

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE BILL 1079\*

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

Sponsors: Senators Kinnaird; Berger of Franklin and Cowell.

Referred to: Judiciary I (Civil).

March 22, 2007

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:

**"Chapter 15D.**

**"Victims of Human Trafficking.**

7  
8  
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  
28 person who is a minor, an incompetent, incapacitated, or deceased, the  
29 legal guardian of the trafficked person or a representative of the

1 trafficked person's estate, another family member, next friend, or any  
2 other person appointed as suitable by the court may assume the  
3 trafficked person's rights, but in no event shall a defendant be named  
4 such representative or guardian.

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

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

10 **§ 15D-2. State certification of trafficked persons; services available to trafficked**  
11 **persons.**

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

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

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

35 **§ 15D-3. Protections for possible trafficking victims.**

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

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

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

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

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

8           **"§ 15D-4. Protections and benefits for trafficking victims.**

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

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

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

15               (2) Protection under the Address Confidentiality Program under Chapter  
16               15C of the General Statutes.

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

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

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

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

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

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

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

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

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

40               (2) Right to access:

41                   a. Federal and State benefits and services, such as regularized  
42                   immigration status.

43                   b. Benefits and services under the VTVPA.

1           c. State compensation, assistance, education, and training  
2           programs.

3           (3) Names of and contact information for relevant local service providers  
4           offering services to victims of trafficking and, when relevant, to  
5           domestic violence and rape crisis centers.

6           (4) The availability of federal and State protections for victims, witnesses,  
7           and their families faced with threats and intimidation.

8           (5) Legal remedies available, including compensation in civil proceedings  
9           and restitution pursuant to G.S. 15A-834.

10          (6) Right to confidentiality pursuant to G.S. 15D-4(b)(2).

11          (7) Right to receive notices about the status of the case against the  
12          trafficker, pursuant to Article 46 of Chapter 15A of the General  
13          Statutes.

14          (8) Right to access translation services and an oral interpreter if the  
15          trafficked person cannot communicate fully in English and where these  
16          resources are available.

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

21          **"§ 15D-5. Sheltering of human trafficking victims and possible human trafficking**  
22          **victims; reimbursement of domestic violence programs.**

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

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

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

35               (1) Shelter operating 24 hours a day, seven days a week.

36               (2) A switchboard for crisis calls operating 24 hours a day, seven days a  
37               week.

38               (3) Temporary housing and food facilities.

39               (4) Psychological support and peer counseling.

40               (5) Referrals to existing services in the community and follow-up on the  
41               outcome of the referrals.

42               (6) Emergency transportation to the shelter and, when appropriate,  
43               arrangements with local law enforcement for assistance in providing  
44               such transportation.

1 **"§ 15D-6. Assisting trafficked persons to secure immigration status and federal**  
2 **benefits.**

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

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

30 **"§ 15D-7. Non-referral to immigration for removal or deportation.**

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

35 **"§ 15D-8. Protocols for State law enforcement officers; training to identify and**  
36 **protect trafficking victims.**

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

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

- 1           (1) About the phenomenon of human trafficking, State and federal laws on  
2 human trafficking, the rights and needs of trafficked persons, and the  
3 tools necessary to provide effective services to trafficked persons.
- 4           (2) How to recognize and identify victims of one or more of the practices  
5 set forth in G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13.
- 6           (3) Methods for protecting trafficking victims, and possible trafficking  
7 victims, and advising them of their rights.
- 8           (4) Procedures and techniques for handling specialized needs of victims  
9 who may face cultural, language, and other barriers that impede ability  
10 to request and obtain available services.

11 **"§ 15D-9. Annual report; data collection.**

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

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

- 20               (1) The number of cases investigated.
- 21               (2) The number of prosecutions under Article 10A of Chapter 14 of the  
22 General Statutes.
- 23               (3) The number of convictions under Article 10A of Chapter 14 of the  
24 General Statutes and the number of plea bargains.
- 25               (4) The age, sex, and nationality of the trafficking victims and defendants  
26 in all cases prosecuted.

27 **"§ 15D-10. Resource center; liaison to United States Department of Justice.**

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

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

- 38               (1) Facilitate the legal processes over which the federal government has  
39 sole authority, including those processes through which overseas  
40 family members of trafficked persons can receive protection from the  
41 United States government.
- 42               (2) Advise the Attorney General of all federal funding that may be  
43 available for implementing the various elements of the State's

1           responses to human trafficking, with particular attention to shelter  
2           funding.

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

6       **"§ 15D-11. Civil action.**

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

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

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

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

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

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

35           b. Threats made by the defendant that caused duress upon the  
36           plaintiff.

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

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

42           (d) Any legal guardian, family member, representative of the trafficked person,  
43           or court appointee may represent the trafficked person's rights, in the event the

1 trafficked person is deceased or otherwise unable to represent his or her own interests in  
2 court."

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

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

6 a. A Class A, B1, B2, C, D, or E felony.

7 b. A Class F felony if it is a violation of one of the following:  
8 G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3);  
9 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.6;  
10 14-43.3; 14-43.11(b); 14-43.12(b); 14-43.13(b); 14-190.17;  
11 14-190.19; 14-202.1; 14-277.3; 14-288.9; or 20-138.5.

12 c. A Class G felony if it is a violation of one of the following:  
13 G.S. 14-32.3(b); 14-51; 14-58; 14-87.1; or 20-141.4.

14 d. A Class H felony if it is a violation of one of the following:  
15 G.S. 14-32.3(a); 14-32.3(c); 14-33.2, or 14-277.3.

16 e. A Class I felony if it is a violation of one of the following:  
17 G.S. 14-32.3(b); 14-34.6(b); or 14-190.17A.

18 f. An attempt of any of the felonies listed in this subdivision if the  
19 attempted felony is punishable as a felony.

20 g. Any of the following misdemeanor offenses when the offense is  
21 committed between persons who have a personal relationship as  
22 defined in G.S. 50B-1(b): G.S. 14-33(c)(1); 14-33(c)(2);  
23 14-33(a); 14-34; 14-134.3; or 14-277.3."

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

25 **"§ 15C-1. Purpose.**

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

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

34 **"§ 15C-2. Definitions.**

35 The following definitions apply in this Chapter:

36 (1) Actual address or address. – A residential, work, or school street  
37 address as specified on the individual's application to be a program  
38 participant under this Chapter.

39 (2) Address Confidentiality Program or Program. – A program in the  
40 Office of the Attorney General to protect the confidentiality of the  
41 address of a relocated victim of domestic violence, sexual offense, ~~or~~  
42 ~~stalking~~ stalking, or human trafficking to prevent the victim's  
43 assailants or potential assailants from finding the victim through public  
44 records.



- 1 (3) Agency of North Carolina or agency. – Includes every elected or  
2 appointed State or local public office, public officer, or official;  
3 institution, board, commission, bureau, council, department, authority,  
4 or other unit of government of the State or of any local government; or  
5 unit, special district, or other political subdivision of State or local  
6 government.
- 7 (4) Application assistant. – An employee of an agency or nonprofit  
8 organization who provides counseling, referral, shelter, or other  
9 specialized services to victims of domestic violence, sexual offense, ~~or~~  
10 ~~stalking~~ stalking, or human trafficking and who has been designated by  
11 the Attorney General to assist individuals with applications to  
12 participate in the Address Confidentiality Program.
- 13 (5) Attorney General. – Office of the Attorney General.
- 14 (6) Person. – Any individual, corporation, limited liability company,  
15 partnership, trust, estate, or other association or any state, the United  
16 States, or any subdivision thereof.
- 17 (7) Program participant. – An individual accepted into the Address  
18 Confidentiality Program in accordance with this Chapter.
- 19 (8) Public record. – A public record as defined in Chapter 132 of the  
20 General Statutes.
- 21 (9) Substitute address. – An address designated by the Attorney General  
22 under the Address Confidentiality Program.
- 23 (10) Victim of domestic violence. – An individual against whom domestic  
24 violence, as described in G.S. 50B-1, has been committed.
- 25 (10A) Victim of human trafficking. – A person subjected to the practices set  
26 forth in G.S. 14-43.11, G.S. 14-43.12, or G.S. 14-43.13.
- 27 (11) Victim of a sexual offense. – An individual against whom a sexual  
28 offense, as described in Article 7A of Chapter 14 of the General  
29 Statutes, has been committed.
- 30 (12) Victim of stalking. – An individual against whom stalking, as  
31 described in G.S. 14-277.3, has been committed."

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

33 **"§ 15C-3. Address Confidentiality Program.**

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

1 mail received on behalf of a program participant unless the mail is certified or registered  
2 mail."

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

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

5 (1) A statement by the applicant that the applicant is a victim of domestic  
6 violence, sexual offense, ~~or stalking-stalking~~, or human trafficking and  
7 that the applicant fears for the applicant's safety or the safety of the  
8 applicant's child.

9 (2) Evidence that the applicant is a victim of domestic violence, sexual  
10 offense, ~~or stalking-stalking~~, or human trafficking. This evidence may  
11 include any of the following:

12 a. Law enforcement, court, or other federal or state agency records  
13 or files.

14 b. Documentation from a domestic violence program if the  
15 applicant is alleged to be a victim of domestic violence.

16 c. Documentation from a religious, medical, or other professional  
17 from whom the applicant has sought assistance in dealing with  
18 the alleged domestic violence, sexual offense, or stalking.

19 d. Documentation submitted to support a victim of human  
20 trafficking's application for T or U nonimmigrant status  
21 pursuant to the Victims of Trafficking and Violence Protection  
22 Act of 2000, as amended.

23 (3) A statement by the applicant that disclosure of the applicant's address  
24 would endanger the applicant's safety or the safety of the applicant's  
25 child.

26 (4) A statement by the applicant that the applicant has or will  
27 confidentially relocate in North Carolina.

28 (5) A designation of the Attorney General as an agent for the applicant for  
29 purposes of service of process and the receipt of first-class mail or  
30 certified or registered mail.

31 (6) The mailing address and telephone number where the applicant can be  
32 contacted by the Attorney General.

33 (7) The address that the applicant requests not to be disclosed by the  
34 Attorney General that directly relates to the increased risk of domestic  
35 violence, sexual offense, ~~or stalking-stalking~~, or human trafficking.

36 (8) A statement as to whether there is any existing court order or court  
37 action involving the applicant related to divorce proceedings, child  
38 support, child custody, or child visitation and the court that issued the  
39 order or has jurisdiction over the action.

40 (9) A statement by the applicant that to the best of the applicant's  
41 knowledge, the information contained in the application is true.

42 (10) A recommendation of an application assistant that the applicant have  
43 an address designated by the Attorney General to serve as the  
44 substitute address of the applicant."

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

2    "**§ 15C-10. Assistance for program applicants.**

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

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

13    "**§ 8-53.14. Trafficking victim counselor privilege.**

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

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

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

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

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

39           a. Is a psychotherapist as defined in G.S. 90-21.41; has a masters  
40 degree in counseling or a related field; or has one year of  
41 counseling experience, at least six months of which is in rape  
42 assault counseling.

43           b. Has the minimum training for counseling of human trafficking  
44 victims as required by guidelines established by the employing

1                   agency and is supervised by an individual who qualifies as a  
2                   counselor under subdivision (2)a. of this subsection. The  
3                   training, supervised by a person qualified under subdivision  
4                   (2)a. of this subsection, shall include the following areas: law,  
5                   victimology, counseling techniques, client and system  
6                   advocacy, and referral services.

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

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

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

36           **SECTION 9.** There is appropriated from the General Fund to the Office of  
37 the Attorney General of the Department of Justice the sum of eight hundred thousand  
38 dollars (\$800,000) for the 2007-2008 fiscal year and the sum of eight hundred thousand  
39 dollars (\$800,000) for the 2008-2009 fiscal year. Of the amount appropriated in this  
40 act, seven hundred thousand dollars (\$700,000) shall be allocated to contract with Legal  
41 Aid of North Carolina, Inc., a nonprofit organization, as required under this act and one  
42 hundred thousand dollars (\$100,000) shall be allocated to implement the remainder of  
43 this act.

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