

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE DRS55159-MD-14C* (1/22)

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

Sponsors: Senator Kinnaird.

Referred to:

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:

7 **Chapter 15D.**

8 **"Victims of Human Trafficking."**

9 **"§ 15D-1. Definitions."**

10 The following definitions apply in this Chapter:

- 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

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

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

10 (9) VTVPA. – The Victims of Trafficking and Violence Protection Act of
11 2000, P.L. 106-386, as amended.

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

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

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

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

37 **"§ 15D-3. Protections for possible trafficking victims.**

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

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

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

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

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

11 **"§ 15D-4. Protections and benefits for trafficking victims.**

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

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

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

18 (2) Protection under the Address Confidentiality Program under Chapter
19 15C of the General Statutes.

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

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

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

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

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

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

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

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

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

43 (2) Right to access:

- 1 a. Federal and State benefits and services, such as regularized
2 immigration status.
3 b. Benefits and services under the VTVPA.
4 c. State compensation, assistance, education, and training
5 programs.
6 (3) Names of and contact information for relevant local service providers
7 offering services to victims of trafficking and, when relevant, to
8 domestic violence and rape crisis centers.
9 (4) The availability of federal and State protections for victims, witnesses,
10 and their families faced with threats and intimidation.
11 (5) Legal remedies available, including compensation in civil proceedings
12 and restitution pursuant to G.S. 15A-834.
13 (6) Right to confidentiality pursuant to G.S. 15D-4(b)(2).
14 (7) Right to receive notices about the status of the case against the
15 trafficker, pursuant to Article 46 of Chapter 15A of the General
16 Statutes.
17 (8) Right to access translation services and an oral interpreter if the
18 trafficked person cannot communicate fully in English and where these
19 resources are available.

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

24 **"§ 15D-5. Sheltering of human trafficking victims and possible human trafficking**
25 **victims; reimbursement of domestic violence programs.**

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

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

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

- 38 (1) Shelter operating 24 hours a day, seven days a week.
39 (2) A switchboard for crisis calls operating 24 hours a day, seven days a
40 week.
41 (3) Temporary housing and food facilities.
42 (4) Psychological support and peer counseling.
43 (5) Referrals to existing services in the community and follow-up on the
44 outcome of the referrals.

- 1 (6) Emergency transportation to the shelter and, when appropriate,
2 arrangements with local law enforcement for assistance in providing
3 such transportation.

4 **"§ 15D-6. Assisting trafficked persons to secure immigration status and federal**
5 **benefits.**

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

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

33 **"§ 15D-7. Non-referral to immigration for removal or deportation.**

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

38 **"§ 15D-8. Protocols for State law enforcement officers; training to identify and**
39 **protect trafficking victims.**

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

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

4 (1) About the phenomenon of human trafficking, State and federal laws on
5 human trafficking, the rights and needs of trafficked persons, and the
6 tools necessary to provide effective services to trafficked persons.

7 (2) How to recognize and identify victims of one or more of the practices
8 set forth in G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13.

9 (3) Methods for protecting trafficking victims, and possible trafficking
10 victims, and advising them of their rights.

11 (4) Procedures and techniques for handling specialized needs of victims
12 who may face cultural, language, and other barriers that impede ability
13 to request and obtain available services.

14 **"§ 15D-9. Annual report; data collection.**

15 (a) The contractor shall, on or before June 30 of each year, submit a report to the
16 Office of the Attorney General covering the preceding fiscal year and stating the
17 number, if any, of otherwise eligible applicants who did not receive T visas, or who
18 were unable to adjust their status under 8 U.S.C. § 1255(1), solely on account of the
19 unavailability of visas due to the limitation imposed by 8 U.S.C. § 1184(o)(2) or 8
20 U.S.C. § 1255(1)(4)(A).

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

23 (1) The number of cases investigated.

24 (2) The number of prosecutions under Article 10A of Chapter 14 of the
25 General Statutes.

26 (3) The number of convictions under Article 10A of Chapter 14 of the
27 General Statutes and the number of plea bargains.

28 (4) The age, sex, and nationality of the trafficking victims and defendants
29 in all cases prosecuted.

30 **"§ 15D-10. Resource center; liaison to United States Department of Justice.**

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

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

41 (1) Facilitate the legal processes over which the federal government has
42 sole authority, including those processes through which overseas
43 family members of trafficked persons can receive protection from the
44 United States government.

1 (2) Advise the Attorney General of all federal funding that may be
2 available for implementing the various elements of the State's
3 responses to human trafficking, with particular attention to shelter
4 funding.

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

8 **"§ 15D-11. Civil action.**

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

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

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

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

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

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

37 b. Threats made by the defendant that caused duress upon the
38 plaintiff.

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

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

1 (d) Any legal guardian, family member, representative of the trafficked person,
2 or court appointee may represent the trafficked person's rights, in the event the
3 trafficked person is deceased or otherwise unable to represent his or her own interests in
4 court."

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

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

- 8 a. A Class A, B1, B2, C, D, or E felony.
9 b. A Class F felony if it is a violation of one of the following:
10 G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3);
11 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.6;
12 14-43.3; 14-43.11(b); 14-43.12(b); 14-43.13(b); 14-190.17;
13 14-190.19; 14-202.1; 14-277.3; 14-288.9; or 20-138.5.
14 c. A Class G felony if it is a violation of one of the following:
15 G.S. 14-32.3(b); 14-51; 14-58; 14-87.1; or 20-141.4.
16 d. A Class H felony if it is a violation of one of the following:
17 G.S. 14-32.3(a); 14-32.3(c); 14-33.2, or 14-277.3.
18 e. A Class I felony if it is a violation of one of the following:
19 G.S. 14-32.3(b); 14-34.6(b); or 14-190.17A.
20 f. An attempt of any of the felonies listed in this subdivision if the
21 attempted felony is punishable as a felony.
22 g. Any of the following misdemeanor offenses when the offense is
23 committed between persons who have a personal relationship as
24 defined in G.S. 50B-1(b): G.S. 14-33(c)(1); 14-33(c)(2);
25 14-33(a); 14-34; 14-134.3; or 14-277.3."

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

27 "**§ 15C-1. Purpose.**

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

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

36 "**§ 15C-2. Definitions.**

37 The following definitions apply in this Chapter:

- 38 (1) Actual address or address. – A residential, work, or school street
39 address as specified on the individual's application to be a program
40 participant under this Chapter.
41 (2) Address Confidentiality Program or Program. – A program in the
42 Office of the Attorney General to protect the confidentiality of the
43 address of a relocated victim of domestic violence, sexual offense, ~~or~~
44 ~~stalking~~ stalking, or human trafficking to prevent the victim's

1 assailants or potential assailants from finding the victim through public
2 records.

3 (3) Agency of North Carolina or agency. – Includes every elected or
4 appointed State or local public office, public officer, or official;
5 institution, board, commission, bureau, council, department, authority,
6 or other unit of government of the State or of any local government; or
7 unit, special district, or other political subdivision of State or local
8 government.

9 (4) Application assistant. – An employee of an agency or nonprofit
10 organization who provides counseling, referral, shelter, or other
11 specialized services to victims of domestic violence, sexual offense, ~~or~~
12 ~~stalking-stalking~~, or human trafficking and who has been designated by
13 the Attorney General to assist individuals with applications to
14 participate in the Address Confidentiality Program.

15 (5) Attorney General. – Office of the Attorney General.

16 (6) Person. – Any individual, corporation, limited liability company,
17 partnership, trust, estate, or other association or any state, the United
18 States, or any subdivision thereof.

19 (7) Program participant. – An individual accepted into the Address
20 Confidentiality Program in accordance with this Chapter.

21 (8) Public record. – A public record as defined in Chapter 132 of the
22 General Statutes.

23 (9) Substitute address. – An address designated by the Attorney General
24 under the Address Confidentiality Program.

25 (10) Victim of domestic violence. – An individual against whom domestic
26 violence, as described in G.S. 50B-1, has been committed.

27 (10A) Victim of human trafficking. – A person subjected to the practices set
28 forth in G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13.

29 (11) Victim of a sexual offense. – An individual against whom a sexual
30 offense, as described in Article 7A of Chapter 14 of the General
31 Statutes, has been committed.

32 (12) Victim of stalking. – An individual against whom stalking, as
33 described in G.S. 14-277.3, has been committed."

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

35 **"§ 15C-3. Address Confidentiality Program.**

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

1 Attorney General shall not be required to track or otherwise maintain records of any
2 mail received on behalf of a program participant unless the mail is certified or registered
3 mail."

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

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

- 6 (1) A statement by the applicant that the applicant is a victim of domestic
7 violence, sexual offense, ~~or stalking-stalking~~, or human trafficking and
8 that the applicant fears for the applicant's safety or the safety of the
9 applicant's child.
- 10 (2) Evidence that the applicant is a victim of domestic violence, sexual
11 offense, ~~or stalking-stalking~~, or human trafficking. This evidence may
12 include any of the following:
- 13 a. Law enforcement, court, or other federal or state agency records
14 or files.
- 15 b. Documentation from a domestic violence program if the
16 applicant is alleged to be a victim of domestic violence.
- 17 c. Documentation from a religious, medical, or other professional
18 from whom the applicant has sought assistance in dealing with
19 the alleged domestic violence, sexual offense, or stalking.
- 20 d. Documentation submitted to support a victim of human
21 trafficking's application for T or U nonimmigrant status
22 pursuant to the Victims of Trafficking and Violence Protection
23 Act of 2000, as amended.
- 24 (3) A statement by the applicant that disclosure of the applicant's address
25 would endanger the applicant's safety or the safety of the applicant's
26 child.
- 27 (4) A statement by the applicant that the applicant has or will
28 confidentially relocate in North Carolina.
- 29 (5) A designation of the Attorney General as an agent for the applicant for
30 purposes of service of process and the receipt of first-class mail or
31 certified or registered mail.
- 32 (6) The mailing address and telephone number where the applicant can be
33 contacted by the Attorney General.
- 34 (7) The address that the applicant requests not to be disclosed by the
35 Attorney General that directly relates to the increased risk of domestic
36 violence, sexual offense, ~~or stalking-stalking~~, or human trafficking.
- 37 (8) A statement as to whether there is any existing court order or court
38 action involving the applicant related to divorce proceedings, child
39 support, child custody, or child visitation and the court that issued the
40 order or has jurisdiction over the action.
- 41 (9) A statement by the applicant that to the best of the applicant's
42 knowledge, the information contained in the application is true.

- 1 (10) A recommendation of an application assistant that the applicant have
2 an address designated by the Attorney General to serve as the
3 substitute address of the applicant."

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

5 **"§ 15C-10. Assistance for program applicants.**

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

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

16 **"§ 8-53.14. Trafficking victim counselor privilege.**

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

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

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

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

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

42 a. Is a psychotherapist as defined in G.S. 90-21.41; has a masters
43 degree in counseling or a related field; or has one year of

1 counseling experience, at least six months of which is in rape
2 assault counseling.

3 b. Has the minimum training for counseling of human trafficking
4 victims as required by guidelines established by the employing
5 agency and is supervised by an individual who qualifies as a
6 counselor under subdivision (2)a. of this subsection. The
7 training, supervised by a person qualified under subdivision
8 (2)a. of this subsection, shall include the following areas: law,
9 victimology, counseling techniques, client and system
10 advocacy, and referral services.

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

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

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

40 **SECTION 9.** There is appropriated from the General Fund to the Office of
41 the Attorney General of the Department of Justice the sum of eight hundred thousand
42 dollars (\$800,000) for the 2007-2008 fiscal year and the sum of eight hundred thousand
43 dollars (\$800,000) for the 2008-2009 fiscal year. Of the amount appropriated in this
44 act, seven hundred thousand dollars (\$700,000) shall be allocated to contract with Legal

1 Aid of North Carolina, Inc., a nonprofit organization, as required under this act and one
2 hundred thousand dollars (\$100,000) shall be allocated to implement the remainder of
3 this act.

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