

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 683
PROPOSED COMMITTEE SUBSTITUTE S683-PCS35339-SA-42

Short Title: Safe Harbor/Victims of Human Trafficking.

(Public)

Sponsors:

Referred to:

April 4, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A SAFE HARBOR FOR VICTIMS OF HUMAN TRAFFICKING
3 AND FOR PROSTITUTED MINORS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 14-43.11 reads as rewritten:

6 "**§ 14-43.11. Human trafficking.**

7 (a) A person commits the offense of human trafficking when that ~~person~~ person (i)
8 knowingly or in reckless disregard of the fact recruits, entices, harbors, transports, provides, or
9 obtains by any means another person with the intent that the other person be held in involuntary
10 servitude or sexual ~~servitude~~ servitude or (ii) knowingly or in reckless disregard of the fact
11 causes a minor to be held in involuntary servitude or sexual servitude.

12 (b) A person who violates this section is guilty of a ~~Class F~~ Class E felony if the victim
13 of the offense is an adult. A person who violates this section is guilty of a Class C felony if the
14 victim of the offense is a minor.

15 (c) Each violation of this section constitutes a separate offense and shall not merge with
16 any other offense. Evidence of failure to deliver benefits or perform services standing alone
17 shall not be sufficient to authorize a conviction under this section.

18 (c1) Mistake of age is not a defense to prosecution under this section. Consent of a minor
19 is not a defense to prosecution under this section.

20 (d) A person who is not a legal resident of North Carolina, and would consequently be
21 ineligible for State public benefits or services, shall be eligible for the public benefits and
22 services of any State agency if the person is otherwise eligible for the public benefit and is a
23 victim of an offense charged under this section. Eligibility for public benefits and services shall
24 terminate at such time as the victim's eligibility to remain in the United States is terminated
25 under federal law."

26 **SECTION 2.** G.S. 14-43.12 reads as rewritten:

27 "**§ 14-43.12. Involuntary servitude.**

28 (a) A person commits the offense of involuntary servitude when that person knowingly
29 and willfully or in reckless disregard holds another in involuntary servitude.

30 (b) A person who violates this section is guilty of a ~~Class F~~ Class E felony if the victim
31 of the offense is an adult. A person who violates this section is guilty of a Class C felony if the
32 victim of the offense is a minor.

33 (c) Each violation of this section constitutes a separate offense and shall not merge with
34 any other offense. Evidence of failure to deliver benefits or perform services standing alone
35 shall not be sufficient to authorize a conviction under this section.



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1 (c1) Mistake of age is not a defense to prosecution under this section. Consent of a minor
2 is not a defense to prosecution under this section.

3 (d) Nothing in this section shall be construed to affect the laws governing the
4 relationship between an unemancipated minor and his or her parents or legal guardian.

5 (e) If any person reports a violation of this section, which violation arises out of any
6 contract for labor, to any party to the contract, the party shall immediately report the violation
7 to the sheriff of the county in which the violation is alleged to have occurred for appropriate
8 action. A person violating this subsection shall be guilty of a Class 1 misdemeanor."

9 **SECTION 3.** G.S. 14-43.13 reads as rewritten:

10 **"§ 14-43.13. Sexual servitude.**

11 (a) A person commits the offense of sexual servitude when that person knowingly or in
12 reckless disregard subjects or maintains another in sexual servitude.

13 (b) A person who violates this section is guilty of a ~~Class F~~ Class E felony if the victim
14 of the offense is an adult. A person who violates this section is guilty of a Class C felony if the
15 victim of the offense is a minor.

16 (b1) Mistake of age is not a defense to prosecution under this section. Consent of a minor
17 is not a defense to prosecution under this section.

18 (c) Each violation of this section constitutes a separate offense and shall not merge with
19 any other offense. Evidence of failure to deliver benefits or perform services standing alone
20 shall not be sufficient to authorize a conviction under this section."

21 **SECTION 4.(a)** The following statutes are repealed: G.S. 14-190.18, 14-190.19,
22 14-203, 14-204, 14-204.1, 14-205, 14-207, and 14-208.

23 **SECTION 4.(b)** G.S. 14-206 is recodified as G.S. 14-203.9.

24 **SECTION 5.** Article 27 is amended by adding the following new sections to read:

25 **"§ 14-203.1. Definitions.**

26 The following definitions apply in this Article:

27 (1) Advance prostitution. – The term includes all of the following:

28 a. Soliciting for a prostitute by performing any of the following acts
29 when acting as other than a prostitute or a patron of a prostitute:

30 1. Soliciting another for the purpose of prostitution.

31 2. Arranging or offering to arrange a meeting of persons for the
32 purpose of prostitution.

33 3. Directing another to a place knowing the direction is for the
34 purpose of prostitution.

35 4. Using the Internet, including any social media Web site, to
36 solicit another for the purpose of prostitution.

37 b. Keeping a place of prostitution by controlling or exercising control
38 over the use of any place that could offer seclusion or shelter for the
39 practice of prostitution and performing any of the following acts
40 when acting as other than a prostitute or a patron of a prostitute:

41 1. Knowingly granting or permitting the use of the place for the
42 purpose of prostitution.

43 2. Granting or permitting the use of the place under
44 circumstances from which the person could reasonably know
45 that the place is used or is to be used for purposes of
46 prostitution.

47 3. Permitting the continued use of the place after becoming
48 aware of facts or circumstances from which the person should
49 know that the place is being used for the purpose of
50 prostitution.

51 (2) Minor. – Any person who is less than 18 years of age.

1 (3) Profit from prostitution. – When acting other than a prostitute, to receive
2 anything of value for personally rendered prostitution services or to receive
3 anything of value from a prostitute, if the thing received is not for lawful
4 consideration and the person knows it was earned in whole or in part from
5 the practice of prostitution.

6 (4) Prostitute. – A person who engages in prostitution.

7 (5) Prostitution. – The performance of, offer of, or agreement to perform vaginal
8 intercourse, any sexual act as defined in G.S. 14-27.1(4), or any sexual
9 contact as defined in G.S. 14-27.1(5) for the purpose of sexual arousal or
10 gratification for any money or other consideration.

11 **§ 14-203.2. Prostitution.**

12 (a) Offense. – Any person who knowingly engages in prostitution is guilty of a Class 1
13 misdemeanor.

14 (b) First offender; conditional discharge. –

15 (1) Whenever any person who has not previously been convicted of or placed on
16 probation for violation of this section pleads guilty to or is found guilty of a
17 violation of this section, the court, without entering a judgment and with the
18 consent of such person, shall place the person on probation pursuant to this
19 subsection.

20 (2) When a person is placed on probation, the court shall enter an order
21 specifying a period of probation of 12 months and shall defer further
22 proceedings in the case until the conclusion of the period or until the filing
23 of a petition alleging violation of a term or condition of probation.

24 (3) The conditions of probation shall be that the person (i) not violate any
25 criminal statute of any jurisdiction, (ii) refrain from possessing a firearm or
26 other dangerous weapon, (iii) submit to periodic drug testing at a time and in
27 a manner as ordered by the court, but no less than three times during the
28 period of the probation, with the cost of the testing to be paid by the
29 probationer, (iv) obtain a vocational assessment administered by a program
30 approved by the court, and (v) attend no fewer than 10 counseling sessions
31 administered by a program approved by the court.

32 (4) The court may, in addition to other conditions, require that the person do any
33 of the following:

34 a. Make a report to and appear in person before or participate with the
35 court or such courts, person, or social service agency as directed by
36 the court in the order of probation.

37 b. Pay a fine and costs.

38 c. Attend or reside in a facility established for the instruction or
39 residence of defendants on probation.

40 d. Support the person's dependents.

41 e. Refrain from having in the person's body the presence of any illicit
42 drug prohibited by the North Carolina Controlled Substances Act,
43 unless prescribed by a physician, and submit samples of the person's
44 blood or urine or both for tests to determine the presence of any illicit
45 drug.

46 (5) Upon violation of a term or condition of probation, the court may enter a
47 judgment on its original finding of guilt and proceed as otherwise provided.

48 (6) Upon fulfillment of the terms and conditions of probation, the court shall
49 discharge the person and dismiss the proceedings against the person. Upon
50 the discharge of the person and dismissal of the proceedings against the

1 person under this subsection, the person is eligible to apply for expunction of
2 records pursuant to G.S. 15A-145.6.

3 (7) Discharge and dismissal under this subsection shall not be deemed a
4 conviction for purposes of structured sentencing or for purposes of
5 disqualifications or disabilities imposed by law upon conviction of a crime.

6 (8) There may be only one discharge and dismissal under this section.

7 (c) Immunity From Prosecution for Minors. – Notwithstanding any other provision of
8 this section, if it is determined, after a reasonable detention for investigative purposes, that a
9 person suspected of or charged with a violation of this section is a minor, that person shall be
10 immune from prosecution under this section and instead shall be taken into temporary
11 protective custody as an undisciplined juvenile pursuant to Article 19 of Chapter 7B of the
12 General Statutes. Pursuant to the provisions of G.S. 7B-301, a law enforcement officer who
13 takes a minor into custody under this section shall immediately report an allegation of a
14 violation of G.S. 14-43.11 and G.S. 14-43.13 to the director of the department of social services
15 in the county where the minor resides or is found, as appropriate, which shall commence an
16 initial investigation into child abuse or child neglect within 24 hours pursuant to G.S. 7B-301
17 and G.S. 7B-302.

18 **§ 14-203.3. Solicitation of prostitution.**

19 Except as otherwise provided in this section, any person who solicits another for the
20 purpose of prostitution is guilty of a Class 1 misdemeanor for a first offense and a Class I
21 felony for a second or subsequent offense. Any person 18 years of age or older who solicits a
22 minor for the purpose of prostitution is guilty of a Class C felony. Any person, who solicits a
23 person who is severely or profoundly mentally disabled for the purpose of prostitution, is guilty
24 of a Class C felony.

25 **§ 14-203.4. Promoting prostitution.**

26 (a) Any person who knowingly performs any of the following acts commits promoting
27 prostitution:

28 (1) Advances prostitution as defined in G.S. 14-203.1.

29 (2) Profits from prostitution by doing any of the following:

30 a. Compelling a person to become a prostitute.

31 b. Arranging or offering to arrange a situation in which a person may
32 practice prostitution.

33 c. Any means other than those described in sub-subdivisions a. and b.
34 of this subdivision, including from a person who patronizes a
35 prostitute. This sub-subdivision does not apply to a person engaged
36 in prostitution who is a minor. A person cannot be convicted of
37 promoting prostitution under this sub-subdivision if the practice of
38 prostitution underlying the offense consists exclusively of the
39 accused's own acts of prostitution under G.S. 14-203.2.

40 (b) Except as otherwise provided in this subsection, a violation of this section is a Class
41 F felony. A violation of this section within 1,000 feet of real property comprising a school is a
42 Class C felony. A violation of this section by a person with a prior conviction for a violation of
43 this section or a violation of G.S. 14-203.2 (prostitution), G.S. 14-203.3 (solicitation of
44 prostitution), G.S. 14-203.5 (promoting prostitution of a minor or mentally disabled person),
45 G.S. 14-203.6 (patronizing a prostitute), or G.S. 14-203.7 (patronizing a minor or mentally
46 disabled person engaged in prostitution) is a Class C felony.

47 **§ 14-203.5. Promoting prostitution of a minor or mentally disabled person.**

48 (a) Any person who knowingly performs any of the following acts commits promoting
49 prostitution of a minor or mentally disabled person:

50 (1) Advances prostitution as defined in G.S. 14-203.1, where a minor or
51 severely or profoundly mentally disabled person engaged in prostitution, or

1 any person engaged in prostitution in the place of prostitution is a minor or is
2 severely or profoundly mentally disabled at the time of the offense.

3 (2) Profits from prostitution by any means where the prostitute is a minor or is
4 severely or profoundly mentally disabled at the time of the offense.

5 (3) Confines a minor or a severely or profoundly mentally disabled person
6 against the person's will by the infliction or threat of imminent infliction of
7 great bodily harm, permanent disability, or disfigurement or by
8 administering to the minor or severely or profoundly mentally disabled
9 person, without the person's consent or by threat or deception and for other
10 than medical purposes, any alcoholic intoxicant or a drug as defined in
11 Article 5 of Chapter 90 of the General Statutes (North Carolina Controlled
12 Substances Act) and does any of the following:

13 a. Compels the minor or severely or profoundly mentally disabled
14 person to engage in prostitution.

15 b. Arranges a situation in which the minor or severely or profoundly
16 mentally disabled person may practice prostitution.

17 c. Profits from prostitution by the minor or severely or profoundly
18 mentally disabled person.

19 (b) For purposes of this section, administering drugs, as described in subdivision (3) of
20 subsection (a) of this section, or an alcoholic intoxicant to a minor or a severely or profoundly
21 mentally disabled person shall be deemed to be without consent if the administering is done
22 without the consent of the parents or legal guardian or if the administering is performed or
23 permitted by the parents or legal guardian for other than medical purposes.

24 (c) Except as otherwise provided in this subsection, a violation of subdivision (1) or (2)
25 of subsection (a) of this section is a Class B2 felony. A violation of subdivision (3) of
26 subsection (a) of this section is a Class B1 felony. A violation of this section within 1,000 feet
27 of real property comprising a school is a Class B1 felony. A violation of this section by a
28 person with a prior conviction for a violation of this section or a violation of G.S. 14-203.2
29 (prostitution), G.S. 14-203.3 (solicitation of prostitution), G.S. 14-203.4 (promoting
30 prostitution), G.S. 14-203.6 (patronizing a prostitute), or G.S. 14-203.7 (patronizing a minor or
31 mentally disabled person engaged in prostitution) is a Class B1 felony.

32 (d) Any person convicted of a violation of this section that involves promoting
33 prostitution of a minor or mentally disabled person by keeping a place of prostitution with
34 minors or severely or profoundly mentally disabled person as prostitutes or convicted of a
35 violation of subdivision (3) of subsection (a) of this section is subject to the property forfeiture
36 provisions set forth in G.S. 14-2.3.

37 **"§ 14-203.6. Patronizing a prostitute.**

38 (a) Any person who knowingly performs any of the following acts with a person not his
39 or her spouse commits patronizing a prostitute:

40 (1) Engages in vaginal intercourse, any sexual act as defined in G.S. 14-27.1(4),
41 or any sexual contact as defined in G.S. 14-27.1(5) for the purpose of sexual
42 arousal or gratification with a prostitute.

43 (2) Enters or remains in a place of prostitution with intent to engage in vaginal
44 intercourse, any sexual act as defined in G.S. 14-27.1(4), or any sexual
45 contact as defined in G.S. 14-27.1(5) for the purpose of sexual arousal or
46 gratification.

47 (b) Except as otherwise provided in this subsection, a violation of this section is a Class
48 F felony. A violation of this section within 1,000 feet of real property comprising a school is a
49 Class C felony. A violation of this section by a person with a prior conviction for a violation of
50 this section or a violation of G.S. 14-203.2 (prostitution), G.S. 14-203.3 (solicitation of
51 prostitution), G.S. 14-203.4 (promoting prostitution), G.S. 14-203.5 (promoting prostitution of

1 a minor or mentally disabled person), or G.S. 14-203.7 (patronizing a minor or mentally
2 disabled person engaged in prostitution) is a Class C felony.

3 **"§ 14-203.7. Patronizing a minor or mentally disabled person engaged in prostitution.**

4 (a) Any person 18 years of age or older who engages in vaginal intercourse, any sexual
5 act as defined in G.S. 14-27.1(4), or any sexual contact as defined in G.S. 14-27.1(5) for the
6 purpose of sexual arousal or gratification with a prostitute that is a minor commits the offense
7 of patronizing a minor engaged in prostitution.

8 (b) Any person who engages in vaginal intercourse, any sexual act as defined in
9 G.S. 14-27.1(4), or any sexual contact as defined in G.S. 14-27.1(5) for the purpose of sexual
10 arousal or gratification with a prostitute that is a severely or profoundly mentally disabled
11 person commits the offense of patronizing a mentally disabled person engaged in prostitution.

12 (c) It is an affirmative defense to the charge of patronizing a minor or mentally disabled
13 person engaged in prostitution that the accused reasonably believed that the person was of the
14 age of 18 years or over or was not a severely or profoundly mentally disabled person at the time
15 of the act giving rise to the charge.

16 (d) Except as otherwise provided in this subsection, a violation of this section is a Class
17 C felony. A violation of this section within 1,000 feet of real property comprising a school is a
18 Class B2 felony. A violation of this section by a person with a prior conviction for a violation
19 of this section or a violation of G.S. 14-203.2 (prostitution), G.S. 14-203.3 (solicitation of
20 prostitution), G.S. 14-203.4 (promoting prostitution), G.S. 14-203.5 (promoting prostitution of
21 a minor or mentally disabled person), or G.S. 14-203.6 (patronizing a prostitute) is a Class B2
22 felony.

23 **"§ 14-203.10. Certain probation conditions.**

24 (a) If a person convicted of a crime under this Article receives a sentence which
25 includes probation and that person is infected with a venereal disease, the period of probation
26 may commence only upon such terms and conditions as shall ensure medical treatment therefor
27 and prevent the spread thereof, and the court may order any convicted defendant to be
28 examined for venereal disease.

29 (b) No female who is convicted under this Article shall be placed on probation in the
30 care or charge of any person except a female probation officer."

31 **SECTION 6.** G.S. 15A-290(c)(1) reads as rewritten:

32 "(c) Orders authorizing or approving the interception of wire, oral, or electronic
33 communications may be granted, subject to the provisions of this Article and Chapter 119 of
34 the United States Code, when the interception may provide, or has provided, evidence of any of
35 the following offenses, or any conspiracy to commit these offenses, or when the interception
36 may expedite the apprehension of persons indicted for the commission of these offenses:

- 37 (1) Any felony offense against a minor, including any violation of G.S. 14-27.7
38 (Intercourse and sexual offenses with certain victims; consent no defense),
39 G.S. 14-41 (Abduction of children), G.S. 14-43.11 (Human trafficking),
40 G.S. 14-43.12 (Involuntary servitude), G.S. 14-43.13 (Sexual servitude),
41 G.S. 14-190.16 (First degree sexual exploitation of a minor), G.S. 14-190.17
42 (Second degree sexual exploitation of a minor), G.S. 14-190.18 (Promoting
43 prostitution of a minor), G.S. 14-190.19 (Participating in prostitution of a
44 minor), G.S. 14-203.5 (Promoting prostitution of a minor or mentally
45 disabled person), G.S. 14-203.7 (Patronizing a minor or mentally disabled
46 person engaged in prostitution), or G.S. 14-202.1 (Taking indecent liberties
47 with children).

48"

49 **SECTION 7.** G.S. 15A-1341 is amended by adding a new subsection to read:

50 "(a3) Deferred Prosecution for Prostitution. – A defendant whose prosecution is deferred
51 pursuant to G.S. 14-203.2(b) may be placed on probation as provided in this Article."

1 **SECTION 8.** G.S. 15A-1342(a1) reads as rewritten:

2 "(a1) Supervision of Defendants on Deferred Prosecution. – The Section of Community
3 Corrections of the Division of Adult Correction of the Department of Public Safety may be
4 ordered by the court to supervise an offender's compliance with the terms of a deferred
5 prosecution agreement entered into under G.S. 15A-1341(a1).G.S. 15A-1341(a1) or (a3).
6 Violations of the terms of the agreement shall be reported to the court as provided in this
7 Article and to the district attorney in the district in which the agreement was entered."

8 **SECTION 9.** G.S. 15A-1415(b) is amended by adding a new subdivision to read:

9 "(10) The defendant was convicted of a first offense of prostitution under
10 G.S. 14-203.2, and the court did not discharge the defendant and dismiss the
11 charge pursuant to G.S. 14-203.2(b); the defendant's participation in the
12 offense was a result of having been a victim of human trafficking under
13 G.S. 14-43.11, sexual servitude under G.S. 14-43.13, or the federal
14 Trafficking Victims Protection Act (22 U.S.C. § 7102(13)); and the
15 defendant seeks to have the conviction vacated."

16 **SECTION 10.** Article 89 of Chapter 15A of the General Statutes is amended by
17 adding a new section to read:

18 **"§ 15A-1416.1. Motion by the defendant to vacate prostitution conviction for sex**
19 **trafficking victim.**

20 (a) The Court of Appeals has jurisdiction to hear a motion for appropriate relief filed on
21 the grounds set out in G.S. 15A-1415(b)(10). A motion to vacate a conviction for prostitution
22 may be filed at any time following the entry of a verdict or finding of guilty under
23 G.S. 14-203.2. Any motion for appropriate relief filed under this section shall state why the
24 facts giving rise to this motion were not presented to the trial court and shall be made with due
25 diligence after the defendant has ceased to be a victim of such trafficking or has sought services
26 for victims of such offenses, subject to reasonable concerns for the safety of the defendant,
27 family members of the defendant, or other victims of such trafficking that may be jeopardized
28 by the bringing of such motion or for other reasons consistent with the purpose of this section.
29 Reasonable notice of the motion shall be served upon the State.

30 (b) The court may grant the motion if, in the discretion of the court, the violation was a
31 result of the defendant having been a victim of human trafficking or sexual servitude. Evidence
32 of such may include any of the following documents listed in subdivisions (1) through (3) of
33 this subsection; alternatively, the court may consider such other evidence as it deems of
34 sufficient credibility and probative value in determining whether the defendant is a trafficking
35 victim:

36 (1) Certified records of federal or State court proceedings which demonstrate
37 that the defendant was a victim of a person charged with an offense under
38 G.S. 14-43.11, G.S. 14-43.13, or under 22 U.S.C. Chapter 78.

39 (2) Certified records of "approval notices" or "enforcement certifications"
40 generated from federal immigration proceedings available to such victims.

41 (3) A sworn statement from a trained professional staff of a victim services
42 organization, an attorney, a member of the clergy, or a medical or other
43 professional from whom the defendant has sought assistance in addressing
44 the trauma associated with being trafficked.

45 (c) If the court grants a motion under this section, the court must vacate the conviction
46 and may take such additional action as is appropriate in the circumstances."

47 **SECTION 11.** Article 5 of Chapter 14 of the General Statutes is amended by
48 adding a new section to read:

49 **"§ 15A-145.6. Expunctions for certain defendants convicted of prostitution.**

50 (a) The following definitions apply in this section:

- 1 (1) Prostitution offense. – A conviction for (i) violation G.S. 14-203.2 or (ii)
2 engaging in prostitution in violation of G.S. 14-204(7) for an offense that
3 occurred prior to December 1, 2013.
- 4 (2) Violent felony or violent misdemeanor. – A Class A through G felony or a
5 Class A1 misdemeanor or an offense that includes assault as an essential
6 element of the offense.
- 7 (b) A person who has been convicted of a prostitution offense may file a petition in the
8 court where the person was convicted for expunction of the prostitution offense from the
9 person's criminal record provided that all the following criteria are met:
- 10 (1) The person has not previously been convicted of any violent felony or
11 violent misdemeanor under the laws of the United States or the laws of this
12 State or any other state.
- 13 (2) The person satisfies any one of the following criteria:
- 14 a. The person's participation in the prostitution offense was a result of
15 having been a trafficking victim under G.S. 14-43.11 (human
16 trafficking) or G.S. 14-43.13 (sexual servitude) or a victim of a
17 severe form of trafficking under the federal Trafficking Victims
18 Protection Act (22 U.S.C. § 7102(13)).
- 19 b. The person has no prior convictions for a prostitution offense and at
20 least three years have passed since the date of conviction or the
21 completion of any active sentence, period of probation, and
22 post-release supervision, whichever occurs later.
- 23 c. The person received a conditional discharge pursuant to
24 G.S. 14-203.2(b).
- 25 (c) The petition shall contain all of the following:
- 26 (1) An affidavit by the petitioner that the petitioner (i) has no prior conviction of
27 a violent felony or violent misdemeanor, (ii) has been of good moral
28 character since the date of conviction of the prostitution offense in question,
29 and (iii) has not been convicted of any felony or misdemeanor under the
30 laws of the United States or the laws of this State or any other state since the
31 date of the conviction of the prostitution offense in question.
- 32 (2) Verified affidavits of two persons, who are not related to the petitioner or to
33 each other by blood or marriage, that they know the character and reputation
34 of the petitioner in the community in which the petitioner lives and that the
35 petitioner's character and reputation are good.
- 36 (3) A statement that the petition is a motion in the cause in the case wherein the
37 petitioner was convicted.
- 38 (4) An application on a form approved by the Administrative Office of the
39 Courts requesting and authorizing (i) a State and national criminal history
40 record check by the Department of Justice using any information required by
41 the Administrative Office of the Courts to identify the individual; (ii) a
42 search by the Department of Justice for any outstanding warrants or pending
43 criminal cases; and (iii) a search of the confidential record of expunctions
44 maintained by the Administrative Office of the Courts. The application shall
45 be forwarded to the Department of Justice and to the Administrative Office
46 of the Courts, which shall conduct the searches and report their findings to
47 the court.
- 48 (5) An affidavit by the petitioner that no restitution orders or civil judgments
49 representing amounts ordered for restitution entered against the petitioner
50 are outstanding.

1 (d) The petition shall be served upon the district attorney of the court wherein the case
2 was tried resulting in conviction. The district attorney shall have 30 days thereafter in which to
3 file any objection thereto and shall be duly notified as to the date of the hearing of the petition.

4 (e) The court in which the petition was filed shall take the following steps and shall
5 consider the following issues in rendering a decision upon a petition for expunction of records
6 of a prostitution offense under this section:

7 (1) Call upon a probation officer for additional investigation or verification of
8 the petitioner's conduct during the period since the date of conviction of the
9 prostitution offense in question.

10 (2) Review any other information the court deems relevant, including, but not
11 limited to, affidavits or other testimony provided by law enforcement
12 officers and district attorneys.

13 (f) The court shall order that the person be restored, in the contemplation of the law, to
14 the status the person occupied before the arrest or indictment or information if the court finds
15 all of the following after a hearing:

16 (1) The criteria set out in subsection (b) of this section are satisfied.

17 (2) The petitioner has remained of good moral character and has been free of
18 conviction of any felony or misdemeanor, other than a traffic violation, since
19 the date of conviction of the prostitution offense in question.

20 (3) The petitioner has no outstanding warrants or pending criminal cases.

21 (4) The petitioner has no outstanding restitution orders or civil judgments
22 representing amounts ordered for restitution entered against the petitioner.

23 (5) The search of the confidential records of expunctions conducted by the
24 Administrative Office of the Courts shows that the petitioner has not been
25 previously granted an expunction, other than an expunction for a prostitution
26 offense.

27 (g) No person as to whom an order has been entered pursuant to subsection (f) of this
28 section shall be held thereafter under any provision of any laws to be guilty of perjury or
29 otherwise giving a false statement by reason of that person's failure to recite or acknowledge
30 the arrest, indictment, information, trial, or conviction. Persons pursuing certification under the
31 provisions of Chapter 17C or 17E of the General Statutes, however, shall disclose any and all
32 prostitution convictions to the certifying Commission regardless of whether or not the
33 prostitution convictions were expunged pursuant to the provisions of this section.

34 Persons required by State law to obtain a criminal history record check on a prospective
35 employee shall not be deemed to have knowledge of any convictions expunged under this
36 section.

37 (h) The court shall also order that the conviction of the prostitution offense be expunged
38 from the records of the court and direct all law enforcement agencies bearing record of the
39 same to expunge their records of the conviction. The clerk shall notify State and local agencies
40 of the court's order as provided in G.S. 15A-150.

41 (i) Any other applicable State or local government agency shall expunge from its
42 records entries made as a result of the conviction ordered expunged under this section. The
43 agency shall also reverse any administrative actions taken against a person whose record is
44 expunged under this section as a result of the charges or convictions expunged. This subsection
45 shall not apply to the Department of Justice for DNA records and samples stored in the State
46 DNA Database and the State DNA Databank.

47 (j) Any person eligible for expunction of a criminal record under this section shall be
48 notified about the provisions of this section by the probation officer assigned to that person. If
49 no probation officer is assigned, notification of the provisions of this section shall be provided
50 by the court at the time of the conviction of the prostitution offense which is to be expunged
51 under this section."

1 **SECTION 12.** G.S. 15A-150(a) reads as rewritten:

2 "(a) Notification to AOC. – The clerk of superior court in each county in North Carolina
3 shall, as soon as practicable after each term of court, file with the Administrative Office of the
4 Courts the names of the following:

- 5 (1) Persons granted an expunction under this Article.
- 6 (2) Persons granted a conditional discharge under G.S. 14-50.29.
- 7 (3) Persons granted a conditional discharge under G.S. 90-96 or G.S. 90-113.14.
- 8 (4) Repealed by Session Laws 2010-174, s. 7, effective October 1, 2010.
- 9 (5) Persons granted a conditional discharge under G.S. 14-203.2."

10 **SECTION 13.** G.S. 15A-151(a) reads as rewritten:

11 "(a) The Administrative Office of the Courts shall maintain a confidential file containing
12 the names of those people for whom it received a notice under G.S. 15A-150. The information
13 contained in the file may be disclosed only as follows:

- 14 (1) To a judge of the General Court of Justice of North Carolina for the purpose
15 of ascertaining whether a person charged with an offense has been
16 previously granted a discharge or an expunction.
- 17 (2) To a person requesting confirmation of the person's own discharge or
18 expunction, as provided in G.S. 15A-152.
- 19 (3) To the General Court of Justice of North Carolina in response to a subpoena
20 or other court order issued pursuant to a civil action under G.S. 15A-152.
- 21 (4) If the criminal record was expunged pursuant to G.S. 15A-145.4 or
22 G.S. 15A-145.5, to State and local law enforcement agencies for
23 employment purposes only.
- 24 (5) If the criminal record was expunged pursuant to ~~G.S. 15A-145.4 or~~
25 ~~G.S. 15A-145.5~~, G.S. 15A-145.4, 15A-145.5, or 145.6, to the North Carolina
26 Criminal Justice Education and Training Standards Commission for
27 certification purposes only.
- 28 (6) If the criminal record was expunged pursuant to ~~G.S. 15A-145.4 or~~
29 ~~G.S. 15A-145.5~~, G.S. 15A-145.4, 15A-145.5, or 15A-145.6, to the North
30 Carolina Sheriffs' Education and Training Standards Commission for
31 certification purposes only."

32 **SECTION 14.** G.S. 15A-1340.16(d) is amended by adding the following
33 subdivisions to read:

34 "(19a) The offense is a violation of G.S. 14-43.11 (human trafficking),
35 G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude)
36 and involved multiple victims.

37 (19b) The offense is a violation of G.S. 14-43.11 (human trafficking),
38 G.S. 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude),
39 and the victim suffered serious injury as a result of the offense."

40 **SECTION 15.** G.S. 15B-2(2) reads as rewritten:

41 "**§ 15B-2. Definitions.**

42 As used in this Article, the following definitions apply, unless the context requires
43 otherwise:

- 44 ...
- 45 (2) Claimant. – Any of the following persons who claims an award of
46 compensation under this Article:
 - 47 a. A victim;
 - 48 b. A dependent of a deceased victim;
 - 49 c. A third person who is not a collateral source and who provided
50 benefit to the victim or his family other than in the course or scope of
51 his employment, business, or profession;

- d. A person who is authorized to act on behalf of a victim, a dependent, or a third person described in ~~subdivision e.~~sub-subdivision c. of this subdivision;
- e. A person who was convicted of a first offense under G.S. 14-203.2 and whose participation in the offense was a result of having been a trafficking victim under G.S. 14-43.11 or G.S. 14-43.13 or a victim of a severe form of trafficking under the federal Trafficking Victims Protection Act (22 U.S.C. § 7102(13)).

The claimant, however, may not be the offender or an accomplice of the offender who committed the criminally injurious ~~conduct.~~conduct, except as provided in sub-subdivision e. of this subdivision.

...."

SECTION 16. G.S. 7B-101(1) reads as rewritten:

"§ 7B-101. Definitions.

As used in this Subchapter, unless the context clearly requires otherwise, the following words have the listed meanings:

- (1) Abused juveniles. – Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:
 - a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;
 - b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
 - c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
 - d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree rape, as provided in G.S. 14-27.2; rape of a child by an adult offender, as provided in G.S. 14-27.2A; second degree rape as provided in G.S. 14-27.3; first-degree sexual offense, as provided in G.S. 14-27.4; sexual offense with a child by an adult offender, as provided in G.S. 14-27.4A; second degree sexual offense, as provided in G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-27.7; unlawful sale, surrender, or purchase of a minor, as provided in G.S. 14-43.14; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; ~~promoting the prostitution of the juvenile as provided in G.S. 14-190.18;~~promoting prostitution of a minor or mentally disabled person as provided in G.S. 14-203.5; and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1;
 - e. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's

1 severe anxiety, depression, withdrawal, or aggressive behavior
2 toward himself or others;~~or~~

3 f. Encourages, directs, or approves of delinquent acts involving moral
4 turpitude committed by the ~~juvenile~~-juvenile; or

5 g. Commits or allows to be committed an offense under G.S. 14-43.11
6 (human trafficking), G.S. 14-43.12 (involuntary servitude), or
7 G.S. 14-43.13 (sexual servitude) against the child.

8"

9 **SECTION 17.** Article 10A of Chapter 14 of the General Statutes is amended by
10 adding a new section to read:

11 **"§ 14-43.20. Mandatory restitution; victim services; forfeiture.**

12 (a) Definition. – For purposes of this section, a "victim" is a person subjected to the
13 practices set forth in G.S. 14-43.11, 14-43.12, or 14-43.13.

14 (b) Restitution. – Restitution for a victim is mandatory under this Article. In addition to
15 any other amount of loss identified, the court shall order restitution, including the greater of (i)
16 the gross income or value to the defendant of the victim's labor or services or (ii) the value of
17 the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the
18 Fair Labor Standards Act (FLSA) or the Minimum Wage Law, whichever is greater.

19 (c) Trafficking Victim Services. – Subject to the availability of funds, the Department
20 of Health and Human Services may provide or fund emergency services and assistance to
21 individuals who are victims of one or more offenses under G.S. 14-43.11, 14-43.12, or
22 14-43.13.

23 (d) Certification. – The Attorney General, a district attorney, or any law enforcement
24 official shall certify in writing to the United States Department of Justice or other federal
25 agency, such as the United States Department of Homeland Security, that an investigation or
26 prosecution under this Article for a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 has begun
27 and the individual who is a likely victim of one of those crimes is willing to cooperate or is
28 cooperating with the investigation to enable the individual, if eligible under federal law, to
29 qualify for an appropriate special immigrant visa and to access available federal benefits.
30 Cooperation with law enforcement shall not be required of victims who are under 18 years of
31 age. This certification shall be made available to the victim and the victim's designated legal
32 representative.

33 (e) A person who commits a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 is
34 subject to the property forfeiture provisions set forth in G.S. 14-2.3."

35 **SECTION 18.** The introductory language in G.S. 14-190.13 reads as rewritten:

36 **"§ 14-190.13. Definitions for certain offenses concerning minors.**

37 The following definitions apply to G.S. 14-190.14, displaying material harmful to minors;
38 G.S. 14-190.15, disseminating or exhibiting to minors harmful material or performances;
39 G.S. 14-190.16, first degree sexual exploitation of a minor; G.S. 14-190.17, second degree
40 sexual exploitation of a minor; G.S. 14-190.17A, third degree sexual exploitation of a ~~minor~~;
41 ~~G.S. 14-190.18, promoting prostitution of a minor; G.S. 14-190.19, participating in prostitution~~
42 ~~of a minor.~~ minor."

43 **SECTION 19.** G.S. 14-208.6(5) reads as rewritten:

44 "(5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree
45 rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second
46 degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex
47 offense with a child; adult offender), G.S. 14-27.5 (second degree sexual
48 offense), G.S. 14-27.5A (sexual battery), former G.S. 14-27.6 (attempted
49 rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with
50 certain victims), G.S. 14-27.7A(a)(statutory rape or sexual offense of person
51 who is 13-, 14-, or 15-years-old where the defendant is at least six years

1 older), G.S. 14-43.13 (subjecting or maintaining a person for sexual
 2 servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6
 3 (employing or permitting minor to assist in offenses against public morality
 4 and decency), G.S. 14-190.9(a1)(felonious indecent exposure),
 5 G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17
 6 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third
 7 degree sexual exploitation of a minor), former G.S. 14-190.18 (promoting
 8 prostitution of a minor), former G.S. 14-190.19 (participating in the
 9 prostitution of a minor), G.S. 14-202.1 (taking indecent liberties with
 10 children), G.S. 14-202.3 (Solicitation of child by computer or certain other
 11 electronic devices to commit an unlawful sex act), G.S. 14-202.4(a)(taking
 12 indecent liberties with a student), G.S. 14-203.5 (promoting prostitution of a
 13 minor or mentally disabled person), G.S. 14-203.7 (patronizing a minor or
 14 mentally disabled person engaged in prostitution), G.S. 14-318.4(a1)(parent
 15 or caretaker commit or permit act of prostitution with or by a juvenile), or
 16 G.S. 14-318.4(a2)(commission or allowing of sexual act upon a juvenile by
 17 parent or guardian). The term also includes the following: a solicitation or
 18 conspiracy to commit any of these offenses; aiding and abetting any of these
 19 offenses."

20 **SECTION 20.** G.S. 15A-830(a)(7) reads as rewritten:

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

- 23 a. A Class A, B1, B2, C, D, or E felony.
- 24 b. A Class F felony if it is a violation of one of the following:
 25 G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3);
 26 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.3; 14-43.11;
 27 14-190.17; ~~14-190.19~~; 14-202.1; 14-203.7; 14-277.3A; 14-288.9;
 28 20-138.5; or former G.S. 14-277.3.
- 29 c. A Class G felony if it is a violation of one of the following:
 30 G.S. 14-32.3(b); 14-51; 14-58; 14-87.1; or 20-141.4.
- 31 d. A Class H felony if it is a violation of one of the following:
 32 G.S. 14-32.3(a); 14-32.3(c); 14-33.2; 14-277.3A; or former
 33 G.S. 14-277.3.
- 34 e. A Class I felony if it is a violation of one of the following:
 35 G.S. 14-32.3(b); 14-34.6(b); or 14-190.17A.
- 36 f. An attempt of any of the felonies listed in this subdivision if the
 37 attempted felony is punishable as a felony.
- 38 g. Any of the following misdemeanor offenses when the offense is
 39 committed between persons who have a personal relationship as
 40 defined in G.S. 50B-1(b): G.S. 14-33(c)(1); 14-33(c)(2); 14-33(a);
 41 14-34; 14-134.3; 14-277.3A; or former G.S. 14-277.3.
- 42 h. Any violation of a valid protective order under G.S. 50B-4.1."

43 **SECTION 21.** G.S. 90-210.25B(b) reads as rewritten:

44 "(b) For purposes of this Article, the term "sexual offense against a minor" means a
 45 conviction of any of the following offenses: G.S. 14-27.4A(a) (sex offense with a child; adult
 46 offender), G.S. 14-27.7A (statutory rape or sexual offense of person who is 13, 14, or 15 years
 47 old where the defendant is at least six years older), G.S. 14-190.16 (first-degree sexual
 48 exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor),
 49 G.S. 14-190.17A (third degree sexual exploitation of a minor), former G.S. 14-190.18
 50 (promoting prostitution of a minor), former G.S. 14-190.19 (participating in prostitution of a
 51 minor), G.S. 14-202.1 (taking indecent liberties with children), G.S. 14-202.3 (solicitation of

1 child by computer or certain other electronic devices to commit an unlawful sex act),
2 G.S. 14-202.4(a) (taking indecent liberties with a student), G.S. 14-203.5 (promoting
3 prostitution of a minor or mentally disabled person), G.S. 14-203.7 (patronizing a minor or
4 mentally disabled person engaged in prostitution), G.S. 14-318.4(a1) (parent or caretaker
5 commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2) (commission
6 or allowing of sexual act upon a juvenile by parent or guardian). The term shall also include a
7 conviction of the following: any attempt, solicitation, or conspiracy to commit any of these
8 offenses or any aiding and abetting any of these offenses. The term shall also include a
9 conviction in another jurisdiction for an offense which if committed in this State has the same
10 or substantially similar elements to an offense against a minor as defined by this section."

11 **SECTION 22.** G.S. 114-15(b1) reads as rewritten:

12 "(b1) The State Bureau of Investigation is further authorized, upon request of the
13 Governor or Attorney General, to investigate the solicitation, commission, or attempted
14 commission, by means of a computer, computer network, computer system, electronic mail
15 service provider, or the Internet, of the crimes defined in the following statutes:

- 16 (1) G.S. 14-190.6;
- 17 (2) G.S. 14-190.7;
- 18 (3) G.S. 14-190.8;
- 19 (4) G.S. 14-190.14;
- 20 (5) G.S. 14-190.15;
- 21 (6) G.S. 14-190.16;
- 22 (7) G.S. 14-190.17;
- 23 (8) G.S. 14-190.17A;
- 24 ~~(9) G.S. 14-190.18;~~
- 25 ~~(10) G.S. 14-190.19;~~
- 26 (11) G.S. 14-202.3;
- 27 (12) G.S. 14-203.5;
- 28 (13) G.S. 14-203.7.

29 Upon determining the location of the criminal violation, the State Bureau of Investigation shall
30 promptly notify the sheriff and local law enforcement of its investigation."

31 **SECTION 23.** G.S. 115C-296(d)(2) reads as rewritten:

- 32 "(2) The State Board shall automatically revoke the license of a teacher or school
33 administrator without the right to a hearing upon receiving verification of the
34 identity of the teacher or school administrator together with a certified copy
35 of a criminal record showing that the teacher or school administrator has
36 entered a plea of guilty or nolo contendere to or has been finally convicted of
37 any of the following crimes: Murder in the first or second degree,
38 G.S. 14-17; Conspiracy or solicitation to commit murder, G.S. 14-18.1; Rape
39 or sexual offense as defined in Article 7A of Chapter 14 of the General
40 Statutes. Felonious assault with deadly weapon with intent to kill or
41 inflicting serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of
42 children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest, G.S. 14-178
43 or G.S. 14-179; Employing or permitting minor to assist in offense against
44 public morality and decency, G.S. 14-190.6; Dissemination to minors under
45 the age of 16 years, G.S. 14-190.7; Dissemination to minors under the age of
46 13 years, G.S. 14-190.8; Displaying material harmful to minors,
47 G.S. 14-190.14; Disseminating harmful material to minors, G.S. 14-190.15;
48 First degree sexual exploitation of a minor, G.S. 14-190.16; Second degree
49 sexual exploitation of a minor, G.S. 14-190.17; Third degree sexual
50 exploitation of a minor, G.S. 14-190.17A; Promoting prostitution of a minor,
51 former G.S. 14-190.18; Participating in prostitution of a minor, former

1 G.S. 14-190.19; Taking indecent liberties with children, G.S. 14-202.1;
2 Solicitation of child by computer to commit an unlawful sex act,
3 G.S. 14-202.3; Taking indecent liberties with a student, G.S. 14-202.4;
4 Prostitution, former G.S. 14-204; Prostitution, G.S. 14-203.2; Promoting
5 prostitution of a minor or mentally disabled person, G.S. 14-203.5;
6 Patronizing a minor or mentally disabled person engaged in prostitution,
7 G.S. 14-203.7; and child abuse under G.S. 14-318.4. The Board shall mail
8 notice of its intent to act pursuant to this subdivision by certified mail, return
9 receipt requested, directed to the teacher or school administrator at their last
10 known address. The notice shall inform the teacher or school administrator
11 that it will revoke the person's license unless the teacher or school
12 administrator notifies the Board in writing within 10 days after receipt of the
13 notice that the defendant identified in the criminal record is not the same
14 person as the teacher or school administrator. If the teacher or school
15 administrator provides this written notice to the Board, the Board shall not
16 revoke the license unless it can establish as a fact that the defendant and the
17 teacher or school administrator are the same person."

18 **SECTION 24.** This act becomes effective December 1, 2013, and applies to
19 offenses committed on or after that date. Prosecutions for offenses committed before the
20 effective date of this act are not abated or affected by this act, and the statutes that would be
21 applicable but for this act remain applicable to those prosecutions.