of:

37 a. the gross income or value to the defendant of the victim's labor
38 or services; or

39 b. the value of the victim's labor as determined by the "New Jersey
40 Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the
41 "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-
42 56a et seq.), the Seasonal Farm Labor Act, P.L.1945, c.71 (C.34:9A-1
43 et seq.), the laws concerning the regulation of child labor in chapter 2
44 of Title 34 of the Revised Statutes, or any other applicable State law,
45 and the "Fair Labor Standards Act of 1938," 29 U.S.C. s.201 et seq.
46 or any other applicable federal law.

1 6. The Attorney General and the Commissioner of the Department
2 of Human Services shall issue a joint report to the Governor and
3 Legislature concerning prosecutions of the human trafficking crimes
4 set forth in P.L. , c. (C.) (now pending before the Legislature as this
5 bill), and the use of the criminal justice system and social services to
6 assist trafficking victims within one year of the effective date of the
7 act. The report shall include specific recommendations from the
8 Attorney General and commissioner to improve government efforts to
9 prevent and prosecute trafficking crimes, and to protect and otherwise
10 respond to the needs of trafficking victims. A copy of the report shall
11 be submitted to the President of the Senate, the Speaker of the General
12 Assembly, the Minority Leader of the Senate, and the Minority Leader
13 of the General Assembly.

14

15 7. This act shall take effect immediately.

16

17

18

STATEMENT

19

20 This bill would establish a new chapter of New Jersey's Criminal
21 Code (Title 2C) dedicated to human trafficking crimes. The bill would
22 create the crimes of "forced labor or services" and "trafficking of
23 persons for forced labor or services," in which labor, meaning more
24 traditional work of economic value, or services, including commercial
25 sexual activity and sexually-explicit performances, are obtained by
26 physical force, criminal coercion, or other means of restricting the
27 victim's freedom to engage or refrain from engaging in the specified
28 conduct. A third new crime, "sexual servitude of a minor," would
29 target efforts to recruit, harbor, obtain, or transport any person under
30 the age of 18 years of age with the purpose of causing the person to
31 engage in commercial sexual activity or a sexually-explicit
32 performance.

33

34 These new crimes would address a modern form of slavery, in
35 which ever increasing numbers of persons, primarily women and
36 children, are trafficked across international borders and into this State.
37 The human trafficking crimes would all be considered crimes of the
38 first degree and generally punishable by a term of imprisonment of 10
39 to 20 years, or a fine of up to \$200,000, or both; except that the use
40 of certain, less severe methods enumerated in the bill to obtain the
41 labor or services of another would reduce the crime of "forced labor
42 or services" to either a second degree or third degree crime.

42

43 In order to further assist human trafficking victims, the bill would
44 require the Attorney General and the Commissioner of Human
45 Services to issue a joint report to the Governor and Legislature
46 concerning prosecutions of the newly established human trafficking
crimes, and the use of the criminal justice system and social services

1 to respond to the needs of the victims of such crimes. The report
2 would be issued within one year of the enactment of the bill, and it
3 would include specific recommendations to improve government
4 efforts to prevent and prosecute human trafficking crimes, and to
5 protect and otherwise assist the needs of trafficking victims.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, NOS. 1848 AND 1877**

STATE OF NEW JERSEY

DATED: FEBRUARY 3, 2005

The Senate Judiciary Committee reports favorably a Senate Committee Substitute for Senate Bills Nos. 1848 and 1877.

This substitute would establish the new crime of human trafficking. This crime concerns using a person for the purposes of engaging in unlawful sexual activity or providing unlawful labor or services. These activities represent a modern form of slavery, in which increasing numbers of persons, primarily women and children, are trafficked across international borders and into this State. Although there are current laws which may be used to attempt to prosecute some of the underlying trafficking crimes such as prostitution, kidnapping, criminal restraint and criminal coercion, there is no specific law which addresses human trafficking per se.

This substitute creates a statute tailored specifically to prohibit human trafficking and the range of schemes and plans used to lure the victims of human trafficking and maintain them in their imprisoned environments. This substitute incorporates relevant portions of the "Model State Anti-Trafficking" statute into New Jersey's Criminal Code. The substitute amends the law concerning prostitution to provide an affirmative defense for those defendants who are victims of human trafficking. In addition the substitute amends the law to provide victims of human trafficking the same benefits accorded other victims of serious crimes and includes human trafficking within the racketeering statute.

Section 1 of the bill creates the new crime of human trafficking. A person would be guilty of the crime of human trafficking if he knowingly recruits, lures, entices, harbors, transports, provides or obtains, by any means, another, to engage in unlawful sexual activity as defined in N.J.S.A. 2C:34-1 (prostitution) or to provide unlawful labor or services: (a) by threats of serious bodily harm or physical restraint against the person or any other person; (b) by means of any scheme, plan or pattern intended to cause the person to believe that the person or any other person would suffer serious bodily harm or physical restraint; (c) by committing a violation of N.J.S.2C:13-5 (criminal coercion) against the person; or (d) by destroying, concealing, removing, confiscating, or possessing any passport,

immigration-related document as defined in section 1 of P.L.1997, c.1 (C.2C:21-31), or certain other documents issued by a governmental agency; or (e) by means of the abuse or threatened abuse of the law or legal process. Also, a person would be guilty of human trafficking if he receives anything of value from participation as an organizer, supervisor, financier or manager in a human trafficking scheme.

This substitute makes human trafficking a crime of the first degree. Under the provisions of the substitute, a mandatory term of imprisonment would be imposed for the first degree crime of human trafficking where the defendant participates in the human trafficking scheme as an organizer, supervisor, financier or manager, pursuant to paragraph (2) of subsection a. The mandatory term of imprisonment for that offense would be for a term of imprisonment of 20 years during which time the defendant would not be eligible for parole, or a specific term between 20 years and life imprisonment, of which the defendant would serve 20 years before being eligible for parole.

The substitute provides an affirmative defense to prosecution if the defendant, during the alleged commission of the offense, was a victim of human trafficking.

Section 1 would also provide for restitution for victims of human trafficking. The court would award to victims of human trafficking the greater of: (1) the gross income or value to the defendant of the victim's labor or services; or (2) the value of the victim's labor or services as determined by the "New Jersey Prevailing Wage Act," N.J.S.A.34:11-56.25 or other applicable State or federal laws.

Section 2 of the bill amends the prostitution statute, N.J.S.A.2C:34-1 to provide an affirmative defense if during the time of the alleged commission of prostitution, the defendant was a victim of human trafficking. In addition, the substitute would amend prostitution to provide that a person must have "knowingly" leased or otherwise permitted a place to be used for prostitution or promotion of prostitution in order to be found guilty of the offense of promoting prostitution.

Section 3 of the bill amends New Jersey's racketeering statute, N.J.S.2C:41-1, to include human trafficking in the list of offenses which are considered "racketeering activity."

Section 4 of the bill amends the "Criminal Injuries Compensation Act," N.J.S.52:4B-1 et seq., to specifically provide victims of human trafficking with the protections and services provided to all victims of violent crimes. Victims of human trafficking would gain access to all the services provided by the VCCB and to the Office of Victim-Witness Assistance which develops and coordinates the Statewide victim-witness rights information program.

This substitute is identical to Assembly, No.2730 (ACS) (1R).

STATEMENT TO

[First Reprint]

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, Nos. 1848 and 1877**

with Senate Floor Amendments
(Proposed By Senator GILL)

ADOPTED: FEBRUARY 14, 2005

These floor amendments amend the section of law promulgating standards for law enforcement agencies to ensure that the rights of crime victims are enforced.

These floor amendments add new subsections e. and f. to N.J.S.A.52:4B-44 concerning victims of human trafficking. These amendments would require the Office of Victim-Witness Advocacy or the county prosecutor's office involved in the case to ensure that the victim of human trafficking obtain assistance in receiving any available benefits or services. Because some of these victims of human trafficking are likely to be persons who do not have United States citizenship status, the amendments would specifically direct law enforcement to provide assistance with regard to any necessary certifications or endorsements needed for the victim to be recognized as having federal T non-immigrant status for the purpose of receiving any federal benefits or services available pursuant to the "Trafficking Victims Protection Reauthorization Act of 2003," 22 U.S.C. section 7101 et. seq.

The floor amendments would also direct the Attorney General, through the Office of Victim-Witness Advocacy and in consultation with the Commissioner of the Department of Health and Senior Services, the Superintendent of State Police and representatives of providers of services to victims of human trafficking, to coordinate the establishment of standard protocols for the provision of information and services to these victims.