

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

1

HOUSE BILL 974*

Short Title: Protections for Victims of Human Trafficking. (Public)

Sponsors: Representatives Alexander, Glazier (Primary Sponsors); Barnhart, Bordsen, Fisher, Harrison, Howard, Insko, Parmon, Ross, and Womble.

Referred to: Judiciary II, if favorable, Appropriations.

March 22, 2007

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING PROTECTIONS FOR, AND CIVIL REMEDIES TO,
3 VICTIMS OF HUMAN TRAFFICKING.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** The General Statutes are amended by adding a new Chapter to
6 read:

"Chapter 15D.

"Victims of Human Trafficking.

7 **"§ 15D-1. Definitions.**

8 The following definitions apply in this Chapter:

- 9
- 10
- 11 (1) Contractor. – The contractor provided for in G.S. 15D-4(c).
- 12 (2) Local service provider. – The legal entities at the regional, city, or
- 13 county level that offer benefits and services to trafficked persons or
- 14 possible trafficking victims.
- 15 (3) Minor. – A person under the age of 18 years.
- 16 (4) Possible trafficking victim. – A person whose case is being reviewed
- 17 pursuant to G.S. 15D-2(c).
- 18 (5) Services. – Those services provided to trafficked persons, possible
- 19 trafficking victims, family members of trafficked persons, or family
- 20 members of possible trafficking victims. The provision of services
- 21 shall not be contingent on the trafficked person's immigration status or
- 22 on the prosecution of the trafficking victim's trafficker.
- 23 (6) T visa. – The nonimmigrant visa available to certain victims of human
- 24 trafficking under section 101(a)(15)(T) of the Immigration and
- 25 Nationality Act, 8 U.S.C. § 1101, et seq.
- 26 (7) 'Trafficked person' or 'trafficking victim'. – A person certified by the
- 27 Attorney General pursuant to G.S. 15D-2(c). In the case of a trafficked
- 28 person who is a minor, an incompetent, incapacitated, or deceased, the

1 legal guardian of the trafficked person or a representative of the
2 trafficked person's estate, another family member, next friend, or any
3 other person appointed as suitable by the court may assume the
4 trafficked person's rights, but in no event shall a defendant be named
5 such representative or guardian.

6 (8) U visa. – The nonimmigrant visa available to certain victims of human
7 trafficking under section 101(a)(15)(U) of the Immigration and
8 Nationality Act, 8 U.S.C. § 1101, et seq.

9 (9) VTVPA. – The Victims of Trafficking and Violence Protection Act of
10 2000, P.L. 106-386, as amended.

11 **"§ 15D-2. State certification of trafficked persons; services available to trafficked**
12 **persons.**

13 (a) Eligibility for Benefits and Services. – Notwithstanding any local or State law
14 limiting the ability of an alien to access State or local benefits or services, an alien who
15 is a trafficked person shall be eligible for benefits and services under any State or local
16 program or activity funded or administered by any official or agency described in
17 subsection (b) of this section.

18 (b) Requirement to Expand Benefits and Services. – Subject to the State
19 certification requirement under subsection (c) of this section, and in the case of a non-
20 entitlement program subject to the availability of funds, local service providers, the
21 Secretary of Health and Human Services, the Commissioner of Labor, the Attorney
22 General, and the heads of each State agency, department, and institution shall provide
23 benefits and services to trafficked persons in North Carolina. Services shall be provided
24 without regard to the immigration status of the trafficked persons or the ability or
25 willingness of the trafficked person to participate in the investigation or prosecution of
26 his or her trafficker. Benefits extended under this section shall not exceed benefits
27 available to eligible North Carolina citizens.

28 (c) State Certification of Eligibility for Trafficked Persons. – Any State law
29 enforcement officer who identifies the presence, within the State, of a person whom the
30 officer suspects has been subjected to any of the practices set forth in G.S. 14-43.11,
31 G.S. 14-43.12, or G.S. 14-43.13, shall notify the Attorney General of the person's
32 presence as soon as practicable. Within 96 hours of receiving this notification, the
33 Attorney General shall review and evaluate the case of the person, including any
34 attendant crime report, and issue a letter of certification of eligibility or other relevant
35 document entitling the person to have access to State benefits and services.

36 **"§ 15D-3. Protections for possible trafficking victims.**

37 (a) A possible trafficking victim shall not be detained in facilities inappropriate
38 to the trafficking victim's status as a crime victim.

39 (b) A possible trafficking victim shall be provided law enforcement protection if
40 the person's safety is at risk or if there is a danger of harm by recapture of the possible
41 trafficking victim by a trafficker. Protection shall include all of the following:

42 (1) Taking measures to protect the possible trafficking victim and the
43 possible trafficking victim's family members from intimidation, threats
44 of reprisals, and reprisals from traffickers or their associates.

1 (2) Ensuring that the names and identifying information of the possible
2 trafficking victim and the possible trafficking victim's family members
3 are not disclosed to the public.

4 (c) Where appropriate, the contractor shall seek civil remedies, including
5 application for temporary restraining orders and protective orders, while protecting
6 possible trafficking victims, witnesses, the family members of possible trafficking
7 victims, or the family members of witnesses.

8 **"§ 15D-4. Protections and benefits for trafficking victims.**

9 (a) Trafficking victims shall not be detained in facilities inappropriate to their
10 status as crime victims.

11 (b) Trafficked persons, prosecution witnesses, the families of trafficked persons,
12 and the families of prosecution witnesses shall be protected from intimidation and
13 retaliation by traffickers and their associates. Protection shall include:

14 (1) Access to centers for victim and witness assistance.

15 (2) Protection under the Address Confidentiality Program under Chapter
16 15C of the General Statutes.

17 (c) The Attorney General shall contract with Legal Aid of North Carolina, Inc.,
18 which, under the terms of the contract, shall be required to do all of the following:

19 (1) Provide the information set forth in subsection (e) of this section to
20 trafficked persons.

21 (2) Provide the legal services set forth in subsection (f) of this section and
22 G.S. 15D-3(c) to trafficked persons.

23 (3) Train relevant State and local law enforcement agencies pursuant to
24 G.S. 15D-8(b).

25 (4) Report to the Office of the Attorney General as required by
26 G.S. 15D-9(a).

27 (5) Provide the services set forth in G.S. 15D-10(a) and G.S. 15C-10.

28 (d) As soon as practicable after certification of a trafficked person pursuant to
29 G.S. 15D-2(c), the Attorney General shall notify the contractor of the certification and
30 shall provide the contractor with all information in the Attorney General's possession
31 concerning the name and location of the trafficked person.

32 (e) As soon as practicable after notification by the Attorney General that a person
33 has been certified as a trafficking victim, the contractor shall locate the trafficked person
34 and provide the trafficked person with information about his or her rights and applicable
35 services, including all of the following:

36 (1) Availability of pro bono and low-cost legal services. This information
37 shall include a list of pro bono organizations that have informed the
38 contractor in writing that they are willing to assist victims of
39 trafficking.

40 (2) Right to access:

41 a. Federal and State benefits and services, such as regularized
42 immigration status.

43 b. Benefits and services under the VTVPA.

1 c. State compensation, assistance, education, and training
2 programs.

3 (3) Names of and contact information for relevant local service providers
4 offering services to victims of trafficking and, when relevant, to
5 domestic violence and rape crisis centers.

6 (4) The availability of federal and State protections for victims, witnesses,
7 and their families faced with threats and intimidation.

8 (5) Legal remedies available, including compensation in civil proceedings
9 and restitution pursuant to G.S. 15A-834.

10 (6) Right to confidentiality pursuant to G.S. 15D-4(b)(2).

11 (7) Right to receive notices about the status of the case against the
12 trafficker, pursuant to Article 46 of Chapter 15A of the General
13 Statutes.

14 (8) Right to access translation services and an oral interpreter if the
15 trafficked person cannot communicate fully in English and where these
16 resources are available.

17 (f) The contractor may assist trafficked persons in obtaining a T visa, U visa, or
18 the temporary immigration status known as 'continued presence' under the VTVPA.
19 This assistance shall include preparing and submitting the necessary written requests to
20 law enforcement officers pursuant to G.S. 15D-6.

21 **"§ 15D-5. Sheltering of human trafficking victims and possible human trafficking**
22 **victims; reimbursement of domestic violence programs.**

23 (a) The contractor may contract with domestic violence shelters or faith-based
24 agencies to provide shelter for human trafficking victims or possible human trafficking
25 victims. Funds appropriated to the contractor pursuant to this subsection shall only be
26 used to pay the cost of sheltering trafficking victims or possible trafficking victims.

27 (b) Any domestic violence program or faith-based agency that shelters a
28 trafficking victim or a possible trafficking victim may apply for reimbursement of the
29 costs of sheltering the trafficking victim or possible trafficking victim. The contractor
30 shall reimburse a domestic violence program that applies for reimbursement under this
31 subsection if the program reasonably believed that the person sheltered was a trafficking
32 victim or a possible trafficking victim.

33 (c) To the extent possible, trafficking victims and possible trafficking victims
34 shall be sheltered at locations designed to provide the following basic services to them:

35 (1) Shelter operating 24 hours a day, seven days a week.

36 (2) A switchboard for crisis calls operating 24 hours a day, seven days a
37 week.

38 (3) Temporary housing and food facilities.

39 (4) Psychological support and peer counseling.

40 (5) Referrals to existing services in the community and follow-up on the
41 outcome of the referrals.

42 (6) Emergency transportation to the shelter and, when appropriate,
43 arrangements with local law enforcement for assistance in providing
44 such transportation.

1 **"§ 15D-6. Assisting trafficked persons to secure immigration status and federal**
2 **benefits.**

3 To ensure that trafficking victims are able to access all available federal benefits and
4 programs for victims of a severe form of trafficking under the VTVPA, State law
5 enforcement officials shall do all of the following:

- 6 (1) Keep federal authorities informed about trafficking cases in the State.
7 (2) Within 72 hours of determining that, more likely than not, an
8 immigrant was a victim of trafficking, and upon the written request
9 from the trafficked person or the person's legal representative, submit a
10 written request to the appropriate federal authorities requesting that the
11 trafficking victim be granted the temporary immigration status known
12 as "continued presence" under the VTVPA.
13 (3) Within 72 hours of a written request for documentation from a person
14 identified by local or State authorities as someone who had, more
15 likely than not, been a victim of trafficking or a written request from
16 his or her legal representative, provide the person with a completed
17 Form Supplement B to Form I-914, or equivalent for a U visa,
18 Declaration of Law Enforcement Officer for Victim of Trafficking in
19 Persons that satisfies the Law Enforcement Agency (LEA)
20 Endorsement regulations in 8 C.F.R. § 214.11(f)(1) in support of the
21 person's application for a T visa or a U visa.
22 (4) Within 72 hours of a request for documentation from a person
23 identified by local or State authorities as someone who had, more
24 likely than not, been a victim of trafficking, or a written request from
25 the person's legal representative, provide the person with documents in
26 support of the person's request for benefits and services authorized by
27 the VTVPA to be provided to trafficking victims by the Office of
28 Refugee Resettlement in the Department of Health and Human
29 Services.

30 **"§ 15D-7. Non-referral to immigration for removal or deportation.**

31 No State or local official shall transmit, in any form, any information identifying, in
32 any way, the name or location of a trafficked person to federal immigration officials
33 responsible for removal or deportation of undocumented aliens, except as otherwise
34 required by law.

35 **"§ 15D-8. Protocols for State law enforcement officers; training to identify and**
36 **protect trafficking victims.**

37 (a) The North Carolina Justice Academy shall establish protocols and training for
38 State law enforcement agency officers to assist trafficked persons in accessing
39 nonimmigrant status and federal benefits, including mechanisms for coordinating with
40 the federal officials to ensure that trafficked persons are able to access their rights under
41 federal law.

42 (b) The contractor shall make training available in all relevant local and State
43 agencies, including health care, hospital, law enforcement, labor, agriculture, housing,
44 and social services, to teach officials:

- 1 (1) About the phenomenon of human trafficking, State and federal laws on
2 human trafficking, the rights and needs of trafficked persons, and the
3 tools necessary to provide effective services to trafficked persons.
- 4 (2) How to recognize and identify victims of one or more of the practices
5 set forth in G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13.
- 6 (3) Methods for protecting trafficking victims, and possible trafficking
7 victims, and advising them of their rights.
- 8 (4) Procedures and techniques for handling specialized needs of victims
9 who may face cultural, language, and other barriers that impede ability
10 to request and obtain available services.

11 **"§ 15D-9. Annual report; data collection.**

12 (a) The contractor shall, on or before June 30 of each year, submit a report to the
13 Office of the Attorney General covering the preceding fiscal year and stating the
14 number, if any, of otherwise eligible applicants who did not receive T visas, or who
15 were unable to adjust their status under 8 U.S.C. § 1255(l), solely on account of the
16 unavailability of visas due to the limitation imposed by 8 U.S.C. § 1184(o)(2) or 8
17 U.S.C. § 1255(l)(4)(A).

18 (b) The Office of the Attorney General shall collect data on trafficking cases,
19 including:

- 20 (1) The number of cases investigated.
- 21 (2) The number of prosecutions under Article 10A of Chapter 14 of the
22 General Statutes.
- 23 (3) The number of convictions under Article 10A of Chapter 14 of the
24 General Statutes and the number of plea bargains.
- 25 (4) The age, sex, and nationality of the trafficking victims and defendants
26 in all cases prosecuted.

27 **"§ 15D-10. Resource center; liaison to United States Department of Justice.**

28 (a) The contractor shall develop and disseminate throughout the State
29 information and materials concerning human trafficking, including, but not limited to, a
30 procedures manual on the identification and prevention of human trafficking. The
31 contractor shall also establish a resource center for the collection, retention, and
32 distribution of educational materials related to human trafficking. This information and
33 material shall be developed consistent with the availability of funds from the federal
34 government for human trafficking prevention and education.

35 (b) The Attorney General shall establish a liaison with the United States
36 Department of Justice in order to harmonize the State's response to human trafficking
37 with the federal government's response to trafficking. This liaison shall:

- 38 (1) Facilitate the legal processes over which the federal government has
39 sole authority, including those processes through which overseas
40 family members of trafficked persons can receive protection from the
41 United States government.
- 42 (2) Advise the Attorney General of all federal funding that may be
43 available for implementing the various elements of the State's

1 responses to human trafficking, with particular attention to shelter
2 funding.

3 (3) Endeavor, in conjunction with nongovernmental organizations, to
4 secure federal documents enabling trafficked persons to have access to
5 federal benefits and services.

6 **"§ 15D-11. Civil action.**

7 (a) A trafficked person may bring a civil action for actual damages,
8 compensatory damages, punitive damages, injunctive relief, any combination of those,
9 or any other appropriate relief. A prevailing plaintiff shall also be awarded attorneys'
10 fees and costs. Treble damages shall be awarded on proof of actual damage where the
11 defendant's acts are willful and malicious.

12 (b) An action brought pursuant to this section shall be commenced within 10
13 years of the date on which the trafficked person was freed from the trafficking situation,
14 or if the trafficked person was a minor when the act occurred, within 15 years after the
15 date the plaintiff attains the age of 18. All of the following shall suspend the running of
16 the statute:

17 (1) Disability shall toll or suspend the running of the statute. If a person
18 entitled to sue is under a 'disability' at the time the cause of action
19 accrues, such that it is impossible or impracticable for the person to
20 bring an action, the time during which the plaintiff is under a disability
21 tolls the running of the time limit for the commencement of the action.
22 Disability includes: insanity, imprisonment, or other incapacity or
23 incompetence.

24 (2) The statute shall not run against an incompetent or minor plaintiff
25 simply because a guardian ad litem has been appointed. In the event
26 that a minor plaintiff is under a disability, the failure of the minor's
27 guardian ad litem to bring a plaintiff's action within the applicable
28 limitation period will not prejudice the plaintiff's right to do so after
29 his or her disability ceases.

30 (3) Estoppel. – A defendant is estopped from asserting a defense of the
31 statute of limitations when the expiration of the statute is due to:

32 a. Conduct by the defendant inducing the plaintiff to delay the
33 filing of the action, or preventing the plaintiff from filing the
34 action; or

35 b. Threats made by the defendant that caused duress upon the
36 plaintiff.

37 (4) The suspension of the statute of limitations due to disability or
38 estoppel applies to all other related claims arising out of the trafficking
39 situation.

40 (c) For purposes of this section, a 'criminal action' includes investigation and
41 prosecution and remains pending until final adjudication in the trial court.

42 (d) Any legal guardian, family member, representative of the trafficked person,
43 or court appointee may represent the trafficked person's rights, in the event the

1 trafficked person is deceased or otherwise unable to represent his or her own interests in
2 court."

3 **SECTION 2.** G.S. 15A-830(a)(7) reads as rewritten:

4 "(7) Victim. – A person against whom there is probable cause to believe
5 one of the following crimes was committed:

6 a. A Class A, B1, B2, C, D, or E felony.

7 b. A Class F felony if it is a violation of one of the following:
8 G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3);
9 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.6;
10 14-43.3; 14-43.11(b); 14-43.12(b); 14-43.13(b); 14-190.17;
11 14-190.19; 14-202.1; 14-277.3; 14-288.9; or 20-138.5.

12 c. A Class G felony if it is a violation of one of the following:
13 G.S. 14-32.3(b); 14-51; 14-58; 14-87.1; or 20-141.4.

14 d. A Class H felony if it is a violation of one of the following:
15 G.S. 14-32.3(a); 14-32.3(c); 14-33.2, or 14-277.3.

16 e. A Class I felony if it is a violation of one of the following:
17 G.S. 14-32.3(b); 14-34.6(b); or 14-190.17A.

18 f. An attempt of any of the felonies listed in this subdivision if the
19 attempted felony is punishable as a felony.

20 g. Any of the following misdemeanor offenses when the offense is
21 committed between persons who have a personal relationship as
22 defined in G.S. 50B-1(b): G.S. 14-33(c)(1); 14-33(c)(2);
23 14-33(a); 14-34; 14-134.3; or 14-277.3."

24 **SECTION 3.** G.S. 15C-1 reads as rewritten:

25 **"§ 15C-1. Purpose.**

26 The purpose of this Chapter is to enable the State and the agencies of North Carolina
27 to respond to requests for public records without disclosing the location of a victim of
28 domestic violence, sexual offense, ~~or stalking~~ stalking, or human trafficking; to enable
29 interagency cooperation in providing address confidentiality for victims of domestic
30 violence, sexual offense, ~~or stalking~~ stalking, or human trafficking; and to enable the
31 State and its agencies to accept a program participant's use of an address designated by
32 the Office of the Attorney General as a substitute address."

33 **SECTION 4.** G.S. 15C-2 reads as rewritten:

34 **"§ 15C-2. Definitions.**

35 The following definitions apply in this Chapter:

36 (1) Actual address or address. – A residential, work, or school street
37 address as specified on the individual's application to be a program
38 participant under this Chapter.

39 (2) Address Confidentiality Program or Program. – A program in the
40 Office of the Attorney General to protect the confidentiality of the
41 address of a relocated victim of domestic violence, sexual offense, ~~or~~
42 ~~stalking~~ stalking, or human trafficking to prevent the victim's
43 assailants or potential assailants from finding the victim through public
44 records.

- 1 (3) Agency of North Carolina or agency. – Includes every elected or
2 appointed State or local public office, public officer, or official;
3 institution, board, commission, bureau, council, department, authority,
4 or other unit of government of the State or of any local government; or
5 unit, special district, or other political subdivision of State or local
6 government.
- 7 (4) Application assistant. – An employee of an agency or nonprofit
8 organization who provides counseling, referral, shelter, or other
9 specialized services to victims of domestic violence, sexual offense, ~~or~~
10 ~~stalking-stalking~~, or human trafficking and who has been designated by
11 the Attorney General to assist individuals with applications to
12 participate in the Address Confidentiality Program.
- 13 (5) Attorney General. – Office of the Attorney General.
- 14 (6) Person. – Any individual, corporation, limited liability company,
15 partnership, trust, estate, or other association or any state, the United
16 States, or any subdivision thereof.
- 17 (7) Program participant. – An individual accepted into the Address
18 Confidentiality Program in accordance with this Chapter.
- 19 (8) Public record. – A public record as defined in Chapter 132 of the
20 General Statutes.
- 21 (9) Substitute address. – An address designated by the Attorney General
22 under the Address Confidentiality Program.
- 23 (10) Victim of domestic violence. – An individual against whom domestic
24 violence, as described in G.S. 50B-1, has been committed.
- 25 (10A) Victim of human trafficking. – A person subjected to the practices set
26 forth in G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13.
- 27 (11) Victim of a sexual offense. – An individual against whom a sexual
28 offense, as described in Article 7A of Chapter 14 of the General
29 Statutes, has been committed.
- 30 (12) Victim of stalking. – An individual against whom stalking, as
31 described in G.S. 14-277.3, has been committed."

32 **SECTION 5.** G.S. 15C-3 reads as rewritten:

33 **"§ 15C-3. Address Confidentiality Program.**

34 The General Assembly establishes the Address Confidentiality Program in the
35 Office of the Attorney General to protect the confidentiality of the address of a relocated
36 victim of domestic violence, sexual offense, ~~or stalking-stalking~~, or human trafficking to
37 prevent the victim's assailants or potential assailants from finding the victim through
38 public records. Under this Program, the Attorney General shall designate a substitute
39 address for a program participant and act as the agent of the program participant for
40 purposes of service of process and receiving and forwarding first-class mail or certified
41 or registered mail. The Attorney General shall not be required to forward any mail other
42 than first-class mail or certified or registered mail to the program participant. The
43 Attorney General shall not be required to track or otherwise maintain records of any

1 mail received on behalf of a program participant unless the mail is certified or registered
2 mail."

3 **SECTION 6.** Subsection (c) of G.S. 15C-4 reads as rewritten:

4 "(c) The application shall contain all of the following:

5 (1) A statement by the applicant that the applicant is a victim of domestic
6 violence, sexual offense, ~~or stalking-stalking~~, or human trafficking and
7 that the applicant fears for the applicant's safety or the safety of the
8 applicant's child.

9 (2) Evidence that the applicant is a victim of domestic violence, sexual
10 offense, ~~or stalking-stalking~~, or human trafficking. This evidence may
11 include any of the following:

12 a. Law enforcement, court, or other federal or state agency records
13 or files.

14 b. Documentation from a domestic violence program if the
15 applicant is alleged to be a victim of domestic violence.

16 c. Documentation from a religious, medical, or other professional
17 from whom the applicant has sought assistance in dealing with
18 the alleged domestic violence, sexual offense, or stalking.

19 d. Documentation submitted to support a victim of human
20 trafficking's application for T or U nonimmigrant status
21 pursuant to the Victims of Trafficking and Violence Protection
22 Act of 2000, as amended.

23 (3) A statement by the applicant that disclosure of the applicant's address
24 would endanger the applicant's safety or the safety of the applicant's
25 child.

26 (4) A statement by the applicant that the applicant has or will
27 confidentially relocate in North Carolina.

28 (5) A designation of the Attorney General as an agent for the applicant for
29 purposes of service of process and the receipt of first-class mail or
30 certified or registered mail.

31 (6) The mailing address and telephone number where the applicant can be
32 contacted by the Attorney General.

33 (7) The address that the applicant requests not to be disclosed by the
34 Attorney General that directly relates to the increased risk of domestic
35 violence, sexual offense, ~~or stalking-stalking~~, or human trafficking.

36 (8) A statement as to whether there is any existing court order or court
37 action involving the applicant related to divorce proceedings, child
38 support, child custody, or child visitation and the court that issued the
39 order or has jurisdiction over the action.

40 (9) A statement by the applicant that to the best of the applicant's
41 knowledge, the information contained in the application is true.

42 (10) A recommendation of an application assistant that the applicant have
43 an address designated by the Attorney General to serve as the
44 substitute address of the applicant."

1 **SECTION 7.** G.S. 15C-10 reads as rewritten:

2 "**§ 15C-10. Assistance for program applicants.**

3 The Attorney General shall designate agencies of North Carolina and nonprofit
4 organizations that provide counseling and shelter services to victims of domestic
5 violence, sexual offense, or stalking to assist individuals applying to be program
6 participants. Any assistance and counseling rendered by the Office of the Attorney
7 General or its designee to applicants shall in no way be construed as legal advice. The
8 contractor provided for in G.S. 15D-4(c) shall designate agencies of North Carolina and
9 nonprofit organizations that provide counseling and shelter services to victims of human
10 trafficking to assist individuals applying to be program participants."

11 **SECTION 8.** Article 7 of Chapter 8 of the General Statutes is amended by
12 adding a new section to read:

13 "**§ 8-53.14. Trafficking victim counselor privilege.**

14 (a) As used in this section, a "trafficking victim counselor" means any of the
15 following:

16 (1) A person who is engaged in any office, hospital, institution, or center
17 whose primary purpose is the rendering of advice or assistance to
18 victims of human trafficking and who meets one of the following
19 requirements:

20 a. Is a psychotherapist as defined in G.S. 90-21.41; has a masters
21 degree in counseling or a related field; or has one year of
22 counseling experience, at least six months of which is in the
23 counseling of human trafficking victims.

24 b. Has 40 hours of training as described below and is supervised
25 by an individual who qualifies as a counselor under subdivision
26 (1)a. of this subsection. The training, supervised by a person
27 qualified under subdivision (1)a. of this subsection shall include
28 the following areas: history of human trafficking, civil and
29 criminal law as it relates to human trafficking, societal attitudes
30 towards human trafficking, peer counseling techniques,
31 housing, public assistance and other financial resources
32 available to meet the financial needs of human trafficking
33 victims, and referral services available to human trafficking
34 victims.

35 (2) A person who is employed by any organization providing programs,
36 whether financially compensated or not, for the purpose of counseling
37 and assisting human trafficking victims, and who meets one of the
38 following requirements:

39 a. Is a psychotherapist as defined in G.S. 90-21.41; has a masters
40 degree in counseling or a related field; or has one year of
41 counseling experience, at least six months of which is in rape
42 assault counseling.

43 b. Has the minimum training for counseling of human trafficking
44 victims as required by guidelines established by the employing

1 agency and is supervised by an individual who qualifies as a
2 counselor under subdivision (2)a. of this subsection. The
3 training, supervised by a person qualified under subdivision
4 (2)a. of this subsection, shall include the following areas: law,
5 victimology, counseling techniques, client and system
6 advocacy, and referral services.

7 (b) Privileged Communications. – No trafficking victim counselor shall be
8 required to disclose any information that the counselor acquired during the provision of
9 services to a victim and which information was necessary to enable the counselor to
10 render the services; provided, however, that this subsection shall not apply where the
11 victim waives the privilege conferred. Any resident or presiding judge in the district in
12 which the action is pending shall compel disclosure, either at the trial or prior thereto, if
13 the court finds, by a preponderance of the evidence, a good faith, specific, and
14 reasonable basis for believing that (i) the records or testimony sought contain
15 information that is relevant and material to factual issues to be determined in a civil
16 proceeding, or is relevant, material, and exculpatory upon the issue of guilt, degree of
17 guilt, or sentencing in a criminal proceeding for the offense charged or any lesser
18 included offense, (ii) the evidence is not sought merely for character impeachment
19 purposes, and (iii) the evidence sought is not merely cumulative of other evidence or
20 information available or already obtained by the party seeking the disclosure or the
21 party's counsel. If the case is in district court, the judge shall be a district court judge,
22 and if the case is in superior court, the judge shall be a superior court judge.

23 Before requiring production of records, the court must find that the party seeking
24 disclosure has made a sufficient showing that the records are likely to contain
25 information subject to disclosure under this subsection. If the court finds a sufficient
26 showing has been made, the court shall order that the records be produced for the court
27 under seal, shall examine the records in camera, and may allow disclosure of those
28 portions of the records which the court finds contain information subject to disclosure
29 under this subsection. After all appeals in the action have been exhausted, any records
30 received by the court under seal shall be returned to the center, unless otherwise ordered
31 by the court. The privilege afforded under this subsection terminates upon the death of
32 the victim.

33 (c) Duty in Case of Abuse or Neglect. – Nothing in this section shall be
34 construed to relieve any person of any duty pertaining to abuse or neglect of a child or
35 disabled adult as required by law."

36 **SECTION 9.** There is appropriated from the General Fund to the Office of
37 the Attorney General of the Department of Justice the sum of eight hundred thousand
38 dollars (\$800,000) for the 2007-2008 fiscal year and the sum of eight hundred thousand
39 dollars (\$800,000) for the 2008-2009 fiscal year. Of the amount appropriated in this
40 act, seven hundred thousand dollars (\$700,000) shall be allocated to contract with Legal
41 Aid of North Carolina, Inc., a nonprofit organization, as required under this act and one
42 hundred thousand dollars (\$100,000) shall be allocated to implement the remainder of
43 this act.

1 **SECTION 10.** This act becomes effective October 1, 2007, and applies to
2 offenses committed on or after that date.