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SENATE DRS75267-LH-99 (02/25)

Short Title: Safe Harbor/Victims of Human Trafficking. (Public)

Sponsors: Senators Goolsby, Barringer, and Kinnaird (Primary Sponsors).

Referred to:

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.



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,  
22 14-190.19, 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 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 website, 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 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)   Sexual act. – As defined in G.S. 14-27.1(4)

7   **"§ 14-203.2. Prostitution.**

8           (a)   Offense. – Any person who knowingly performs, offers, or agrees to perform any  
9           sexual act for any money, property, token, object, or article or anything of value, or any  
10          touching or fondling of the sex organs of one person by another person, for anything of value,  
11          for the purpose of sexual arousal or gratification commits an act of prostitution.

12          (b)   Sentence. – A violation of this Section is a Class 1 misdemeanor.

13          (c)   First offender; misdemeanor prostitution; deferred prosecution. –

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

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

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

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

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

36           b.    Pay a fine and costs.

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

39           d.    Support the person's dependents.

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

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

47           (6)   Upon fulfillment of the terms and conditions of probation, the court shall  
48           discharge the person and dismiss the proceedings against the person. Upon  
49           the discharge of the person and dismissal of the proceedings against the  
50           person under this subsection, the person is eligible to apply for expunction of  
51           certain records relating to the offense pursuant to G.S. 15A-145.2(a).

1           (7)    A disposition of probation is considered to be a conviction for the purposes  
2           of imposing the conditions of probation and for appeal, however, discharge  
3           and dismissal under this subsection is not a conviction for purposes of  
4           structured sentencing or for purposes of disqualifications or disabilities  
5           imposed by law upon conviction of a crime.

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

7           (d)    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 subject to the temporary  
11          protective custody provision of G.S. 7B-1900, 7B-1901, and 7B-1905. Pursuant to the  
12          provisions of G.S. 7B-301, a law enforcement officer who takes a minor into custody under this  
13          section shall immediately report an allegation of a violation of G.S. 14-43.11 and G.S. 14-43.13  
14          to the director of the department of social services in the county where the minor resides or is  
15          found, as appropriate, which shall commence an initial investigation into child abuse or child  
16          neglect within 24 hours pursuant to G.S. 7B-301 and G.S. 7B-302."

17          **"§14-203.3. Solicitation of a sexual act.**

18          (a)    Offense. – Any person who offers a person not his or her spouse any money,  
19          property, token, object, or article or anything of value for that person or any other person not  
20          his or her spouse to perform any sexual act, or any touching or fondling of the sex organs of  
21          one person by another person for the purpose of sexual arousal or gratification, commits  
22          solicitation of a sexual act.

23          (b)    Sentence. – Solicitation of a sexual act is a Class F felony. Solicitation of a sexual  
24          act from a minor or who is severely or profoundly mentally disabled is a Class C felony.

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

26          (a)    Offense. – Any person who knowingly performs any of the following acts commits  
27          promoting 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)    Sentence. – A violation of this section is punishable as follows:

41               (1)    A violation of G.S. 14-203.4(a)(1) is a Class F felony, unless committed  
42               within 1,000 feet of real property comprising a school, in which case it is a  
43               Class C felony. A second or subsequent violation of G.S. 14-203.4(a)(1) or  
44               any combination of convictions under G.S. 14-203.4(a)(1), 14-203.4(a)(2)a.,  
45               or 14-203.4(a)(2)b. and G.S. 14-203.2 (prostitution), G.S. 14-203.3  
46               (solicitation of a sexual act), G.S. 14-203.5 (promoting prostitution of a  
47               minor), G.S. 14-203.6 (patronizing a prostitute), or G.S. 14-203.7  
48               (patronizing a minor engaged in prostitution) is a Class C felony.

49               (2)    A violation of G.S. 14-203.4(a)(2)a. or G.S. 14-203.4(a)(2)b. is a Class F  
50               felony, unless committed within 1,000 feet of real property comprising a  
51               school, in which case it is a Class C felony.

1           (3) A violation of G.S. 14-203.4(a)(2)c. is a Class F felony, unless committed  
2 within 1,000 feet of real property comprising a school, in which case it is a  
3 Class C felony. A second or subsequent violation of G.S. 14-203.4(a)(2)c. or  
4 any combination of convictions under G.S. 14-203.4(a)(2)c. and  
5 G.S. 14-203.4(a)(1), G.S. 14-203.4(a)(2)a., or G.S. 14-203.4(a)(2)b.,  
6 G.S. 14-203.2 (prostitution), G.S. 14-203.3 (solicitation of a sexual act),  
7 G.S. 14-203.4 (promoting prostitution of a minor), or G.S. 14-203.7  
8 (patronizing a minor engaged in prostitution) is a Class C felony.

9 **"§ 14-203.5. Promoting prostitution of a minor.**

10       (a) Offense. – Any person who knowingly performs any of the following acts commits  
11 promoting prostitution of a minor:

12           (1) Advances prostitution as defined in G.S. 14-203.1, where the minor engaged  
13 in prostitution, or any person engaged in prostitution in the place is a minor  
14 or is severely or profoundly mentally disabled at the time of the offense.

15           (2) Profits from prostitution by any means where the prostituted person is a  
16 minor or is severely or profoundly mentally disabled at the time of the  
17 offense.

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

26           a. Compels the child or severely or profoundly mentally disabled  
27 person to engage in prostitution.

28           b. Arranges a situation in which the child or severely or profoundly  
29 mentally disabled person may practice prostitution.

30           c. Profits from prostitution by the child or severely or profoundly  
31 mentally disabled person.

32       (b) Administer drugs or alcoholic intoxicant without consent. – For purposes of this  
33 section, administering drugs, as described in subdivision (3) of subsection (a) of this section, or  
34 an alcoholic intoxicant to a minor or a severely or profoundly mentally disabled person shall be  
35 deemed to be without consent if the administering is done without the consent of the parents or  
36 legal guardian or if the administering is performed by the parents or legal guardian for other  
37 than medical purposes.

38       (c) Sentence. – A violation of G.S. 14-203.5(a)(1) is a Class B2 felony, unless  
39 committed within 1,000 feet of real property comprising a school, in which case it is a Class B1  
40 felony. A violation of G.S. 14-203.5(a)(2) is a Class B2 felony. A violation of subdivision  
41 G.S. 14-203.5(a)(3) is a Class B1 felony. A second or subsequent violation of subdivision  
42 G.S. 14-203.5(a)(1), (2), or (3) or any combination of convictions under G.S. 14-203.5 (a)(1),  
43 (2), or (3) and G.S. 14-203.2 (prostitution), G.S. 14-203.3 (solicitation of a sexual act),  
44 G.S. 14-203.4 (promoting prostitution), G.S. 14-203.6 (patronizing a prostitute), or  
45 G.S. 14-203.7 (patronizing a minor engaged in prostitution), is a Class B1 felony.

46       (d) Forfeiture. – Any person convicted of a violation of this section that involves  
47 promoting prostitution of a minor by keeping a place of minor prostitution or convicted of a  
48 violation of G.S. 14-203.5 (a)(3) is subject to the property forfeiture provisions set forth in G.S.  
49 14-2.3.

50 **"§ 14-203.6. Patronizing a prostitute.**

1       (a) Offense. – Any person who knowingly performs any of the following acts with a  
2 person not his or her spouse commits patronizing a prostitute:

3           (1) Engages in a sexual act with a prostitute.

4           (2) Enters or remains in a place of prostitution with intent to engage in a sexual  
5 act.

6           (3) Engages in any touching or fondling with a prostitute of the sex organs of  
7 one person by the other person, with the intent to achieve sexual arousal or  
8 gratification.

9       (b) Sentence. – Patronizing a prostitute is a Class F felony, unless committed within  
10 1,000 feet of real property comprising a school, in which case it is a Class C felony. A person  
11 convicted of a second or subsequent violation of this section, or of any combination of such  
12 number of convictions under this section and G.S. 14-203.2 (prostitution), G.S. 14-203.3  
13 (solicitation of a sexual act), G.S. 14-203.4 (promoting prostitution), G.S. 14-203.5(promoting  
14 prostitution of a minor), or G.S. 14-203.7(patronizing a minor engaged in prostitution) is guilty  
15 of a Class C felony.

16 **"§ 14-203.7. Patronizing a minor engaged in prostitution.**

17       (a) Offense. – Any person who does any of the following commits the offense of  
18 patronizing a minor engaged in prostitution.

19           (1) Engages in a sexual act with a person engaged in prostitution that is a minor  
20 or is a severely or profoundly mentally disabled person.

21           (2) Engages in any touching or fondling, with a person engaged in prostitution  
22 that is either a minor or is a severely or profoundly mentally disabled person,  
23 of the sex organs of one person by the other person, with the intent to  
24 achieve sexual arousal or gratification.

25       (b) Affirmative defense. – It is an affirmative defense to the charge of patronizing a  
26 minor engaged in prostitution that the accused reasonably believed that the person was of the  
27 age of 18 years or over or was not a severely or profoundly mentally disabled person at the time  
28 of the act giving rise to the charge.

29       (c) Sentence. – A person who commits patronizing a minor engaged in prostitution is  
30 guilty of a Class C felony, unless committed within 1,000 feet of real property comprising a  
31 school, in which case it is a Class B2 felony. A person convicted of a second or subsequent  
32 violation of this section, or of any combination of such number of convictions under this  
33 section and G.S. 14-203.2 (prostitution), G.S. 14-203.3 (solicitation of a sexual act),  
34 G.S. 14-203.4 (promoting prostitution), G.S. 14-203.5 (promoting prostitution of a minor), or  
35 G.S. 14-203.6 (patronizing a prostitute) is guilty of a Class B2 felony."

36 **"§ 14-203.10. Certain probation conditions.**

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

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

44       **SECTION 6.** Article 27 of Chapter 14 of the General Statutes is amended by  
45 adding a new section to read:

46 **"§ 14-203.15. Vehicle impoundment.**

47       (a) In addition to any other penalty provided by law, a law enforcement officer who  
48 arrests a person for a violation under this Article may tow and impound any vehicle used by the  
49 person in the commission of the offense. The person arrested for the violation shall be charged  
50 a fee of one thousand dollars (\$1,000) to recover the vehicle. The local law enforcement agency  
51 that has jurisdiction where the arrest was made shall collect the fee. The person may recover

1 the vehicle from the impound after a minimum of two hours after arrest upon payment of the  
2 fee.

3 (b) Five hundred dollars (\$500.00) of the fee shall be distributed to the unit of  
4 government whose law enforcement officers made the arrest, for the costs incurred by the unit  
5 of government to tow and impound the vehicle. Upon the defendant's conviction of one or more  
6 of the offenses in connection with which the vehicle was impounded and the fee imposed under  
7 this section, the remaining five hundred dollars (\$500) of the fee shall be deposited into the  
8 Crime Victims Compensation Fund established in G.S. 15B-23 and shall be used to provide  
9 services for persons encountered during the course of an investigation into any violation of  
10 Article 27 of Chapter 14 of the General Statutes, G.S. 14-43.11, and G.S. 14-43.13, provided  
11 such persons constitute prostituted persons or other victims of human trafficking.

12 (c) Upon the presentation by the defendant of a signed court order showing that the  
13 defendant has been acquitted of all of the offenses in connection with which a vehicle was  
14 impounded and a fee imposed under this section, or that the charges against the defendant for  
15 those offenses have been dismissed, the unit of government shall refund the fee of one thousand  
16 dollars (\$1,000) to the defendant."

17 **SECTION 7.** G.S. 15A-290(c)(1) reads as rewritten:

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

- 23 (1) Any felony offense against a minor, including any violation of G.S. 14-27.7  
24 (Intercourse and sexual offenses with certain victims; consent no defense),  
25 G.S. 14-41 (Abduction of children), G.S. 14-43.11 (Human trafficking),  
26 G.S. 14-43.12 (Involuntary servitude), G.S. 14-43.13 (Sexual servitude),  
27 G.S. 14-190.16 (First degree sexual exploitation of a minor), G.S. 14-190.17  
28 (Second degree sexual exploitation of a minor), ~~G.S. 14-190.18 (Promoting~~  
29 prostitution of a minor), ~~G.S. 14-190.19 (Participating in prostitution of a~~  
30 minor), ~~G.S. 14-203.5 (Promoting prostitution of a minor), G.S. 14-203.7~~  
31 (Patronizing a minor engaged in prostitution) or G.S. 14-202.1 (Taking  
32 indecent liberties with children).

33 ...."

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

35 "(10) The defendant was convicted of a first offense of misdemeanor prostitution  
36 under G.S. 14-203.2 and prosecution of the offense was not deferred  
37 pursuant to G.S. 14-203.2(c); the defendant's participation in the offense was  
38 a result of having been a victim of human trafficking under G.S. 14-43.11,  
39 sexual servitude under G.S. 14-43.13, or the federal Trafficking Victims  
40 Protection Act (22 U.S.C. § 7102(13)); and the defendant seeks to have the  
41 conviction vacated."

42 **SECTION 9.** Article 89 of Chapter 15A of the General Statutes is amended by  
43 adding a new section to read:

44 "**§ 15A-1416.1. Motion by the defendant to vacate prostitution conviction for sex**  
45 **trafficking victim.**

46 (a) The Court of Appeals has jurisdiction to hear a motion for appropriate relief filed on  
47 the grounds set out in G.S. 15A-1415(b)(10). A motion to vacate a conviction for prostitution  
48 may be filed at any time following the entry of a verdict or finding of guilty under  
49 G.S. 14-203.2. Any motion for appropriate relief filed under this section shall state why the  
50 facts giving rise to this motion were not presented to the trial court and shall be made with due  
51 diligence after the defendant has ceased to be a victim of such trafficking or has sought services

1 for victims of such offenses, subject to reasonable concerns for the safety of the defendant,  
2 family members of the defendant, or other victims of such trafficking that may be jeopardized  
3 by the bringing of such motion or for other reasons consistent with the purpose of this section.  
4 Reasonable notice of the motion shall be served upon the State.

5 (b) The court may grant the motion if, in the discretion of the court, the violation was a  
6 result of the defendant having been a victim of human trafficking. Evidence of such may  
7 include any of the following documents listed in subdivisions (1) through (3) of this subsection;  
8 alternatively, the court may consider such other evidence as it deems of sufficient credibility  
9 and probative value in determining whether the defendant is a trafficking victim:

10 (1) Certified records of federal or State court proceedings which demonstrate  
11 that the defendant was a victim of a trafficker charged with a trafficking  
12 offense under G.S. 14-43.11, G.S. 14-43.13, or under 22 U.S.C. Chapter 78.

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

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

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

21 **SECTION 10.** Article 5 of Chapter 14 of the General Statutes is amended by  
22 adding a new section to read:

23 **"§ 15A-145.6. Expunctions for certain defendants convicted of prostitution.**

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

25 (1) Prostitution offense – A conviction of a defendant for misdemeanor  
26 prostitution under G.S. 14-203.2.

27 (2) Violent felony or violent misdemeanor – A Class A through G felony or a  
28 Class A1 misdemeanor or an offense that includes assault as an essential  
29 element of the offense.

30 (b) A person who pleads guilty to or is guilty of a prostitution offense may file a  
31 petition in the court where the person was convicted for expunction of the prostitution offense  
32 from the person's criminal record provided that all the following criteria are met:

33 (1) The person has not previously been convicted of any violent felony or  
34 violent misdemeanor under the laws of the United States or the laws of this  
35 State or any other state.

36 (2) The person satisfies any one of the following criteria:

37 a. The person's participation in the prostitution offense was a result of  
38 having been a trafficking victim under G.S. 14-43.11 (human  
39 trafficking) or G.S. 14-43.13 (sexual servitude) or a victim of a  
40 severe form of trafficking under the federal Trafficking Victims  
41 Protection Act (22 U.S.C. § 7102(13)).

42 b. The person was less than 18 years old at the time that the person  
43 committed the offense.

44 c. The person was sentenced under the deferred prosecution provisions  
45 in G.S. 14-203.2 and is eligible to apply for an expunction under  
46 G.S. 14-203.2(c).

47 (c) The petition shall not be filed earlier than three years after the person has served the  
48 full sentence imposed on the person. The petition shall contain all of the following:

49 (1) An affidavit by the petitioner that the petitioner (i) has no prior conviction of  
50 a violent felony or violent misdemeanor, (ii) has been of good moral  
51 character since the date of conviction of the prostitution offense in question,



1 and (iii) has not been convicted of any felony or misdemeanor under the  
2 laws of the United States or the laws of this State or any other state since the  
3 date of the conviction of the prostitution offense in question.

4 (2) Verified affidavits of two persons who are not related to the petitioner or to  
5 each other by blood or marriage, that they know the character and reputation  
6 of the petitioner in the community in which the petitioner lives and that the  
7 petitioner's character and reputation are good.

8 (3) A statement that the petition is a motion in the cause in the case wherein the  
9 petitioner was convicted.

10 (4) An application on a form approved by the Administrative Office of the  
11 Courts requesting and authorizing (i) a State and national criminal history  
12 record check by the Department of Justice using any information required by  
13 the Administrative Office of the Courts to identify the individual; (ii) a  
14 search by the Department of Justice for any outstanding warrants or pending  
15 criminal cases; and (iii) a search of the confidential record of expunctions  
16 maintained by the Administrative Office of the Courts. The application shall  
17 be forwarded to the Department of Justice and to the Administrative Office  
18 of the Courts, which shall conduct the searches and report their findings to  
19 the court.

20 (5) An affidavit by the petitioner that no restitution orders or civil judgments  
21 representing amounts ordered for restitution entered against the petitioner  
22 are outstanding.

23 (d) The petition shall be served upon the district attorney of the court wherein the case  
24 was tried resulting in conviction. The district attorney shall have 30 days thereafter in which to  
25 file any objection thereto and shall be duly notified as to the date of the hearing of the petition.  
26 The district attorney shall make his or her best efforts to contact the victim, if any, to notify the  
27 victim of the request for expunction prior to the date of the hearing.

28 (e) The court in which the petition was filed shall take the following steps and shall  
29 consider the following issues in rendering a decision upon a petition for expunction of records  
30 of a violation of G.S. 14-203.2 under this section:

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

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

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

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

41 (2) The petitioner has remained of good moral character and has been free of  
42 conviction of any felony or misdemeanor, other than a traffic violation, for  
43 three years from the date of conviction of the prostitution offense in  
44 question.

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

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

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

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

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

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

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

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

26       **SECTION 11.** G.S. 15A-1340.16(d) is amended by adding the following  
27 subdivisions to read:

28       "(19a) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S.  
29 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) and  
30 involved multiple victims.

31       (19b) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S.  
32 14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) and the  
33 victim suffered serious injury as a result of the offense."

34       **SECTION 12.** G.S. 15B-2(2) reads as rewritten:

35       "**§ 15B-2. Definitions.**

36       As used in this Article, the following definitions apply, unless the context requires  
37 otherwise:

38       ...

39       (2) Claimant. – Any of the following persons who claims an award of  
40 compensation under this Article:

- 41       a. A victim;
- 42       b. A dependent of a deceased victim;
- 43       c. A third person who is not a collateral source and who provided  
44 benefit to the victim or his family other than in the course or scope of  
45 his employment, business, or profession;
- 46       d. A person who is authorized to act on behalf of a victim, a dependent,  
47 or a third person described in ~~subdivision e.~~ sub-subdivision c.;
- 48       e. A person who was convicted of a first offense under G.S. 14-203.2  
49 and whose participation in the offense was a result of having been a  
50 trafficking victim under G.S. 14-43.11 or G.S. 14-43.13 or a victim

1 of a severe form of trafficking under the federal Trafficking Victims  
 2 Protection Act (22 U.S.C. § 7102(13)).

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

6 "...."

7 **SECTION 13.** G.S. 7B-101(1) reads as rewritten:

8 **"§ 7B-101. Definitions.**

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

- 11 (1) Abused juveniles. – Any juvenile less than 18 years of age whose parent,  
 12 guardian, custodian, or caretaker:
- 13 a. Inflicts or allows to be inflicted upon the juvenile a serious physical  
 14 injury by other than accidental means;
  - 15 b. Creates or allows to be created a substantial risk of serious physical  
 16 injury to the juvenile by other than accidental means;
  - 17 c. Uses or allows to be used upon the juvenile cruel or grossly  
 18 inappropriate procedures or cruel or grossly inappropriate devices to  
 19 modify behavior;
  - 20 d. Commits, permits, or encourages the commission of a violation of  
 21 the following laws by, with, or upon the juvenile: first-degree rape,  
 22 as provided in G.S. 14-27.2; rape of a child by an adult offender, as  
 23 provided in G.S. 14-27.2A; second degree rape as provided in  
 24 G.S. 14-27.3; first-degree sexual offense, as provided in  
 25 G.S. 14-27.4; sexual offense with a child by an adult offender, as  
 26 provided in G.S. 14-27.4A; second degree sexual offense, as  
 27 provided in G.S. 14-27.5; sexual act by a custodian, as provided in  
 28 G.S. 14-27.7; unlawful sale, surrender, or purchase of a minor, as  
 29 provided in G.S. 14-43.14; crime against nature, as provided in  
 30 G.S. 14-177; incest, as provided in G.S. 14-178; preparation of  
 31 obscene photographs, slides, or motion pictures of the juvenile, as  
 32 provided in G.S. 14-190.5; employing or permitting the juvenile to  
 33 assist in a violation of the obscenity laws as provided in  
 34 G.S. 14-190.6; dissemination of obscene material to the juvenile as  
 35 provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or  
 36 disseminating material harmful to the juvenile as provided in  
 37 G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual  
 38 exploitation of the juvenile as provided in G.S. 14-190.16 and  
 39 G.S. 14-190.17; ~~promoting the prostitution of the juvenile as~~  
 40 ~~provided in G.S. 14-190.18;~~promoting prostitution of a minor as  
 41 provided in G.S. 14-203.5; and taking indecent liberties with the  
 42 juvenile, as provided in G.S. 14-202.1;
  - 43 e. Creates or allows to be created serious emotional damage to the  
 44 juvenile; serious emotional damage is evidenced by a juvenile's  
 45 severe anxiety, depression, withdrawal, or aggressive behavior  
 46 toward himself or others;~~or~~
  - 47 f. Encourages, directs, or approves of delinquent acts involving moral  
 48 turpitude committed by the ~~juvenile~~juvenile;
  - 49 g. Commits or allows to be committed an offense under G.S. 14-43.11  
 50 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S.  
 51 14-43.13 (sexual servitude against the child).

...."

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

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

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

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

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

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

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

**SECTION 15.** The introductory language in G.S. 14-190.13 reads as rewritten:

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

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

**SECTION 16.** G.S. 14-208.6(5) reads as rewritten:

(5) "Sexually violent offense" means a violation of G.S. 14-27.2 (first degree rape), G.S. 14-27.2A (rape of a child; adult offender), G.S. 14-27.3 (second degree rape), G.S. 14-27.4 (first degree sexual offense), G.S. 14-27.4A (sex offense with a child; adult offender), G.S. 14-27.5 (second degree sexual offense), G.S. 14-27.5A (sexual battery), former G.S. 14-27.6 (attempted rape or sexual offense), G.S. 14-27.7 (intercourse and sexual offense with certain victims), G.S. 14-27.7A(a)(statutory rape or sexual offense of person who is 13-, 14-, or 15-years-old where the defendant is at least six years older), G.S. 14-43.13 (subjecting or maintaining a person for sexual servitude), G.S. 14-178 (incest between near relatives), G.S. 14-190.6 (employing or permitting minor to assist in offenses against public morality and decency), G.S. 14-190.9(a1)(felonious indecent exposure), G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third degree sexual exploitation of a minor), ~~G.S. 14-190.18 (promoting~~

1           prostitution of a minor), G.S. 14-190.19 (participating in the prostitution of a  
2           minor),—G.S. 14-202.1 (taking indecent liberties with children),  
3           G.S. 14-202.3 (Solicitation of child by computer or certain other electronic  
4           devices to commit an unlawful sex act), G.S. 14-202.4(a)(taking indecent  
5           liberties with a student), G.S. 14-203.5 (promoting prostitution of a minor),  
6           G.S. 14-203.7 (patronizing a minor engaged in prostitution);  
7           G.S. 14-318.4(a1)(parent or caretaker commit or permit act of prostitution  
8           with or by a juvenile), or G.S. 14-318.4(a2)(commission or allowing of  
9           sexual act upon a juvenile by parent or guardian). The term also includes the  
10          following: a solicitation or conspiracy to commit any of these offenses;  
11          aiding and abetting any of these offenses."

12       **SECTION 17.** G.S. 15A-830(a)(7) reads as rewritten:

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

- 15       a.     A Class A, B1, B2, C, D, or E felony.  
16       b.     A Class F felony if it is a violation of one of the following:  
17           G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3);  
18           14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.3; 14-43.11;  
19           14-190.17; ~~14-190.19~~; 14-202.1; 14-203.7; 14-277.3A; 14-288.9;  
20           20-138.5; or former G.S. 14-277.3.  
21       c.     A Class G felony if it is a violation of one of the following:  
22           G.S. 14-32.3(b); 14-51; 14-58; 14-87.1; or 20-141.4.  
23       d.     A Class H felony if it is a violation of one of the following:  
24           G.S. 14-32.3(a); 14-32.3(c); 14-33.2; 14-277.3A; or former  
25           G.S. 14-277.3.  
26       e.     A Class I felony if it is a violation of one of the following:  
27           G.S. 14-32.3(b); 14-34.6(b); or 14-190.17A.  
28       f.     An attempt of any of the felonies listed in this subdivision if the  
29           attempted felony is punishable as a felony.  
30       g.     Any of the following misdemeanor offenses when the offense is  
31           committed between persons who have a personal relationship as  
32           defined in G.S. 50B-1(b): G.S. 14-33(c)(1); 14-33(c)(2); 14-33(a);  
33           14-34; 14-134.3; 14-277.3A; or former G.S. 14-277.3.  
34       h.     Any violation of a valid protective order under G.S. 50B-4.1."

35       **SECTION 18.** G.S. 90-210.25B(b) reads as rewritten:

36       "(b)   For purposes of this Article, the term "sexual offense against a minor" means a  
37       conviction of any of the following offenses: G.S. 14-27.4A(a) (sex offense with a child; adult  
38       offender), G.S. 14-27.7A (statutory rape or sexual offense of person who is 13, 14, or 15 years  
39       old where the defendant is at least six years older), G.S. 14-190.16 (first-degree sexual  
40       exploitation of a minor), G.S. 14-190.17 (second degree sexual exploitation of a minor),  
41       G.S. 14-190.17A (third degree sexual exploitation of a minor), ~~G.S. 14-190.18 (promoting~~  
42       ~~prostitution of a minor), G.S. 14-190.19 (participating in prostitution of a minor),~~ G.S. 14-202.1  
43       (taking indecent liberties with children), G.S. 14-202.3 (solicitation of child by computer or  
44       certain other electronic devices to commit an unlawful sex act), G.S. 14-202.4(a) (taking  
45       indecent liberties with a student), G.S. 14-203.5 (promoting prostitution of a minor);  
46       G.S. 14-203.7 (patronizing a minor engaged in prostitution); G.S. 14-318.4(a1) (parent or  
47       caretaker commit or permit act of prostitution with or by a juvenile), or G.S. 14-318.4(a2)  
48       (commission or allowing of sexual act upon a juvenile by parent or guardian). The term shall  
49       also include a conviction of the following: any attempt, solicitation, or conspiracy to commit  
50       any of these offenses or any aiding and abetting any of these offenses. The term shall also  
51       include a conviction in another jurisdiction for an offense which if committed in this State has

1 the same or substantially similar elements to an offense against a minor as defined by this  
2 section."

3 **SECTION 19.** G.S. 114-15(b1) reads as rewritten:

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

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

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

23 **SECTION 20.** G.S. 115C-296(d)(2) reads as rewritten:

- 24 "(2) The State Board shall automatically revoke the license of a teacher or school  
25 administrator without the right to a hearing upon receiving verification of the  
26 identity of the teacher or school administrator together with a certified copy  
27 of a criminal record showing that the teacher or school administrator has  
28 entered a plea of guilty or nolo contendere to or has been finally convicted of  
29 any of the following crimes: Murder in the first or second degree,  
30 G.S. 14-17; Conspiracy or solicitation to commit murder, G.S. 14-18.1; Rape  
31 or sexual offense as defined in Article 7A of Chapter 14 of the General  
32 Statutes. Felonious assault with deadly weapon with intent to kill or  
33 inflicting serious injury, G.S. 14-32; Kidnapping, G.S. 14-39; Abduction of  
34 children, G.S. 14-41; Crime against nature, G.S. 14-177; Incest, G.S. 14-178  
35 or G.S. 14-179; Employing or permitting minor to assist in offense against  
36 public morality and decency, G.S. 14-190.6; Dissemination to minors under  
37 the age of 16 years, G.S. 14-190.7; Dissemination to minors under the age of  
38 13 years, G.S. 14-190.8; Displaying material harmful to minors,  
39 G.S. 14-190.14; Disseminating harmful material to minors, G.S. 14-190.15;  
40 First degree sexual exploitation of a minor, G.S. 14-190.16; Second degree  
41 sexual exploitation of a minor, G.S. 14-190.17; Third degree sexual  
42 exploitation of a minor, G.S. 14-190.17A; ~~Promoting prostitution of a minor,~~  
43 ~~G.S. 14-190.18;~~ ~~Participating in prostitution of a minor,~~  
44 ~~G.S. 14-190.19;~~ Taking indecent liberties with children, G.S. 14-202.1;  
45 Solicitation of child by computer to commit an unlawful sex act,  
46 G.S. 14-202.3; Taking indecent liberties with a student, G.S. 14-202.4;  
47 ~~Prostitution, G.S. 14-204;~~ Prostitution, G.S. 14-203.2; Promoting  
48 prostitution of a minor, G.S. 14-203.5; Patronizing a minor engaged  
49 prostitution, G.S. 14-203.7; and child abuse under G.S. 14-318.4. The Board  
50 shall mail notice of its intent to act pursuant to this subdivision by certified  
51 mail, return receipt requested, directed to the teacher or school administrator

1 at their last known address. The notice shall inform the teacher or school  
2 administrator that it will revoke the person's license unless the teacher or  
3 school administrator notifies the Board in writing within 10 days after  
4 receipt of the notice that the defendant identified in the criminal record is not  
5 the same person as the teacher or school administrator. If the teacher or  
6 school administrator provides this written notice to the Board, the Board  
7 shall not revoke the license unless it can establish as a fact that the defendant  
8 and the teacher or school administrator are the same person."

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