



# SENATE BILL 162: Human Trafficking Restorative Justice.

2017-2018 General Assembly

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<b>Committee:</b>		<b>Date:</b>	August 14, 2018
<b>Introduced by:</b>		<b>Prepared by:</b>	Susan Sitze
<b>Analysis of:</b>	S.L. 2018-75		Staff Attorney

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**OVERVIEW:** *S.L. 2018-75 enacts several provisions to assist victims of human trafficking as follows:*

- *Provides an affirmative defense to prosecution for human trafficking for persons who are victims and were coerced or deceived into committing the offense.*
- *Provides confidentiality for victims of human trafficking and their immediate family members.*
- *Expands the restitution provision to cover additional needs.*
- *Authorizes restitution to be paid to the clerk of court for an unavailable victim and held for two years, and to escheat to the Crime Victims Compensation Fund if not claimed within that time.*
- *Amends the definition of abused juvenile to include all human trafficking victims under 18.*
- *Amends the rules of evidence related to admission of evidence of sexual behavior to apply to charges of sexual servitude.*
- *Adds three new ex officio members to the North Carolina Human Trafficking Commission.*
- *Directs the North Carolina Human Trafficking Commission to study sentencing and post-conviction relief for human trafficking offenses.*

*This act has varying effective dates. Please see the full summary for more detail.*

## **BILL ANALYSIS:**

### **Victim Definition** - *Effective June 25, 2018*

This act defines a "victim" for purposes of Article 10A of Chapter 14 of the General Statutes (Human Trafficking) as a person subjected to the practices set forth in G.S. 14-43.11 (Human Trafficking), G.S. 14-43.12 (Involuntary Servitude), or G.S. 14-43.13 (Sexual Servitude.)

### **Affirmative Defense** – *Effective December 1, 2018*

This act creates an affirmative defense to a prosecution under Article 10A of Chapter 14 of the General Statutes (Human Trafficking) for persons charged with an offense if the person was a victim at the time of the offense and was coerced or deceived into committing the offense as a direct result of the person's status as a victim.

### **Victim Confidentiality** - *Effective December 1, 2018*

This act provides that the name, address, or other information that reasonably could be expected to lead directly to the identity of a victim, an alleged victim, or an immediate family member of a victim, is not public record. The information may only be disclosed for use in a law enforcement investigation or criminal prosecution, to ensure provision of medical care, housing or other services, upon written request

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of the person whose confidentiality is protected, or as required by federal law or court order. Violation of the confidentiality is a Class 3 misdemeanor. "Immediate family member" means spouse, child, sibling, parent, grandparent, grandchild, or the spouse of an immediate family member, and also includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

**Restitution** - *Effective December 1, 2018 (see additional notes below)*

This act amends the provisions authorizing restitution to victims to allow restitution to be ordered for medical care, psychological treatment, temporary housing, transportation, funeral services, and other services designed to assist a victim in recovering from any injuries or loss resulting from an offense. If the victim is unavailable to claim restitution awards, the court may order the restitution paid to the clerk of court. If the victim fails to claim the restitution award from the clerk within two years of the order, the clerk must remit the proceeds to the Crime Victims Compensation Fund, where they may only be used to provide aid to victims that are worthy and needy and who are enrolled in a public institution of higher education.

*Additional notes on effective date: The provision authorizing additional categories of restitution becomes effective December 1, 2018, and applies to offenses committed on or after that date. The provision authorizing payment of restitution to the clerk for unavailable victims and the escheat of any uncollected restitution becomes effective December 1, 2018, and applies to orders for restitution entered on or after that date.*

**Definition of Abused Juvenile** - *Effective December 1, 2018*

This act amends the definition of abused juvenile to include any juvenile less than 18 years of age who is a victim or is alleged to be a victim of an offense under G.S. 14-43.11 (Human Trafficking), G.S. 14-43.12 (Involuntary Servitude), or G.S. 14-43.13 (Sexual Servitude) regardless of the relationship between the victim and the perpetrator.

**Rules of Evidence** - *Effective December 1, 2018, and applies to trials held on or after that date.*

This act amends Rule 412 to provide that evidence of sexual behavior is not admissible in a trial for a charge of sexual servitude under G.S. 14-43.13 unless the court determines it is relevant under the provisions of the Rule.

**Human Trafficking Commission Membership and Study** – *Effective June 25, 2018*

This act increases the membership of the North Carolina Human Trafficking Commission to 15 members and adds the following three ex officio members:

- The Director of the Administrative Office of the Courts
- The President of the North Carolina Conference of Superior Court Judges
- The President of the North Carolina Association of District Court Judges

The Commission, in consultation with the Conference of District Attorneys and the Office of Indigent Defense Services, is directed to study the human trafficking offenses, including the appropriate level of sentencing for each offense, whether any revisions to the sentencing levels would reduce human trafficking, and the effects of expanding eligibility of any post-conviction relief to human trafficking victims. The report from the study must be submitted to the Joint Legislative Oversight Committee on Justice and Public Safety by February 1, 2019.

**EFFECTIVE DATE:** Except as noted above, this act became effective June 25, 2018.