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SENATE BILL 268

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO HUMAN TRAFFICKING; PROVIDING ASSISTANCE TO HUMAN TRAFFICKING VICTIMS; CREATING A CAUSE OF ACTION FOR HUMAN TRAFFICKING VICTIMS; EXPANDING STATE ASSISTANCE; EXPANDING THE DUTIES OF THE TASK FORCE TO COMBAT HUMAN TRAFFICKING; INCLUDING HUMAN TRAFFICKING IN THE CRIME VICTIMS REPARATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 30, Article 52 NMSA 1978 is enacted to read:

"[NEW MATERIAL] ASSISTANCE TO HUMAN TRAFFICKING VICTIMS.--The prosecuting authority shall take all reasonable steps within its authority to provide a human trafficking victim with:

A. all necessary documentation required pursuant to federal law for an adjustment of immigration status that

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1 applies to that victim; and

2 B. assistance in accessing civil legal services
3 providers who are able to petition for adjustment of
4 immigration status on behalf of the victim."

5 Section 2. A new section of Chapter 30, Article 52 NMSA
6 1978 is enacted to read:

7 "[NEW MATERIAL] CIVIL ACTION FOR HUMAN TRAFFICKING
8 VICTIMS.--

9 A. A human trafficking victim may bring a civil
10 action in any court of competent jurisdiction for actual
11 damages, compensatory damages, punitive damages, injunctive
12 relief or any other appropriate relief. Where the court finds
13 that a defendant's actions were willful and malicious, the
14 court may award treble damages to the plaintiff. A prevailing
15 plaintiff is also entitled to recover reasonable attorney fees
16 and costs.

17 B. A civil action pursuant to this section shall be
18 forever barred unless the action is filed within ten years from
19 the date on which:

20 (1) the defendant's human trafficking actions
21 occurred; or

22 (2) the victim attains eighteen years of age
23 if the victim was a minor when the defendant's actions
24 occurred."

25 Section 3. Section 30-52-2 NMSA 1978 (being Laws 2008,
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1 Chapter 17, Section 2) is amended to read:

2 "30-52-2. HUMAN TRAFFICKING--BENEFITS AND SERVICES FOR
3 HUMAN TRAFFICKING VICTIMS.--

4 A. Human trafficking victims found in the state
5 shall be eligible for benefits and services from the state
6 until the victim qualifies for benefits and services authorized
7 by the federal Victims of Trafficking and Violence Protection
8 Act of 2000; provided that the victim cooperates in the
9 investigation or prosecution of the person charged with the
10 crime of human trafficking. Benefits and services shall be
11 provided to eligible human trafficking victims regardless of
12 immigration status and may include:

- 13 (1) case management;
- 14 (2) emergency temporary housing;
- 15 (3) health care;
- 16 (4) mental health counseling;
- 17 (5) drug addiction screening and treatment;
- 18 (6) language interpretation, translation
19 services and English language instruction;
- 20 (7) job training, job placement assistance and
21 post-employment services for job retention;
- 22 (8) child care;
- 23 (9) legal assistance;
- 24 (10) state-funded cash assistance;
- 25 [~~8~~] (11) services to assist the victim and

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1 the victim's family members; or
2 [~~(9)~~] (12) other general assistance services
3 and benefits as determined by the children, youth and families
4 department or the human services department.

5 B. As used in this section, "human trafficking
6 victim" means a person subjected to human trafficking by a
7 person charged in New Mexico with the crime of human
8 trafficking."

9 Section 4. Section 30-52-3 NMSA 1978 (being Laws 2008,
10 Chapter 17, Section 3) is amended to read:

11 "30-52-3. [~~TEMPORARY PROVISION~~] TASK FORCE TO COMBAT
12 HUMAN TRAFFICKING--MEMBERSHIP--DUTIES.--

13 A. The "task force to combat human trafficking" is
14 created. The task force shall consist of the following
15 members:

- 16 (1) the attorney general or the attorney
17 general's designee;
18 (2) the secretary of health or the secretary's
19 designee;
20 (3) the secretary of children, youth and
21 families or the secretary's designee;
22 (4) the secretary of public safety or the
23 secretary's designee;
24 (5) the chief public defender or the chief
25 public defender's designee;

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1 (6) a representative from the New Mexico
2 district attorney's association;

3 (7) representatives of local law enforcement
4 and state police from critical geographic areas of New Mexico
5 affected by immigrant issues and human trafficking problems;
6 and

7 (8) representatives from organizations that
8 provide services to victims of human trafficking, including
9 immigrants and immigrant victims of sexual assault and domestic
10 violence.

11 B. The task force shall:

12 (1) collaborate with the United States
13 attorney for the district of New Mexico, the United States
14 border patrol and the United States immigration and customs
15 enforcement to carry out the duties of the task force;

16 (2) collect and organize data on the nature
17 and extent of human trafficking in New Mexico;

18 (3) collect and organize data on the
19 interrelationship between human trafficking and the incidence
20 of disabilities and determine the availability of disabilities
21 services to human trafficking victims;

22 [~~3~~] (4) monitor and evaluate the
23 implementation of [~~this 2008 act~~] Chapter 30, Article 52 NMSA
24 1978, including the progress of federal, state and local law
25 enforcement agencies in preventing human trafficking,

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1 protecting and providing assistance to victims of human
2 trafficking and prosecuting human trafficking offenders;

3 [~~(4)~~] (5) develop and conduct training for law
4 enforcement personnel and victims services providers to
5 identify victims of human trafficking;

6 [~~(5)~~] (6) examine the training protocols
7 developed by federal, state and local law enforcement agencies
8 related to dealing with human trafficking victims and
9 offenders;

10 [~~(6)~~] (7) assist in coordinating federal,
11 state and local government agencies in the implementation of
12 [~~this 2008 act~~] Chapter 30, Article 52 NMSA 1978;

13 [~~(7)~~] (8) implement a media awareness campaign
14 in communities affected by human trafficking;

15 [~~(8)~~] (9) develop recommendations on how to
16 strengthen state and local efforts to prevent human
17 trafficking, protect and assist human trafficking victims and
18 prosecute human trafficking offenders; and

19 [~~(9)~~] (10) submit an annual report of its
20 activities, findings and recommendations, including any
21 proposed legislation, in December of each year to the governor
22 and the legislature.

23 C. The chair of the task force shall be the
24 attorney general or the attorney general's designee, and the
25 task force shall meet at the call of the chair.

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1 D. The public members of the task force are
2 entitled to per diem and mileage as provided in the Per Diem
3 and Mileage Act and shall receive no other perquisite,
4 compensation or allowance.

5 E. The attorney general shall provide the staff for
6 the task force.

7 F. The task force to combat human trafficking is
8 terminated on July 1, 2016."

9 Section 5. Section 31-22-8 NMSA 1978 (being Laws 1981,
10 Chapter 325, Section 8, as amended) is amended to read:

11 "31-22-8. CRIMES ENUMERATED.--

12 A. The crimes to which the Crime Victims Reparation
13 Act applies and for which reparation to victims may be made are
14 the following enumerated offenses and all other offenses in
15 which any enumerated offense is necessarily included:

- 16 (1) arson resulting in bodily injury;
- 17 (2) aggravated arson;
- 18 (3) aggravated assault or aggravated battery;
- 19 (4) dangerous use of explosives;
- 20 (5) negligent use of a deadly weapon;
- 21 (6) murder;
- 22 (7) voluntary manslaughter;
- 23 (8) involuntary manslaughter;
- 24 (9) kidnapping;
- 25 (10) criminal sexual penetration;

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- 1 (11) criminal sexual contact of a minor;
- 2 (12) homicide by vehicle or great bodily
- 3 injury by vehicle, as provided in Section 66-8-101 NMSA 1978;
- 4 (13) abandonment or abuse of a child;
- 5 (14) aggravated indecent exposure, as provided
- 6 in Section 30-9-14.3 NMSA 1978; [~~and~~]
- 7 (15) aggravated stalking, as provided in
- 8 Section 30-3A-3.1 NMSA 1978; and
- 9 (16) human trafficking.

10 B. No award shall be made for any loss or damage to
11 property."

12 Section 6. EFFECTIVE DATE.--The effective date of the
13 provisions of this act is July 1, 2009.

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