



HOUSE BILL 198: Human Trafficking Commission Recommendations.

**This Bill Analysis
reflects the contents
of the bill as it was
presented in
committee.**

2019-2020 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	Date:	April 11, 2019
Introduced by:	Reps. Davis, Stevens, Jarvis, Carter	Prepared by:	Samantha Yarborough* Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: *House Bill 198 would criminalize buyer conduct in instances of sexual servitude, prohibit the promotion or sale of sex tourism services, provide a civil cause of action for human trafficking victims, expand expunction eligibility for human trafficking victims, expand grounds for appropriate relief for human trafficking victims, and expand the eligibility of vacatur for nonviolent offenses resulting from a defendant's victimization, as recommended by the North Carolina Human Trafficking Commission.*

[As introduced, this bill was identical to S200, as introduced by Sen. Britt, which is currently in Senate Rules and Operations of the Senate.]

BILL ANALYSIS:

PART I.

Section 1 would amend G.S. 14-43.14 Sexual servitude to provide that the offense is committed when a person subjects, maintains, or obtains another for the purposes of sexual servitude. Sexual servitude is a Class D felony if the victim is an adult and a Class C felony if the victim is a minor. This section would become effective December 1, 2019, and apply to offenses committed on or after that date.

Section 2 would create a new Class G felony for promoting travel services for unlawful sexual conduct if the person sells or offers to sell travel services that the person knows to include travel for the purpose of committing certain sex offenses, whether the offense would occur in this State or some other location. This section would become effective December 1, 2019, and apply to offenses committed on or after that date.

PART II.

Section 3 would create a new civil cause of action for a victim to bring against a person in violation of Article 10A (Human Trafficking) of Chapter 14, or against a person who knowingly benefits financially or by receiving anything of value from participation in a venture which that person knew or should have known violates Article 10A. Eligible relief would include an injunction, compensatory damages including medical and other expenses, and general damages for noneconomic loss. A civil action would have to be stayed during any criminal action arising out of the same occurrence in which the plaintiff is the victim. The statute of limitations would be 10 years after the cause of action arose, or 10 years after the victim reaches 18 if the victim was a minor at the time of the offense. Parties would have the right to a jury trial. This section would become effective July 1, 2019, and apply to causes of action arising on or after that date.

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Section 4(a) would amend G.S. 15A-145.6 which provides for expunction of prostitution offenses to remove one of the qualifying criteria related to human trafficking and to modify the criteria related to conditional discharge.

Section 4(b) would create a new G.S. 15A-145.9 which would allow victims of human trafficking to expunge certain nonviolent offenses if the court finds that the person was coerced or deceived into committing the offense as a direct result of having been a trafficking victim.

Section 4(c) would add records of expunctions obtained under the new statute allowing victims of human trafficking to expunge certain nonviolent offenses to the list of confidential files maintained by the Administrative Office of the Courts and available to prosecutors electronically if the expunction occurs on or after July 1, 2018.

Section 4 would become effective December 1, 2019, and apply to petitions filed on or after that date.

Section 5 would amend the allowable grounds for a motion for appropriate relief made by a human trafficking victim more than 10 days after entry of judgment to include conviction of any nonviolent offense defined in G.S. 15A-145.9 (created in Section 4(b) of the bill). Current law only allows this motion for conviction of a first prostitution offense. This section would become effective December 1, 2019, and apply to motions filed on or after that date.

Section 6 would G.S. 15A-1416.1 to expand the ability to file a motion to vacate to all nonviolent offenses and to require the motion be served contemporaneously on the district attorney, who would have 30 days to file an objection and who must be notified of the hearing on the motion. This section would require the defendant to show by a preponderance of the evidence that the violation was a direct result of the defendant being a victim of human trafficking or sexual servitude and that the offense would not have been committed but for that fact. This section would allow evidence of the defendant's status as a victim to include a sworn statement or affidavit from a law enforcement officer who investigated the human trafficking violation. A previous or subsequent conviction would not affect a person's eligibility for relief under this section. This section would become effective December 1, 2019, and apply to motions filed on or after that date.

PART III.

Section 7 would provide a severability clause to uphold, where possible, any part of the bill that is not declared unconstitutional or invalid.

EFFECTIVE DATE: This bill would become effective July 1, 2019 except where otherwise stated.

**Susan Sitze, Staff Attorney, substantially contributed to this summary.*