

**REPORT OF THE ATTORNEY GENERAL  
PURSUANT TO S. 272, AN ACT RELATING TO HUMAN TRAFFICKING, IN  
THE 2009 - 2010 GENERAL ASSEMBLY**

**January 2011**

## **INTRODUCTION**

This Report is the second report required by S. 272, An Act Relating to Human Trafficking, of the 2009 – 2010 General Assembly. Pursuant to Section 2 (h) of S. 272, on November 15, 2010, the Human Trafficking Task Force reported to the members of the Senate and House judiciary, the Senate committee on health and welfare, the House committee on human services and to the Legislative Council its preliminary recommendations and legislative proposals, including criminal statutory provisions, if any related to its findings. This Report is the Task Force's final report to the General Assembly and Governor regarding its findings and recommendations. A copy of S. 272 is attached as Appendix A.

## **LEGISLATIVE AUTHORITY**

S. 272 designates the Attorney General's Office as the Chair of the Human Trafficking Task Force. The Task Force was charged with meeting six times and presenting findings and recommendations and disbanding in January of 2011. The Task Force shall perform the following responsibilities: 1. Identify ways to raise public awareness about human trafficking in Vermont communities; 2. recommend how the Vermont public, business community, local and state government, health, and education providers can best identify, report and prevent acts of human trafficking in Vermont; and 3. Identify the services needed by victims of human trafficking and their families and recommend ways to provide those services.

## **ACTIONS TAKEN**

The Attorney General's Office (AGO) convened the Human Trafficking Task Force members identified by S. 272. The members of the Task Force are listed in Appendix B. The Task Force additionally created three sub-committees to address the following responsibilities: legislative recommendations, public awareness and victim services. The Task Force held meetings throughout the summer and fall as did the sub- committees.

The Task Force held a Community Forum on September 28, 2010 to gather public testimony on the issue. The Community Forum Flyer is attached as Appendix C. Approximately 50 people attended the Forum. The S. 272 Task Force Group extends thanks to the public witnesses for their critical contributions. All parties who testified supported the adoption of a human trafficking law in Vermont. The Task Force heard testimony from: victim advocates; law enforcement; immigration attorneys; federal authorities; human trafficking

experts; prosecutors and community members. Notably, the Task Force heard testimony from prosecutors and law enforcement officers who were involved in prior Vermont cases involving what appeared to be human trafficking. In addition, at a regularly scheduled meeting, the Task Force heard testimony from youth focused social service provider who described incidents of trafficking involving young Vermonters ranging in their teens to mid-twenties.

Drawing on their experiences, all these witnesses stressed the need for a coordinated federal and state response to human trafficking in Vermont even though the identified cases investigated were small in number.

The Task Force also created and distributed surveys to service providers and Vermont youths regarding human trafficking. The results of the surveys are below and the actual surveys are attached as Appendices H and I.

The survey results identify the existence of trafficking in Vermont and support a legislative response that will address the needs of trafficking victims, hold perpetrators accountable and educate the public regarding the issue.

### **Service Provider Survey**

**Survey Distribution:** In 2010, a ten question qualitative survey was distributed online through a link to Survey Monkey to individuals working in victim care services, family services, hospital emergency rooms and various independent non-profits throughout the state of Vermont. A letter accompanied the survey that shared the definition of Human Trafficking, as defined by the United States Trafficking Victims Protection Act, and provided respondents with a list of potential “indicators” of trafficking.

### **Service Provider Survey Results**

- A total of 58 individuals responded to the survey
  - 36 DCF social workers responded
  - Of the other populations, to date there are 22 respondents including:
    - Sexual Assault Team
    - Spectrum Youth & Family Services
    - Fletcher Allen Emergency Room
    - Emergency Department Grace Cottage Hospital
    - Vermont 211
    - COTS Case Manager
    - AWARE
    - South Royalton Legal Clinic
    - Women Safe
    - Vermont Coalition of Runaway Homeless Youth

- USC Transitional Living Program Coordinator
  - Washington County Youth Service Bureau Transitional Program
  - Vermont Immigration and Asylum Advocates
  - Clarina Howard Nichols Center
  - DCF Social Workers
  - Local Programs of the Vermont Network of Domestic & Sexual Violence
  - Office of the Federal Public Defender
  - Women’s Rape Crisis Center of Chittenden County
  - Sexual Assault Nurse Examiner from Fletcher Allen Hospital
  - Safeline
  - Northeast Kingdom of Youth Services
  - Windsor County Youth Services
- Approximately 26% of respondents state that they have worked with potential victims
- 95% of the potential victims are female
- Most potential victims are between the ages of 15 – 25, though the reported ages ranged from 10 to 50 years
- 97% of the potential victims are single
- Nationalities of potential victims:
- American
  - Central American
  - Asian
  - Somali
- Facts reported on labor trafficking:
- Most respondents stated that they are either not well informed, unaware of it, or stated that they felt it was “minimal” or “limited”. However, an emergency room physician stated that he felt the scope was moderate to large.
  - One respondent shared information about a “possible” instance of labor trafficking where undocumented workers were not paid for their work
  - Another was concerned about sharing details

- Facts reported on sex trafficking:
  - While some respondents state that they are unaware of any, most commented that even though they personally have not, to their knowledge, come into contact with victims, that they have heard of a few potential cases and do feel that it is an issue. Other respondents shared more specific information and/or personal experience.
  - Relevant quotes from some respondents:

*“We see coercive prostitution situations on an individual basis versus an organized one and we have heard from one parent of an 18 year old who was involved in a prostitution ring in which she was being driven to NYC.”*

*“I know there are several spas in Chittenden County that are actually brothels and are partaking in sex trafficking. There are also instances in the Burlington Area where there has been human trafficking in association with major drug traffickers from New York City.”*

*“I have had one second hand report of a group of undocumented young women who are being brought unwillingly to farms to have sex with the workers. Despite offers of assistance, no direct contact has been established with them and I have no current news.”*

*“I have been the physician for at least 1 person who was the known victim of the immigrant sex trade.”*

*“My best guess is that I have seen less than 10... and my hunch is that if we had more specific and tailored services for their population that would provide safety... we would see more.”*

- Respondents’ suggestions for managing the trafficking in persons problem
  - Raise awareness and provide education on the issue to the public, law enforcement, and social and health service providers

- Establish a network of organizations working together including federal, state, and local agencies and non-profits
- Safe housing (a safe-house) with the comprehensive services we already offer would be ideal for the victims

## **Vermont Youth Survey**

**Survey Distribution:** Give Way to Freedom and The Vermont Coalition of Runaway & Homeless Youth Programs (VCRHYP) worked together to collect information and promote awareness of human trafficking among Vermont's at-risk youth. They consulted with ECPAT, USA, a non-profit based in Washington, D.C., who also donated \$5.00 gift cards for meals to each youth who completed a survey. Give Way to Freedom facilitated the outreach events at youth centers in the State. During these events, the youth were given a brief introduction to the issue of human trafficking, and then were given the opportunity to watch a movie, *Cargo: Innocence Lost*, directed by Michael Cory Davis, that features stories and informs on both the domestic and international trafficking of youth. They were then asked to volunteer to participate in an anonymous and confidential survey on trafficking. The hope was to create awareness, gather data, and get a feel for what the youth are seeing and experiencing "on the street" to ultimately help build an understanding of human trafficking that targets youth in Vermont.

## **Vermont Youth Survey Results**

- A total of 63 individuals responded to the survey
  - 84% were from Spectrum Youth Services, Burlington
  - 16% were from Washington County Youth Services (Northeast Kingdom)
  
- Ages
  - 22% were 15-17
  - 60% were 18-21
  - 18 % were 21-23
  
- Gender
  - 55% male
  - 43% female
  - 1 transgender
  - 1 unknown

- Has anyone offered you housing, food, money, drugs and/or clothes in exchange for sex?
  - 18% stated yes, of which 10% indicated by a friend
  
- Has anyone encouraged you to provide sexual favors for their friends/colleagues?
  - 13% stated yes, of which 6.3% indicated by a friend
  
- Has anyone forced you to provide sex for him/her or others?
  - 19% stated yes, of which 10% indicated by a friend
  
- Do you know of any youth who are being asked or forced to provide sex in exchange for money or other goods?
  - 24% indicated yes
  
- Have you ever traded sex for money, drugs, a place to stay, clothes or food?
  - 11% indicated yes
  
- Have you ever been approached by police because they suspected you were trading sex for money, drugs, a place to stay, clothes or food?
  - 100% indicated no

## **S. 272 TASK FORCE LEGISLATIVE RECOMMENDATIONS**

Vermont should consider enacting a separate statutory scheme for human trafficking. New Vermont statutes should criminalize sexual and labor servitude separately, provide protection for trafficking victims, mandate public education, and should closely track the terminology used in the federal Trafficking Victims Protection Act of 2000 (“TVPA”).

Vermont, unlike at least forty-one other states and the United States, has not yet specifically criminalized human trafficking. CENTER FOR WOMEN POLICY STUDIES, FACT SHEET ON STATE ANTI-TRAFFICKING LAWS 3 (2010). In addition, while Vermont does possess several criminal laws, which can combat sexual servitude, it lacks laws that address labor servitude and public awareness of human trafficking. See Statutes listed at Appendix D.

The data and testimony the Task Force has collected thus far through its public surveys, forum and testimony suggest that the numbers of Vermont human trafficking cases identified to date are small. Vermont has very limited data about the incidence of human trafficking, due in part to the fact that there is very little public awareness of the issue, even among law enforcement and service providers, and little, if any, targeted outreach to victims of this crime. For example, the National Human Trafficking Resource Center's 2007 to 2010 Vermont Report reveals that the national human trafficking hotline only received seventeen phone calls from Vermont only one of which was a human trafficking tip.<sup>1</sup>

However, the testimony we heard suggests that, due to a lack of training and awareness, the crime of human trafficking has not been identified as such, and the number of trafficking cases is likely larger than the collected data suggests. Further, this low call volume may be due to the fact that there has been very little advertising of the hotline number within the state and participants in the survey and at the forum expressed a need to be trained on the topic.

Based on the information received from the Task Force's survey and testimony and the experience of our border states, the Task Force identified a clear need for training on the topic of human trafficking and a new human trafficking statute in order to help potential Vermont trafficking victims navigate the federal immigration process and to prepare for future cases of human trafficking when and if they arise.

Consequently, it is possible to draw two, tentative conclusions. First, it appears as though Vermont has not kept pace with its fellow states and Congress. Second, it appears as though both Vermont law enforcement and victim services communities want a state human trafficking statute.

If the Vermont Legislature considers enacting new human trafficking legislation, it should revisit the provisions of the original S.272 after looking to the following for guidance: TVPA; the Department of Justice's Model Human Trafficking Law for states (the "DOJ Statute"); the Polaris Project's Model Human Trafficking Law for states (the "Polaris Statute"); and existing human trafficking statutes from its sister states in the northeast, which may face similar human trafficking challenges. The Task Force reviewed the following: the original S.272; TVPA; the DOJ Statute; the Polaris Statute; and statutes from Maine, Connecticut, New Hampshire, New York, and Rhode Island.

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<sup>1</sup> Note: The data displayed in this report was generated based on limited criteria from calls received by the National Human Trafficking Resource Center hotline. This is not a comprehensive report on the scale or scope of human trafficking within the state. These statistics may be subject to change. This document is intended as a courtesy and is not meant for public dissemination.



The Task Force recommends a revised version of the original S. 272. Suggested language is attached as Appendix E.

In addition please note the following about the proposed statute:

1. The Task Force recommends that the proposed trafficking crimes be added to the listed crimes at 13 VSA Section 5301(7).
2. The statute does not include a training section as under the original S. 272 direction, the Law Enforcement Advisory Board, which is studying this issue simultaneously will make recommendations regarding law enforcement training. See Appendix A for the responsibilities of the Law Enforcement Advisory Board.
3. The Task Force concluded that more research and planning are necessary in order to provide adequate services to victims of human trafficking. To this end, the Task Force recommends creating session law to direct the development of a statewide protocol for responding to the needs of victims, identifying gaps in existing services and funding needs, and to increase public awareness of the issue of human trafficking. Proposed session law on these topics is attached as Appendix F.
4. The Task Force consulted with the Vermont Center for Crime Victim Services and the Vermont Restitution Unit regarding Sections 2658 through 2664. Their comments are included as Appendix G. The Center requests an opportunity to provide additional information to the Legislature as to the interplay of the existing restitution statutes and the proposed human trafficking statute.
5. Regarding the Posting Provisions at § 2665, the Task Force consulted with the Office of Professional Regulation to determine if posting obligations could be required in any case where an employer or person is licensed by an Agency of the State of Vermont as part of the licensing renewal and/or upon each required inspection of the premises. The Office regulates 45 professions and 55,000 licensees with 300 different license types within these professions. Given the broad scope of the Office's licensing obligations, the Task Force determined that additional research is needed to be done in concert with the Office of Professional Responsibility. The Office of Professional Regulation is happy to explore this issue further.
6. The Legislature needs to consider the issue of the statute of limitations for the civil and criminal cause of action created by the proposed statute. Options are proposed on the final page of the proposed statute.

7. The Legislature needs to consider the interplay between the new criminal provisions and Vermont's Sex Offender Registry. Options are discussed on the final page of the proposed statute.
8. The Legislature must determine what immunity options will be provided for identified victims of human trafficking. The Task Force recommends that the statute provide for immunity for children 18 and under who are victims of human trafficking involving sexual servitude, such as a Safe Harbor law for sexually exploited children that other jurisdictions have passed.<sup>2</sup> The Task Force recommends that the proposed session law discussed above also include a section directing the Department of Children and Families (DCF) to establish a protocol as to how the existing child protection system would address these minor victims. The Task Force recommends that the minor victims be addressed as child protection matters.

In addition, the Task Force recommends that the Legislature deliberate further on the inclusion of the following possible immunity and defense provisions: 1. limited immunity for all victims for sex offenses committed as a result of being a victim of trafficking for trafficking victims who are 18 to 23 years of age; and 2. affirmative defenses for victims of human trafficking in all other circumstances. Language regarding these two options is provided on the last page of the proposed bill as well.

9. Finally, the Legislature needs to consider the proposed labor trafficking provisions and their potential effect on family run businesses. The Task Force's legislative proposal exempts family businesses from the definition of labor servitude provided below.

<b>CONCLUSION</b>
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The Office of the Attorney General was honored to serve as the chair the Human Trafficking Task Force. The Task Force welcomes questions.

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<sup>2</sup> See, CT, NY ,ILL, WA

## **APPENDIX A: S. 272**

VT LEG 257452.1

### **No. 85. An act relating to human trafficking.**

(S.272)

It is hereby enacted by the General Assembly of the State of Vermont:

#### **Sec. 1. FINDINGS**

The general assembly finds that:

(1) According to his book, *The Slave Next Door: Human Trafficking and Slavery in America Today*, Dr. Kevin Bales states that the number of human beings estimated to be enslaved today has reached over 27 million worldwide, the highest in recorded history. Vermont and all of its bordering states have seen elements of human trafficking, yet Vermont is the only remaining state in the Northeast and one of the remaining five in the nation lacking legislation on this issue. Vermont's geographical location bordering Canada makes it susceptible to human trafficking activity.

(2) Human trafficking is an interrelated, under-reported crime that is intentionally kept secret by the traffickers who profit by billions of dollars from these crimes. Human trafficking is the third most profitable illegal global enterprise after drug and weapon trafficking, all of which have been found to be closely related.

(3) Because Vermont has a limited level of awareness regarding the existence of human trafficking within its own borders, the collaborative efforts of a human trafficking task force are necessary to raise public awareness and to recommend measures that will assist victims of human trafficking.

#### **Sec. 2. HUMAN TRAFFICKING TASK FORCE**

(a) As used in this section, "human trafficking" shall have the same meaning as in 18 U.S.C. §§ 1589–1592.

(b) For purposes of the definition of "human trafficking," "forced labor" means providing or obtaining the labor or services of a person:

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

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

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

(c) The human trafficking task force is established for the purpose of raising public awareness about human trafficking within the state and across state and international borders, identifying resources for the victims of human trafficking, recommending to the public ways to identify and report acts of human trafficking and reporting, and making findings and recommendations regarding those efforts to the general assembly.

(d) The human trafficking task force shall be composed of the following members:

- (1) the attorney general or his or her designee, who shall serve as chair;
  - (2) a representative of the law enforcement community, appointed by the commissioner of public safety;
  - (3) a representative of Vermont's emergency housing or shelter community;
  - (4) representatives, appointed by the governor, from each of the following:
    - (A) the Vermont state housing authority;
    - (B) the department of labor;
    - (C) the department of education;
    - (D) the department for children and families;
    - (E) the business community; and
    - (F) the agency of agriculture, food and markets.
  - (5) a representative, appointed by the secretary, from the agency of human services who specializes in refugee matters;
  - (6) a representative of the coalition of Vermonters against slavery today;
  - (7) a representative of the Vermont farm bureau;
  - (8) a representative of the Vermont network against domestic and sexual violence;
  
  - (9) a representative of the Vermont coalition of runaway and homeless youth programs;
  
  - (10) a representative of the Vermont crime victim's services; and
  - (11) an immigration attorney, appointed by the Vermont bar association.
- (e) The task force shall consult with representatives from the following:
- (1) the human rights commission;
  - (2) the department of public safety;
  - (3) the Polaris project;
  - (4) health care professionals;
  - (5) the United States' attorney for Vermont;
  - (6) migrant worker and other labor advocacy groups; and
  - (7) any other groups or individuals the committee deems appropriate.
- (f) The task force shall perform the following duties:
- (1) Identify ways to raise public awareness about human trafficking in Vermont communities.
  - (2) Recommend how the Vermont public, business community, local and state government, health, and education providers can best identify, report, and prevent acts of human trafficking in Vermont.
  - (3) Identify the services needed by victims of human trafficking and their families, and recommend ways to provide those services.
- (g) The task force shall have the assistance and cooperation of all state and local agencies and departments.
- (h) On or before November 15, 2010, the task force shall report to the members of the senate and house committees on judiciary, the senate committee on health and welfare, the house committee on human services and to the legislative council its recommendations and legislative proposals,

including criminal statutory provisions, if any, relating to its findings.

(i) On or before January 15, 2011, the task force shall report to the general assembly and to the governor its findings and any recommendations.

(j) The task force may meet no more than six times, and shall cease to exist on January 15, 2011.

### Sec. 3. LAW ENFORCEMENT ADVISORY BOARD

(a) On or before November 15, 2010, the commissioner of public safety shall report to the law enforcement advisory board on the status of efforts by Vermont law enforcement to respond to issues regarding the crime of human trafficking and what recommendations, if any, should be made to the members of the senate and house committees on judiciary and to the legislative council in order to respond more effectively to those issues.

(b) Prior to making this report, the commissioner shall consult with the following groups:

(1) a representative of the Vermont association of chiefs of police;

(2) a representative of the Vermont sheriffs' association;

(3) the attorney general, or his or her designee from the criminal division;

(4) a state's attorney, appointed by the executive director of the department of state's attorneys and sheriffs;

(5) a representative from the Vermont center for crime victim services;

(6) a representative from the network against domestic and sexual violence;

(7) a representative from the coalition of Vermonters against slavery today;

(8) the executive director of the Vermont police academy or his or her designee;

(9) the United States' attorney for Vermont or his or her designee;

(10) representatives from federal law enforcement agencies in Vermont;

(11) the human trafficking task force; and

(12) any other groups or individuals the commissioner deems appropriate.

(c) The law enforcement advisory board shall include its findings and recommendations, based upon the commissioner's report, in its annual report to the general assembly and governor as required pursuant to 24 V.S.A. § 1939(d).

### Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

Approved: April 27, 2010

## **Appendix B: S. 272 Task Force Members**

1. Representative of the Attorney General's Office who shall serve as chair:

William H. Sorrell  
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2. Representative of the Law Enforcement Community appointed by DPS  
Commissioner

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3. Representative of Vermont's Emergency Housing or Shelter Community

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4. Six Representatives appointed by the Governor from: Vermont State Housing Authority; Dept. of Labor; Dept. of Education; Department for Children and Families; Business Community and Agency of Agriculture, Food and Markets

#### VSHA

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#### DCF

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#### AGRICULTURE, FOOD, MARKETS

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#### BUSINESS COMMUNITY – AWAITING GOVERNOR’S APPOINTMENT

##### 5. Representative from AHS who specializes in refugee matters

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6. Representative of the Coalition of Vermonters Against Slavery Today

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7. Representative of the Farm Bureau

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10. Representative of the Vermont Center for Crime Victim Services

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11. Appointed by the VBA, an immigration attorney

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## **APPENDIX C**

### ***HUMAN TRAFFICKING: IS IT HAPPENING IN VERMONT?***

Human trafficking is a form of slavery involving force, fraud or coercion, or a victim under 18 years of age. It includes labor and sex trafficking. A victim does not need to be transported from location to location in order to be trafficked.

**The Legislative Task Force on Trafficking is exploring:**  
Vermont statute changes  
Ways to raise public awareness  
How to identify victims, report and prevent trafficking  
Services for victims

The Task Force is collecting data. We invite you to attend our community meeting and provide us with your wisdom and perspective.

### **Attorney General's Community Meeting on Human Trafficking**

**September 28, 2010  
9:00 am to 12:00 noon  
Attorney General's Office  
Third Floor Conference Room  
109 State Street, Montpelier**

9:00 to 10:00 National Perspective and Experts  
10:00 to 11:00 Advocate and Service Provider Perspective  
11:00 to 12:00 Law Enforcement Perspective

This meeting is open to the public.

Contact Amy S. FitzGerald, Assistant Attorney General, at 828-5520 or [afitzgerald@atg.state.vt.us](mailto:afitzgerald@atg.state.vt.us) for further information



## **APPENDIX D**

### **RELEVANT VERMONT STATUTES**

- I. VT. STAT. ANN. tit. 13, § 2404, Definitions (Kidnapping).
- II. VT. STAT. ANN. tit. 13, § 2405, Kidnapping.
- III. VT. STAT. ANN. tit. 13, § 2406, Unlawful restraint in the second degree.
- IV. VT. STAT. ANN. tit. 13, § 2407, Unlawful restraint in the first degree.
- V. VT. STAT. ANN. tit. 13, § 2632, Prohibited acts.
- VI. VT. STAT. ANN. tit. 13, § 2635, Slave traffic.
- VII. VT. STAT. ANN. tit. 13, § 2635a, Sex trafficking of children; sex trafficking of any person by force, fraud, or coercion.
- VIII. VT. STAT. ANN. tit. 13, § 2636, Unlawful procurement.
- IX. VT. STAT. ANN. tit. 13, § 2637, Appropriating or levying upon earnings of prostitute.
- X. VT. STAT. ANN. tit. 13, § 3252, Sexual assault.
- XI. VT. STAT. ANN. tit. 13, §3253, Aggravated sexual assault.
- XII. VT. STAT. ANN. tit. 13, § 3253a, Aggravated sexual assault of a child.
- XIII. VT. STAT. ANN. Tit.13 § 1311 Unlawful Sheltering; Aiding a runaway child

## APPENDIX E

### 1. S.272 Revised:

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1, 13 V.S.A. ch. 60 is added to read:

### CHAPTER 60. HUMAN TRAFFICKING

#### Subchapter 1. Criminal Acts

##### § 2651, Definitions.

The following definitions shall apply throughout this chapter:

- (1) “Blackmail” shall mean the extortion of money, labor, commercial sexual activity, or something else of value from a person by a threat to expose a secret or publicize an asserted fact, whether true or false, that would tend to subject a person to hatred, contempt, ridicule, or prosecution.
- (2) “Debt bondage” shall mean a condition or arrangement in which any person requires that a debtor, or a person under the debtor’s control, perform labor, services, sexual acts, sexual conduct, or a sexually explicit performance in order to retire, repay, or service a real or purported debt that the person has caused by a systematic ongoing course of conduct with the intent to defraud the debtor.
- (3) “Human trafficking” shall mean to recruit, entice, harbor, transport, provide, subject, or obtain by any means or the attempt to recruit, entice, harbor, transport, provide, subject, or obtain by any means another person for labor servitude or sexual servitude. Human trafficking in Chapter 60 shall include the federal definition of "severe form of trafficking" as defined in Section 7105 of title 22 of the United States Code (Trafficking Victims Protection).
- (4) “Labor servitude” shall mean labor or services that are performed or provided by another person and is induced or maintained through an actor’s conduct by one or more of the following means:
  - a. Withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document, of another person;
  - b. Abusing or threatening to abuse the law or legal process;



- c. Force, threats of force, physical restraint, threats of physical restraint, or the imposition of or threat of the imposition of financial harm to any person;
- d. Providing a narcotic or intoxicating substance to the person with the intent to impair the person's judgment or to maintain a state of chemical dependence;
- e. Wrongfully taking, obtaining, or withholding the property of another person;
- f. Deception or fraud;
- g. Blackmail;
- h. Asserting control over the finances of any person;
- i. Debt bondage;
- j. Making false promises relating to the terms and conditions of employment, education, marriage, or financial support;
- k. Withholding or threatening to withhold food or medication; or
- l. Any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer physical harm, physical restraint, or financial harm.

Labor servitude shall not include labor or services performed by family members in a family business or commercial establishment.

- (5) "Person" shall have the same meaning as in 1 V.S.A. § 128.
- (6) "Serious Bodily Injury" shall have the same meaning as 13 V.S.A. § 1021(2).
- (7) "Sexual act" shall have the same meaning as in 13 V.S.A. § 3251(1).
- (8) "Sexual conduct" shall have the same meaning as in 13 V.S.A. § 3251(2)
- (9) "Sexually explicit performance" means an act or show, whether public or private, live, photographed, recorded, or videotaped and which: (i) involves one or more sex acts or sexual conduct; (ii) is intended to arouse, satisfy the sexual desires of, or appeal to the prurient interests of patrons or viewers; and (iii) lacks literary, artistic, political, or scientific value.
- (10) "Sexual servitude" means the performance of any sexual act, sexual conduct, or sexually explicit performance by another and is induced or maintained by one or more of the following means:
  - a. Withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document, of another person;
  - b. Abusing or threatening to abuse the law or legal process;

- c. Force, threats of force, physical restraint, threats of physical restraint, or the imposition of or threat of the imposition of financial harm to any person;
- d. Providing a narcotic or intoxicating substance to the person with the intent to impair the person's judgment or to maintain a state of chemical dependence;
- e. Wrongfully taking, obtaining, or withholding the property of another person;
- f. Deception or fraud;
- g. Blackmail;
- h. Asserting control over the finances of any person;
- i. Debt bondage;
- j. Making false promises relating to the terms and conditions of employment, education, marriage, or financial support;
- k. Withholding or threatening to withhold food or medication; or
- l. Any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer physical harm, physical restraint, or financial harm.

(11) "Trafficking victim" shall mean any person, whether a United States citizen or foreign national, entered into labor servitude or sexual servitude.

(12) "Pre-certified trafficking victim" is a person who has a pending application for federal certification as a victim of a severe form of trafficking in persons as defined in section 7105 of title 22 of the United States Code (Trafficking Victims Protection) but has not yet obtained such certification, or a person who has reported a crime to law enforcement and it reasonably appears to law enforcement that the person is such a victim.

§ 2652, Trafficking a person for labor servitude.

(a) Any person who knowingly:

- (1) Subjects another person to labor servitude; or
- (2) Recruits, entices, solicits, harbors, transports, provides, obtains by any means, benefits financially from, or so attempts by any means, another person, knowing that the person will be subjected to labor servitude; or
- (3) Benefits, financially or by receiving anything of value, from participation in a venture which has engaged in an act described in subsections 1 or 2

shall be imprisoned not more than 20 years or fined not more than \$75,000, or both.

(b) Evidence of consent of or permission by a trafficking victim or anyone else on the trafficking victim's behalf shall not constitute a defense under this section, nor shall such evidence preclude a finding of labor servitude.

§ 2653, Trafficking a person for sexual servitude.

(a) Any person who knowingly:

- (1) Subjects another person to sexual servitude; or
- (2) Recruits, entices, harbors, transports, provides, obtains by any means, benefits financially from, or attempts to recruit, entice, harbor, transport, provide obtain by any means, or benefit financially another person knowing that the person will be subjected to sexual servitude,

shall be imprisoned not more than 20 years or fined not more than \$75,000, or both.

(b) In a prosecution for violations of this section, the alleged consent of a person to the intended or realized exploitation is irrelevant.

(c) In a prosecution for violations of this section, evidence of a victim's past sexual behavior is irrelevant and inadmissible for the purpose of proving that the victim engaged in other sexual behavior or to prove the victim's sexual predisposition.

(d) Age of consent to sex, legal age of marriage, or other discretionary age shall not be used as a defense to trafficking in persons.

(e) A mistake as to the victim's age shall not be a defense to a violation under this section, even if the mistake is reasonable.

(f) The evidentiary provisions found at 13 V.S.A. § 3255 shall apply in prosecutions under this section.

§ 2654, Aggravated trafficking.

A person is guilty of aggravated trafficking when he or she commits the crime of human trafficking and:

- (1) The offense involves a trafficking victim under the age of 18, regardless of any belief, reasonable or otherwise, that the trafficking victim was at least 18 years of age;
- (2) The person has been previously convicted of human trafficking under this Chapter;
- (3) The trafficking victim suffers serious bodily injury, or death; or

- (4) The trafficking victim is subjected to conduct constituting sexual assault, in violation of VT. STAT. ANN. tit. 13, § 3252, aggravated sexual assault, in violation of VT. STAT. ANN. tit. 13, § 3253, or aggravated sexual assault of a child, in violation of VT. STAT. ANN. tit. 13, § 3253a.

shall be imprisoned not less than twenty years and a maximum term of life, or fined not more than \$100,000, or both.

#### § 2655, Patronizing and Facilitating Human Trafficking.

Any person who knowingly:

- (1) Permits a place, structure, building or conveyance owned by the person or under the person's control to be used for the purpose of human trafficking;
- (2) Receives or offers, or agrees to receive or offer, a person into a place, structure, building or conveyance for the purpose of human trafficking;
- (3) Permits a person to remain in a place, structure, building or conveyance for the purpose of human trafficking; or
- (4) Solicits commercial sex acts provided by human trafficking victims;

shall be imprisoned not more than 2 year(s) or fined not more than \$ 25,000, or both.

#### § 2656, Criminal liability of business entities.

If a business entity, including but not limited to a corporation, partnership, association, municipal corporation, government body, or any other legal entity, is convicted of violating this chapter, the court may, in addition to any other applicable penalty, when appropriate:

- (1) Order its dissolution or reorganization;
- (2) Order the suspension or revocation of any license, permit, or prior approval granted to it by a state or local government body; or
- (3) Order the surrender of its charter if it is organized under the laws of the state of Vermont or the revocation of its certificate to conduct business in Vermont if it is not organized under the laws of the state of Vermont.

#### § 2657, Restitution.

**NOTE: §§ 2657 THROUGH 2664 HAVE BEEN REVIEWED BY THE VERMONT RESTITUTION UNIT AT THE CENTER FOR CRIME VICTIM SERVICES. THEIR COMMENTS ARE INCLUDED AS APPENDIX G AND THEY REQUEST**

**AN OPPORTUNITY TO PROVIDE ADDITIONAL INFORMATION TO THE LEGISLATURE AS TO THE INTERPLAY OF EXISTING RESTITUTION STATUTES AND THESE PROPOSED STATUTES.**

- (1) The court shall order restitution as part of the sentence for any offense under this chapter. If the trafficking victim to whom restitution is owed dies as a result of being trafficked, then any restitution shall be paid to the trafficking victim's spouse. If no surviving spouse exists than the restitution shall be paid in accordance with 14 V.S.A. § 314. The return of the victim to his or her home country or other absence of the victim from the jurisdiction shall not prejudice the victim's right to receive restitution.
- (2) In addition to any other loss identified, the amount of restitution shall equal the greater of:
  - a. The gross income or value to the defendant of the trafficking victim's labor; or
  - b. The value of the trafficking victim's labor as guaranteed under the minimum wage and overtime provisions set forth in 21 V.S.A. § 385 at the time the trafficking victim performed the labor; plus the costs of
  - c. Medical and psychological treatment;
  - d. Physical and occupational therapy and rehabilitation;
  - e. Necessary transportation, temporary housing, and childcare;
  - f. Attorneys' fees and costs, including expert witness fees and expenses and victim advocate fees;
  - g. Any property of the trafficking victim taken or destroyed by the defendant.

Subchapter 2. Forfeiture  
§ 2658, Scope.

The following property shall be subject to this subchapter:

- (1) All property, both real and personal, used or intended to be used in connection with or in furtherance of a violation of Sections 2652–57 of this title;
- (2) All books and records, including but not limited to tapes, computers, software and data used or intended to be used in connection with or in furtherance of a violation of Sections 2652–57 of this title;
- (3) Any consideration, including but not limited to monies, negotiable instruments and securities, given or received, and any proceeds or derivative proceeds in connection with or in furtherance of a violation of Sections 2652–57 of this title;
- (4) All conveyances, including aircraft, vehicles or vessels, used or intended to be used in connection with or in furtherance of a violation of Sections

2652–57 of this title. Notwithstanding the foregoing, no conveyance shall be forfeited:

- a. Which is used by any person as a common carrier in the transaction of business as a common carrier unless the owner or other person in charge of such conveyance was a consenting part or privy to a violation of Sections 2652–57 of this title;
- b. By reason of any act or omission of any person other than the owner while the conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of the United States, this state or any other state; or
- c. By reason of the use or intended use of the conveyance in violation of a violation of Sections 2652–57 of this title by a person other than the owner, unless the owner knew or had reason to believe that the conveyance was used in that manner.

#### § 2659, Seizure.

(a) The court may issue at the request of the State ex parte a preliminary order or process to seize or secure property for which forfeiture is sought and to provide for its custody. Process for seizure of such property shall issue only upon a showing of probable cause that the property is subject to forfeiture. Application therefore and issuance, execution, and return shall be subject to provisions of applicable law.

(b) Any property subject to forfeiture under this subchapter may be seized upon process. Seizure without process may be made when:

- a. The seizure is incident to an arrest with probable cause or a search under a valid search warrant;
- b. The property subject to seizure has been the subject of a prior judgment in favor of the state in a forfeiture proceeding under this subchapter; or
- c. The seizure is incident to a valid warrantless search.

(c) If property is seized without process under subdivisions (b) (1) or (3) of this section, the State shall forthwith petition the court for a preliminary order or process under subsection (a) of this section.

#### § 2660, Petition for forfeiture.

(a) The state shall file a petition for forfeiture of any property seized under section 2661 of this title promptly, but not more than 14 days from the date the preliminary order or process is issued. The petition shall be filed in the superior court of the county in which the property is located or in any court with jurisdiction over a criminal proceeding related to the property.

- (b) A copy of the petition shall be sent by certified mail to all persons named in the petition. In addition, the state shall cause notice of the petition to be published in a newspaper of general circulation in the state as ordered by the court. The petition shall state:
- a. The facts upon which the forfeiture is requested, including a description of the property subject to forfeiture; and
  - b. The names of the apparent owner or owners, lien holders who have properly recorded their interest, and any other person appearing to have an interest; and, in the case of a conveyance, the name of the person holding title, the registered owner, and the make, model and year of the conveyance.

§ 2661, Forfeiture hearing.

(a) The court shall hold a hearing on the petition no less than 14 nor more than 30 days after notice. For good cause shown, or on the court's own motion, the court may stay the forfeiture proceedings pending resolution of related criminal proceedings. If a person named in the petition is a defendant in a related criminal proceeding and the proceeding is dismissed or results in a judgment of acquittal, the petition shall be dismissed as to the defendant's interest in the property.

(b) A lien holder who has received notice of a forfeiture proceeding may intervene as a party. If the court finds that the lien holder has a valid, good faith interest in the subject property which is not held through a straw purchase, trust or otherwise for the actual benefit of another and that the lien holder did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law, the court upon forfeiture shall order compensation to the lien holder to the extent of the lien holder's interest.

(c) The proceeding shall be against the property and shall be deemed civil in nature. The state shall have the burden of proving all material facts by clear and convincing evidence.

(d) The court shall make findings of fact and conclusions of law and shall issue a final order if the burden of proof is met.

(e) Upon issuance of the court's final order the state shall have a lien on all the property subject to the order. The priority of the state's lien shall relate back to the date of seizure.

§ 2662, Maintenance.

Law enforcement agencies seizing property under this subchapter shall ensure that the property is properly maintained. Equipment and conveyances seized shall be removed to an appropriate place for storage. Any monies, negotiable instruments or securities seized shall if practicable be deposited in an interest-

bearing account pending final disposition by the court unless the seizing agency determines the properties to be of an evidentiary nature and provides for their security in another manner. Any such deposit in an interest-bearing account shall only be accomplished pursuant to a court order directing the same, and the court shall have jurisdiction to enter such order or any other order directing interim disposition of the properties pending final disposition by the court.

#### § 2663, Costs and disposition of property.

- (a) All costs incurred by the State in any proceeding under this subsection shall be taxed to the defendant in any related criminal proceeding provided the defendant is convicted.
- (b) All property forfeited pursuant to this chapter to the state pursuant to this subsection shall be sold at public auction as-is subject to all liens and encumbrances.
- (c) The sale proceeds from any public auction held pursuant to this section shall first be made available to satisfy any outstanding properly perfected liens upon the assets which have not otherwise been forfeited and which enjoy priority over the state's lien pursuant to Section 2662 of this title, second to any restitution order issued pursuant to Section 2658 of this title, and finally to the victim compensation fund under 13 V.S.A. § 5359.
- (d) Nothing contained in this section shall prejudice the rights of the bona fide owner of any forfeited asset upon affirmative proof by it that it had no express or implied knowledge that such asset was being or intended to be used in connection with the crime for which the defendant was convicted and it shall be entitled to a return of the same if it appears before adjudication of forfeiture and establishes its right to such return.

#### § 2664, Records

- (a) Law enforcement departments and agencies, and other state departments and agencies which have custody of any property subject to forfeiture under this subchapter, or which dispose of such property, shall keep and maintain full and complete records including the following:
  - (1) from whom the property was received;
  - (2) description of the property;
  - (3) value of the property;
  - (4) if the property is deposited in an interest-bearing account, the location of the account and the amount of interest;
  - (5) under what authority the property was held or received or disposed;



(6) to whom the property was delivered;

(7) the date and manner of disposition of the property.

(b) Those records shall be submitted to the state treasurer and shall be open to inspection pursuant to 1 V.S.A. §§ 315–20. Persons making final disposition or destruction of the property under court order shall report, under oath, to the court the exact circumstances of that disposition or destruction and a copy of that report shall be sent to the state treasurer.

### Subchapter 3. Posting of Human Trafficking Resource Guides

#### § 2665, Human trafficking posting requirements.

- (1) Employers, as defined in 21 V.S.A. § 302(1), and other persons, as defined in 1 V.S.A. § 128, hiring or contracting for the labor or services of another and who maintain a permanent place of business within the State of Vermont shall post and maintain in a conspicuous place in and about each such place of business printed notices, available from the Vermont Department of Labor Website, explaining the provisions of 13 V.S.A. Ch. 60 on forms described below in § 2666(3).
- (2) Persons owning and operating hotels, as defined in 32 V.S.A. § 9202(3), and persons owning or operating an establishment with either a first or third class license, under 7 V.S.A. §§222 and 224, respectively, shall post and maintain in a conspicuous place visible to the public in and about each such hotel or establishment printed notices, available from the Vermont Department of Labor Website, explaining the provisions of 13 V.S.A. Ch. 60 on forms described below in § 2666(3).
- (3) The notices required by this section shall, at a minimum, be no smaller than 8½ by 11 inches in size, provide contact information for at least one local law enforcement agency, and provide the following information regarding the National Human Trafficking Resource Center Hotline:

*“If you or someone you know is being forced to engage in any activity and cannot leave – whether it is commercial sex, housework, farm work, or any other activity–call the National Human Trafficking Resource Center Toll-free Hotline at **1-888-373-7888** to access help and services. The Toll-free Hotline is:*

- *Available 24 hours a day, 7 days a week*
- *Operated by a non-profit, non-governmental organization*
- *Anonymous & Confidential.*
- *Accessible in 170 languages*
- *Able to provide help, referral to services, training, and general information.”*

- (4) The notices required by this section shall be printed in English, Spanish, or other language spoken by an employee, after notice to the Department of Labor of the presence of such language in the workplace, of an employer required to post such notice or as deemed advisable by the pertinent licensing Agency according to subsection 5 below.
- (5) Penalty. A person who violates this section shall be fined not more than \$100.00.

#### § 2666, Private remedies

- (a) Any person who violates §§ 2652 – 2655 of this chapter is subject to a civil action by the trafficking victim in which the trafficking victim has the right to recover, in addition to any actual damages, all of the amounts set forth in Section 2657 of this title, plus punitive damages, and injunctive relief. A prevailing plaintiff shall also be awarded attorney's fees and costs. Treble damages shall be awarded on proof of actual damages where the defendant's acts were willful and malicious.
- (b) Any legal guardian, family member, or other representative of the trafficked person, other than the defendant, or court appointee, may represent the trafficked person's rights, in the event the trafficked person is deceased or otherwise unable to represent his or her own interests in court.
- (c) In any action brought pursuant to this section, evidence of the trafficking victim's sexual history and evidence of any consent or permission by a trafficking victim or anyone else on the trafficking victim's behalf, other than any sexual history, consent, or permission that forms the basis of such action, shall be inadmissible and shall not constitute a defense under this section. Evidentiary rape shield protections found at 13 VSA Section 3255 will also apply.

#### §2667, Statute of Limitations

- (1) No statute of limitations shall limit a trafficking victim's right to recover damages as contemplated in this Section in the private remedies section above.
- (2) Prosecutions for trafficking shall be commenced within 6 years after the commission of the offense, and not after, except in prosecutions alleged to have been committed against a child under 18 years of age shall be commenced within the earlier of the date the victim attains the age of 24 or 10 years from the date the offense is reported, and not after. For purposes of this subsection, an offense is reported when a report of the

conduct constituting the offense is made to a law enforcement officer by the trafficking victim.

#### § 2668 Safe Harbor

- (1) A person is not criminally liable for an act of prostitution or for any commercial sex acts or illegal sexually explicit performance if the person was under 18 years of age at the time of the offense. The Department for Children and Families shall respond to this person as a subject of a Child Protection Matter under relevant statutes and laws.
- (2) A trafficking victim is not criminally liable for any commercial sex acts or illegal sexually explicit performance committed as a direct result of, or incident or related to, being trafficked if the person was 18 to 23 years of age at the time of the offense.
- (3) In any prosecution of all other trafficking victims, it shall be an affirmative defense that he or she was under duress or coerced into committing the offenses for which he or she is being subject to prosecution.

### **SEX OFFENDER REGISTRY AND CHILD PROTECTION REGISTRY**

Note: The Legislature must determine the interplay between these new criminal statutes and the sex offender registry. One option is to amend 13 V.S.A. § 5401(1) (A) to add Aggravated Trafficking involving sexual servitude of a person under the age of 18 and another option would be to include all sexual trafficking.

Note: The Task Force recommends that the statute specify that any adult convicted of trafficking of a minor be added to the Department for Children and Families Child Protection Registry.

### **APPENDIX F**

#### **PROPOSED SESSION LAW**

Section 2. Victim Rights, Protection, and Services.

##### A. Services for trafficking victims

(1) The Vermont center for crime victim services may coordinate with and assist social service providers, victim service providers, state agencies, law enforcement agencies, state's attorneys' offices, the Attorney General's office

and other agencies and nongovernment organizations as necessary to develop a statewide protocol to provide services for trafficking victims in Vermont. The protocol may include a public awareness and education campaign.

(2) The Vermont center for crime victim services may enter into contracts with individuals and nongovernment organizations in order to develop a statewide protocol and to coordinate services to trafficking victims, insofar as funds are available for that purpose. Such services may include, but are not limited to, case management, emergency temporary housing, health care, mental health counseling, drug addiction screening and treatment, language interpretation and translation services, English language instruction, job training and placement assistance, postemployment services for job retention, and services to assist the individual and any of his or her family members to establish a permanent residence in Vermont or the United States. Nothing in this section shall preclude the center for crime victim services or any local social services organization from providing trafficking victims in Vermont with any benefits or services for which they otherwise may be eligible.

#### B. Classification of trafficking victims.

(1) As soon as practicable after a first encounter with a person who reasonably appears to a law enforcement agency, state's attorney's office, or the Attorney General's Office to be a trafficking victim, that agency or office shall notify the Vermont center for crime victim services that such person may be eligible for services under this chapter.

(2) The referring agency or office shall make a preliminary assessment of whether such victim or possible victim appears to meet the criteria for certification as a victim of a severe form of trafficking in persons as defined in section 7105 of title 22 of the United States Code (Trafficking Victims Protection) or appears to be otherwise eligible for any federal, state or local benefits and services. If it is determined that the victim appears to meet such criteria, the agency shall report the finding to the victim, and shall refer the victim to services available, including legal services providers. If the possible victim is under the age of eighteen or is a vulnerable adult, the agency or office also shall notify the Department of Children and Families or Adult Protective Services.

(3) Law enforcement assistance with respect to immigration.

After the referring agency or office makes a preliminary assessment that a trafficking victim or possible trafficking victim appears to meet the criteria for certification as a victim of a severe form of trafficking in persons as defined in section 7105 of title 22 of the United States Code (Trafficking Victims Protection), and upon the request of such victim, the referring agency or office (federal, state, or local law enforcement agency, prosecutor, or authority, or federal or state

judge that has responsibility for the investigation or prosecution, conviction or sentencing of the qualifying criminal activity of which the person is a victim) shall provide the victim with a completed and executed United States Citizenship and Immigration Service (USCIS) Form I-914 Supplement B Declaration of Law Enforcement Officer for Victim of Trafficking in Persons and/or USCIS Form I-918, Supplement B, U Nonimmigrant Status Certification. These endorsements must be completed by the certifying officer in accordance with the forms' instructions and applicable rules and regulations. The trafficking victim may choose which form to have the certifying officer complete.

C. Confidential information.

In a prosecution for violations of this chapter, the identity of the victim and the victim's family shall be kept confidential by ensuring that names and indentifying information of the victim and victim's family are not released to the public.

D. Department for Children and Families

The Department for Children and Families (DCF) shall develop a statewide protocol regarding the interplay of the immunity provisions established in this title for minor victims of human trafficking with existing child protection statutes. The Department protocol will also address the use of the Child Protection Registry maintained by DCF to record adult convictions under this title.

## APPENDIX G

### VERMONT CENTER FOR CRIME VICTIM SERVICES AND VERMONT RESTITUTION UNIT COMMENTS TO PROPOSED BILL

*OLIVER L. TWOMBLY LAW OFFICE, P.C.*  
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November 12, 2010

NOV 15 2010

Elaine Boyce  
Vermont Restitution Unit  
P.O. Box 10  
Waterbury, VT 05676

**Re: Proposed Trafficking Statute**

Dear E:

You have asked me to review a portion of a proposed trafficking statute. Particularly you have asked me to look at those sections dealing with restitution and forfeiture. My comments follow:

1. There is no reference to 13 V.S.A. § 7043. There are some differences between the elements that go into the calculation of what restitution would be under the proposed trafficking statute when compared to the elements that go into the calculation of the restitution order as described in Section 7043. Those elements of restitution under the proposed statute would be Section 2658 and they are specifically delineated under 2658 (2) to include such things as follows:
  - a. The gross income or value to the Defendant of the trafficking victim's labor; or
  - b. The value of the trafficking victim's labor as guaranteed under the minimum wage and overtime provisions set forth in 21 V.S.A. § 385 at the time the trafficking victim performed the labor; plus the cost of
  - c. Medical and psychological treatment;
  - d. Physical and occupational therapy and rehabilitation;
  - e. Necessary transportation, temporary housing, and childcare;
  - f. Attorneys' fees and costs, including expert witness fees and expenses and victim advocate fees;
  - g. Any property of the trafficking victim taken or destroyed by the Defendant.
2. Compare these to the elements set out in Section 7043 which state that restitution shall be considered in every case in which a victim of a crime has suffered a "material loss." For purposes of calculation material loss, the statute that we work with everyday defines those elements as "uninsured property loss, uninsured out-of-pocket monetary loss, uninsured lost wages, and uninsured medical expenses."

When comparing the elements of 2658 (proposed statute) and the elements of the existing statute at 7043, a review of the above two paragraphs makes it clear that the elements that go into the two types of restitution orders would be distinct and different. Having said that, however, it may be that any restitution order generated under the trafficking statute should still reference Section 7043 to the extent, at least, of ensuring that the trafficking restitution order follows the form and format which has been developed under the provisions of Section 7043. These are particularly delineated at 13 V.S.A. § 7043 (d) (1) – (2) (A) to include a portion of (i), (ii), (iii). This would be important in the event that the amount of restitution ordered exceeded the amount recovered under the forfeiture provision of the statute. In the event that the proceeds of any forfeiture action are insufficient, then the Restitution Unit would be seeking to engage in normal collection activity. The consistency of the restitution orders, at least as to format, gives information (especially concerning employment) that the Restitution Unit finds useful in assisting it in furthering its collection efforts.

Another issue would arise under Section 2661 entitled “Petition for Forfeiture.” That section provides that “the State shall file a petition for forfeiture...” Nothing in that section is defined as to what arm of the State would actually be assigned the responsibility of filing the petition. Possibilities include the State’s Attorney, the Restitution Unit or even the Vermont Attorney General’s Office. It may be well to consider bringing more definition to the expression “the State” for purposes of Section 2661 of the purposed trafficking statute.

Another comment I have concerning Section 2661 would be specifically Section 2661 (b) which states that “a copy of the petition shall be sent by certified mail to all persons named in the petition.” There is no guidance as to who the persons ought to be that are listed in a forfeiture petition. Should the Restitution Unit always be listed as a person entitled to notice as concerns any forfeiture petition? This is a point that probably should be better defined in that section.

Another issue arose in my mind concerning Section 2664, especially subsection (c). It provides that the sale proceeds from any public auction held to dispose of items of property gained under a forfeiture would be distributed in a certain priority. The first level of distribution would be to satisfy any liens against the assets disposed of. The second level of priority would be “...to any Restitution Order issued pursuant to Section 2658 of this title...” Does that mean the victim? It probably does, but it really ought to be defined.

These are just some of the talking points that occur to me as of right now. If anything further comes to mind, I will send you separate correspondence. Hope this helps.

Best regards,

A handwritten signature in black ink, appearing to be the name "Oliver", written in a cursive style.

Oliver

## **APPENDIX H**

### **SERVICE PROVIDER SURVEY**

# **Human Trafficking Survey to Vermont Victim Service Providers**

## **Introductory Letter and Questions**

### **Introductory Letter**

This year, the Vermont Legislature enacted S.272 creating a Task Force to study human trafficking in Vermont. As a service provider, the task force is asking for your help in identifying instances of human trafficking as it specifically exists within Vermont. Your help will enable us to both identify the scope of human trafficking within the state and also help us to make the most appropriate recommendations to the legislature in improving services available to victims. Please take a few minutes and complete the short attached survey. While completing the survey, we ask that you keep any names and other identifying information confidential.

The link to the survey is: <http://www.surveymonkey.com/s/H3WDSHV>

In an effort to help in the completion of the survey, a definition of human trafficking has been provided along with some “red flags” to consider when considering if and when you have come into contact with potential victims.

The United States’ Trafficking Victims Protection Act of 2000 defines SEVERE FORMS OF TRAFFICKING IN PERSONS (TIP) as:

- Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age.
- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- Trafficking victims in the U.S. can be divided into three populations:
  - Minors (under age 18) involved in commercial sex



- Those age 18 or over involved in commercial sex via force, fraud, or coercion
- Children and adults forced to perform labor and/or services in conditions of involuntary servitude, peonage, debt bondage, or slavery, via force, fraud, or coercion

Due to the sensitive nature of the crime it isn't common for a victim of human trafficking to identify oneself as such. The following list is provided to help you determine whether or not you may have worked with a potential victim of human trafficking.

Working condition of the individual(s) in question...

- Is not free to leave or come and go as he/she wishes
- Is under 18 years of age and is providing commercial sex acts
- Is in the commercial sex industry and has a pimp/manager
- Is unpaid, paid very little, or paid only through tips
- Works excessively long and/or unusual hours
- Is not allowed breaks or suffers under unusual restrictions at work
- Owes a large and/or increasing debt and is unable to pay it off
- Was recruited through false promises concerning the nature and conditions of his/her work and is therefore being forced to do different work than they were promised
- Is living or working in a location with high security measures (e.g. opaque or boarded-up windows, bars on windows, barbed wire, security cameras, etc.).

Mental health conditions of the individual(s) in question...

- Exhibits unusually fearful, anxious, depressed, submissive, tense, or nervous/paranoid behavior
- Reacts with unusually fearful or anxious behavior at any reference to "law enforcement"
- Avoids eye contact
- Exhibits a flat affect or communicates in a scripted way

- Attitude may appear defensive, aggressive, evasive
- Physical health of the individual(s) in question...
- Exhibits unexplained injuries or signs of prolonged/untreated illness or disease
- Appears malnourished
- Shows signs of physical and/or sexual abuse, physical restraint, confinement

Demonstrated lack of control from the individual(s) in question...

- Has few or no personal possessions (however, items in their possession may include a hotel business card, escort service business card, small knife or some kind of weapon, hotel keys, excess amounts of cash)
- Is not in control of his/her own money, and/or has no financial records, or bank account
- Is not in control of his/her own identification documents (e.g. ID, passport, or visa)
- Is not allowed or able to speak for him/herself (e.g., a third party may insist on being present and/or interpreting)
- Has an attorney that he/she doesn't seem to know or to have agreed to receive representation services from

Other possible characteristics of the individual(s) in question...

- Has been "branded" by a trafficker (e.g. a tattoo of the trafficker's name)
- Claims to be "just visiting" and is unable to clarify where he/she is staying or to provide an address
- Exhibits a lack of knowledge of whereabouts and/or does not know what city he/she is in

Exhibits a loss of a sense of time ...

- Has numerous inconsistencies in his/her story

- Lies about age or past and location of an overly controlling "boyfriend" or "relative"

*It is important to note that taken individually, each of these indicators doesn't necessarily indicate human trafficking activity, just as all indicators are not needed to determine the crime has taken place. The list is to provide a framework for gathering information and heightening awareness around human trafficking.*

Again, the link to the survey is: <http://www.surveymonkey.com/s/H3WDSHV>

Thank you very much for your help with this important work.

For more information on human trafficking visit the following websites:

[www.covast.org](http://www.covast.org)

[www.givewaytofreedom.org](http://www.givewaytofreedom.org)

[www.polarisproject.org](http://www.polarisproject.org)

If you want to report human trafficking or have questions about a possible human trafficking case, please call the National Human Trafficking Resource Center's 24 hour hotline at **1-888-3737-888**

**Vermont Human Trafficking Survey Questions found on the link:**

1. Please provide your name, organization and occupation.
2. What is your sense of the scope of the problem of labor trafficking within Vermont?
3. What is your sense of the scope of the problem of sex trafficking in Vermont?

4. Have you worked with persons who you feel may be victims of human trafficking?
5. If you answered yes to question 4, can you describe the situation?
6. Approximately how many potential victims do you think you and/or your organization has worked with over the past year?
7. If you and/or your organization has worked with potential victims, can you describe their approximate age, gender, marital status and nationality?
8. What services did your organization provide for the individual(s)?
9. Were there any services you felt were needed but you were unable to provide? If so, can you please describe?
10. Do you have any recommendations for the Task Force to improve services to victims?

## APPENDIX I

### VERMONT YOUTH SURVEY

## Human Trafficking Survey to Vermont Youth



The ***Vermont Coalition of Runaway & Homeless Youth Programs*** (VCRHYP) is working with ***Give Way To Freedom***, a foundation that promotes awareness of human trafficking and care for victims, to assess the frequency and nature of any human trafficking that may be occurring in Vermont. The results of this survey will help to build an understanding of any human trafficking that targets youth in Vermont.

Please take a few minutes to complete this short questionnaire. Your answers are completely anonymous. Once you complete the survey, you will receive a five-dollar gift certificate to Papa John's compliments of ECPAT, USA. Thanks for your help.

1. **What is your age:**

- 10-14
- 15-17
- 18-21
- 21-23

2. **What is your gender:**

- Male
- Female
- Transgender

**3. Has anyone offered you housing, food, money, drugs, and/or clothes in exchange for sex?**

No  
Yes

**If you answered yes, was this person: (check all that apply)**

A stranger  
A friend  
An acquaintance (someone you know but do not consider a friend)  
Family member

**4. Has anyone encouraged you to provide sexual favors for their friends/colleagues?**

No  
Yes

**If yes, who?**

A stranger  
A friend  
An acquaintance  
Family member

**5. Has anyone forced you to provide sex for or with him/her or others?**

No  
Yes

**If yes, who?**

A stranger  
A friend  
An acquaintance  
Family Member

**6. Do you know of other youth who are being asked or forced to provide sex in exchange for money or other goods?**

No  
Yes

**7. Have you ever traded sex for money, drugs, a place to stay, clothes or food?**

No  
Yes

**If yes, how many times?**

1-5 times  
6-10 times  
10+ times

**8. Have you ever been approached by police because they suspected you were trading sex for money, drugs, a place to stay, clothes or food?**

No  
Yes

**9. Please use the back of this sheet to describe any examples of the above situations you feel may be relevant/important ⇒**