

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 683

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

Sponsors: Senators Goolsby, Barringer, Kinnaird (Primary Sponsors); Apodaca, Barefoot, Brock, Cook, Daniel, Jackson, Meredith, Newton, Parmon, Rabin, Rabon, Randleman, Tarte, and Woodard.

Referred to: Judiciary I.

April 4, 2013

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.



1 (c) Each violation of this section constitutes a separate offense and shall not merge with  
2 any other offense. Evidence of failure to deliver benefits or perform services standing alone  
3 shall not be sufficient to authorize a conviction under this section.

4 (c1) Mistake of age is not a defense to prosecution under this section. Consent of a minor  
5 is not a defense to prosecution under this section.

6 (d) Nothing in this section shall be construed to affect the laws governing the  
7 relationship between an unemancipated minor and his or her parents or legal guardian.

8 (e) If any person reports a violation of this section, which violation arises out of any  
9 contract for labor, to any party to the contract, the party shall immediately report the violation  
10 to the sheriff of the county in which the violation is alleged to have occurred for appropriate  
11 action. A person violating this subsection shall be guilty of a Class 1 misdemeanor."

12 **SECTION 3.** G.S. 14-43.13 reads as rewritten:

13 **"§ 14-43.13. Sexual servitude.**

14 (a) A person commits the offense of sexual servitude when that person knowingly or in  
15 reckless disregard subjects or maintains another in sexual servitude.

16 (b) A person who violates this section is guilty of a ~~Class F~~ Class E felony if the victim  
17 of the offense is an adult. A person who violates this section is guilty of a Class C felony if the  
18 victim of the offense is a minor.

19 (b1) Mistake of age is not a defense to prosecution under this section. Consent of a minor  
20 is not a defense to prosecution under this section.

21 (c) Each violation of this section constitutes a separate offense and shall not merge with  
22 any other offense. Evidence of failure to deliver benefits or perform services standing alone  
23 shall not be sufficient to authorize a conviction under this section."

24 **SECTION 4.(a)** The following statutes are repealed: G.S. 14-190.18,  
25 14-190.19, 14-203, 14-204, 14-204.1, 14-205, 14-207, and 14-208.

26 **SECTION 4.(b)** G.S. 14-206 is recodified as G.S. 14-203.9.

27 **SECTION 5.** Article 27 is amended by adding the following new sections to read:

28 **"§ 14-203.1. Definitions.**

29 The following definitions apply in this Article:

30 (1) Advance prostitution. - The term includes all of the following:

31 a. Soliciting for a prostitute by performing any of the following acts  
32 when acting other than a prostitute or a patron of a prostitute:

33 1. Soliciting another for the purpose of prostitution.

34 2. Arranging or offering to arrange a meeting of persons for the  
35 purpose of prostitution.

36 3. Directing another to a place knowing the direction is for the  
37 purpose of prostitution.

38 4. Using the Internet, including any social media website, to  
39 solicit another for the purpose of prostitution.

40 b. Keeping a place of prostitution by controlling or exercising control  
41 over the use of any place that could offer seclusion or shelter for the  
42 practice of prostitution and performing any of the following acts  
43 when acting other than a prostitute or a patron of a prostitute:

44 1. Knowingly granting or permitting the use of the place for the  
45 purpose of prostitution.

46 2. Granting or permitting the use of the place under  
47 circumstances from which the person could reasonably know  
48 that the place is used or is to be used for purposes of  
49 prostitution.

50 3. Permitting the continued use of the place after becoming  
51 aware of facts or circumstances from which the person should

- 1 know that the place is being used for the purpose of  
2 prostitution.
- 3 (2) Minor. – Any person who is less than 18 years of age.  
4 (3) Profit from prostitution. – When acting other than a prostitute, to receive  
5 anything of value for personally rendered prostitution services or to receive  
6 anything of value from a prostitute, if the thing received is not for lawful  
7 consideration and the person knows it was earned in whole or in part from  
8 the practice of prostitution.
- 9 (4) Sexual act. – As defined in G.S. 14-27.1(4)
- 10 **§ 14-203.2. Prostitution.**
- 11 (a) Offense. – Any person who knowingly performs, offers, or agrees to perform any  
12 sexual act for any money, property, token, object, or article or anything of value, or any  
13 touching or fondling of the sex organs of one person by another person, for anything of value,  
14 for the purpose of sexual arousal or gratification commits an act of prostitution.
- 15 (b) Sentence. – A violation of this Section is a Class 1 misdemeanor.
- 16 (c) First offender; misdemeanor prostitution; deferred prosecution. –
- 17 (1) Whenever any person who has not previously been convicted of or placed on  
18 probation for misdemeanor prostitution pleads guilty to or is found guilty of  
19 misdemeanor prostitution, the court, without entering a judgment and with  
20 the consent of such person, shall sentence the person to probation pursuant  
21 to this subsection.
- 22 (2) When a person is placed on probation, the court shall enter an order  
23 specifying a period of probation of 12 months and shall defer further  
24 proceedings in the case until the conclusion of the period or until the filing  
25 of a petition alleging violation of a term or condition of probation.
- 26 (3) The conditions of probation shall be that the person (i) not violate any  
27 criminal statute of any jurisdiction, (ii) refrain from possessing a firearm or  
28 other dangerous weapon, (iii) submit to periodic drug testing at a time and in  
29 a manner as ordered by the court, but no less than three times during the  
30 period of the probation, with the cost of the testing to be paid by the  
31 probationer, (iv) obtain a vocational assessment administered by a program  
32 approved by the court, and (v) attend no fewer than ten counseling sessions  
33 administered by a program approved by the court.
- 34 (4) The court may, in addition to other conditions, require that the person do any  
35 of the following:
- 36 a. Make a report to and appear in person before or participate with the  
37 court or such courts, person, or social service agency as directed by  
38 the court in the order of probation.
- 39 b. Pay a fine and costs.
- 40 c. Attend or reside in a facility established for the instruction or  
41 residence of defendants on probation.
- 42 d. Support the person's dependents.
- 43 e. Refrain from having in the person's body the presence of any illicit  
44 drug prohibited by the North Carolina Controlled Substances Act,  
45 unless prescribed by a physician, and submit samples of the person's  
46 blood or urine or both for tests to determine the presence of any illicit  
47 drug.
- 48 (5) Upon violation of a term or condition of probation, the court may enter a  
49 judgment on its original finding of guilt and proceed as otherwise provided.
- 50 (6) Upon fulfillment of the terms and conditions of probation, the court shall  
51 discharge the person and dismiss the proceedings against the person. Upon

1 the discharge of the person and dismissal of the proceedings against the  
2 person under this subsection, the person is eligible to apply for expunction of  
3 certain records relating to the offense pursuant to G.S. 15A-145.2(a).

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

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

10 (d) Immunity from prosecution for minors. – Notwithstanding any other provision of  
11 this section, if it is determined, after a reasonable detention for investigative purposes, that a  
12 person suspected of or charged with a violation of this section is a minor, that person shall be  
13 immune from prosecution under this section, and instead shall be subject to the temporary  
14 protective custody provision of G.S. 7B-1900, 7B-1901, and 7B-1905. Pursuant to the  
15 provisions of G.S. 7B-301, a law enforcement officer who takes a minor into custody under this  
16 section shall immediately report an allegation of a violation of G.S. 14-43.11 and G.S. 14-43.13  
17 to the director of the department of social services in the county where the minor resides or is  
18 found, as appropriate, which shall commence an initial investigation into child abuse or child  
19 neglect within 24 hours pursuant to G.S. 7B-301 and G.S. 7B-302."

20 "**§14-203.3. Solicitation of a sexual act.**

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

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

28 "**§ 14-203.4. Promoting prostitution.**

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

31 (1) Advances prostitution as defined in G.S. 14-203.1.

32 (2) Profits from prostitution by doing any of the following:

33 a. Compelling a person to become a prostitute.

34 b. Arranging or offering to arrange a situation in which a person may  
35 practice prostitution.

36 c. Any means other than those described in sub-subdivisions a. and b.  
37 of this subdivision, including from a person who patronizes a  
38 prostitute. This sub-subdivision does not apply to a person engaged  
39 in prostitution who is a minor. A person cannot be convicted of  
40 promoting prostitution under this sub-subdivision if the practice of  
41 prostitution underlying the offense consists exclusively of the  
42 accused's own acts of prostitution under G.S. 14-203.2.

43 (b) Sentence. – A violation of this section is punishable as follows:

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

1           (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  
2           felony, unless committed within 1,000 feet of real property comprising a  
3           school, in which case it is a Class C felony.

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

12     **"§ 14-203.5. Promoting prostitution of a minor.**

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

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

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

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

29           a.     Compels the child or severely or profoundly mentally disabled  
30           person to engage in prostitution.

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

33           c.     Profits from prostitution by the child or severely or profoundly  
34           mentally disabled person.

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

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

49           (d)     Forfeiture. – Any person convicted of a violation of this section that involves  
50     promoting prostitution of a minor by keeping a place of minor prostitution or convicted of a

1 violation of G.S. 14-203.5 (a)(3) is subject to the property forfeiture provisions set forth in G.S.  
2 14-2.3.

3 **"§ 14-203.6. Patronizing a prostitute.**

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

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

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

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

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

19 **"§ 14-203.7. Patronizing a minor engaged in prostitution.**

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

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

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

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

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

39 **"§ 14-203.10. Certain probation conditions.**

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

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

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

49 **"§ 14-203.15. Vehicle impoundment.**

50 (a) In addition to any other penalty provided by law, a law enforcement officer who  
51 arrests a person for a violation under this Article may tow and impound any vehicle used by the

1 person in the commission of the offense. The person arrested for the violation shall be charged  
2 a fee of one thousand dollars (\$1,000) to recover the vehicle. The local law enforcement agency  
3 that has jurisdiction where the arrest was made shall collect the fee. The person may recover  
4 the vehicle from the impound after a minimum of two hours after arrest upon payment of the  
5 fee.

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

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

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

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

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

36 ...."

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

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

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

47 **§ 15A-1416.1. Motion by the defendant to vacate prostitution conviction for sex**  
48 **trafficking victim.**

49 (a) The Court of Appeals has jurisdiction to hear a motion for appropriate relief filed on  
50 the grounds set out in G.S. 15A-1415(b)(10). A motion to vacate a conviction for prostitution  
51 may be filed at any time following the entry of a verdict or finding of guilty under

1 G.S. 14-203.2. Any motion for appropriate relief filed under this section shall state why the  
2 facts giving rise to this motion were not presented to the trial court and shall be made with due  
3 diligence after the defendant has ceased to be a victim of such trafficking or has sought services  
4 for victims of such offenses, subject to reasonable concerns for the safety of the defendant,  
5 family members of the defendant, or other victims of such trafficking that may be jeopardized  
6 by the bringing of such motion or for other reasons consistent with the purpose of this section.  
7 Reasonable notice of the motion shall be served upon the State.

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

- 13 (1) Certified records of federal or State court proceedings which demonstrate  
14 that the defendant was a victim of a trafficker charged with a trafficking  
15 offense under G.S. 14-43.11, G.S. 14-43.13, or under 22 U.S.C. Chapter 78.  
16 (2) Certified records of "approval notices" or "enforcement certifications"  
17 generated from federal immigration proceedings available to such victims.  
18 (3) A sworn statement from a trained professional staff of a victim services  
19 organization, an attorney, a member of the clergy, or a medical or other  
20 professional from whom the defendant has sought assistance in addressing  
21 the trauma associated with being trafficked.

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

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

26 **"§ 15A-145.6. Expunctions for certain defendants convicted of prostitution.**

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

- 28 (1) Prostitution offense – A conviction of a defendant for misdemeanor  
29 prostitution under G.S. 14-203.2.  
30 (2) Violent felony or violent misdemeanor – A Class A through G felony or a  
31 Class A1 misdemeanor or an offense that includes assault as an essential  
32 element of the offense.

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

- 36 (1) The person has not previously been convicted of any violent felony or  
37 violent misdemeanor under the laws of the United States or the laws of this  
38 State or any other state.  
39 (2) The person satisfies any one of the following criteria:  
40 a. The person's participation in the prostitution offense was a result of  
41 having been a trafficking victim under G.S. 14-43.11 (human  
42 trafficking) or G.S. 14-43.13 (sexual servitude) or a victim of a  
43 severe form of trafficking under the federal Trafficking Victims  
44 Protection Act (22 U.S.C. § 7102(13)).  
45 b. The person was less than 18 years old at the time that the person  
46 committed the offense.  
47 c. The person was sentenced under the deferred prosecution provisions  
48 in G.S. 14-203.2 and is eligible to apply for an expunction under  
49 G.S. 14-203.2(c).

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



- 1           (1)    An affidavit by the petitioner that the petitioner (i) has no prior conviction of  
2           a violent felony or violent misdemeanor, (ii) has been of good moral  
3           character since the date of conviction of the prostitution offense in question,  
4           and (iii) has not been convicted of any felony or misdemeanor under the  
5           laws of the United States or the laws of this State or any other state since the  
6           date of the conviction of the prostitution offense in question.
- 7           (2)    Verified affidavits of two persons who are not related to the petitioner or to  
8           each other by blood or marriage, that they know the character and reputation  
9           of the petitioner in the community in which the petitioner lives and that the  
10          petitioner's character and reputation are good.
- 11          (3)    A statement that the petition is a motion in the cause in the case wherein the  
12          petitioner was convicted.
- 13          (4)    An application on a form approved by the Administrative Office of the  
14          Courts requesting and authorizing (i) a State and national criminal history  
15          record check by the Department of Justice using any information required by  
16          the Administrative Office of the Courts to identify the individual; (ii) a  
17          search by the Department of Justice for any outstanding warrants or pending  
18          criminal cases; and (iii) a search of the confidential record of expunctions  
19          maintained by the Administrative Office of the Courts. The application shall  
20          be forwarded to the Department of Justice and to the Administrative Office  
21          of the Courts, which shall conduct the searches and report their findings to  
22          the court.
- 23          (5)    An affidavit by the petitioner that no restitution orders or civil judgments  
24          representing amounts ordered for restitution entered against the petitioner  
25          are outstanding.
- 26          (d)    The petition shall be served upon the district attorney of the court wherein the case  
27          was tried resulting in conviction. The district attorney shall have 30 days thereafter in which to  
28          file any objection thereto and shall be duly notified as to the date of the hearing of the petition.  
29          The district attorney shall make his or her best efforts to contact the victim, if any, to notify the  
30          victim of the request for expunction prior to the date of the hearing.
- 31          (e)    The court in which the petition was filed shall take the following steps and shall  
32          consider the following issues in rendering a decision upon a petition for expunction of records  
33          of a violation of G.S. 14-203.2 under this section:
- 34               (1)    Call upon a probation officer for additional investigation or verification of  
35               the petitioner's conduct during the period since the date of conviction of the  
36               prostitution offense in question.
- 37               (2)    Review any other information the court deems relevant, including, but not  
38               limited to, affidavits or other testimony provided by law enforcement  
39               officers and district attorneys.
- 40          (f)    The court shall order that the person be restored, in the contemplation of the law, to  
41          the status the person occupied before the arrest or indictment or information if the court finds  
42          all of the following after a hearing:
- 43               (1)    The criteria set out in subsection (b) of this section are satisfied.
- 44               (2)    The petitioner has remained of good moral character and has been free of  
45               conviction of any felony or misdemeanor, other than a traffic violation, for  
46               three years from the date of conviction of the prostitution offense in  
47               question.
- 48               (3)    The petitioner has no outstanding warrants or pending criminal cases.
- 49               (4)    The petitioner has no outstanding restitution orders or civil judgments  
50               representing amounts ordered for restitution entered against the petitioner.

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

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

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

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

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

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

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

32           (19a) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S.  
33           14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) and  
34           involved multiple victims.

35           (19b) The offense is a violation of G.S. 14-43.11 (human trafficking), G.S.  
36           14-43.12 (involuntary servitude), or G.S. 14-43.13 (sexual servitude) and the  
37           victim suffered serious injury as a result of the offense."

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

39          **"§ 15B-2. Definitions.**

40          As used in this Article, the following definitions apply, unless the context requires  
41 otherwise:

42          ...

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

- 45           a.   A victim;
- 46           b.   A dependent of a deceased victim;
- 47           c.   A third person who is not a collateral source and who provided  
48 benefit to the victim or his family other than in the course or scope of  
49 his employment, business, or profession;
- 50           d.   A person who is authorized to act on behalf of a victim, a dependent,  
51 or a third person described in ~~subdivision e.~~ sub-subdivision c.;

e. A person who was convicted of a first offense under G.S. 14-203.2 and whose participation in the offense was a result of having been a trafficking victim under G.S. 14-43.11 or G.S. 14-43.13 or a victim of a severe form of trafficking under the federal Trafficking Victims Protection Act (22 U.S.C. § 7102(13)).

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

...."

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

**"§ 7B-101. Definitions.**

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

(1) Abused juveniles. – Any juvenile less than 18 years of age whose parent, guardian, custodian, or caretaker:

- a. Inflicts or allows to be inflicted upon the juvenile a serious physical injury by other than accidental means;
- b. Creates or allows to be created a substantial risk of serious physical injury to the juvenile by other than accidental means;
- c. Uses or allows to be used upon the juvenile cruel or grossly inappropriate procedures or cruel or grossly inappropriate devices to modify behavior;
- d. Commits, permits, or encourages the commission of a violation of the following laws by, with, or upon the juvenile: first-degree rape, as provided in G.S. 14-27.2; rape of a child by an adult offender, as provided in G.S. 14-27.2A; second degree rape as provided in G.S. 14-27.3; first-degree sexual offense, as provided in G.S. 14-27.4; sexual offense with a child by an adult offender, as provided in G.S. 14-27.4A; second degree sexual offense, as provided in G.S. 14-27.5; sexual act by a custodian, as provided in G.S. 14-27.7; unlawful sale, surrender, or purchase of a minor, as provided in G.S. 14-43.14; crime against nature, as provided in G.S. 14-177; incest, as provided in G.S. 14-178; preparation of obscene photographs, slides, or motion pictures of the juvenile, as provided in G.S. 14-190.5; employing or permitting the juvenile to assist in a violation of the obscenity laws as provided in G.S. 14-190.6; dissemination of obscene material to the juvenile as provided in G.S. 14-190.7 and G.S. 14-190.8; displaying or disseminating material harmful to the juvenile as provided in G.S. 14-190.14 and G.S. 14-190.15; first and second degree sexual exploitation of the juvenile as provided in G.S. 14-190.16 and G.S. 14-190.17; ~~promoting the prostitution of the juvenile as provided in G.S. 14-190.18;~~ promoting prostitution of a minor as provided in G.S. 14-203.5; and taking indecent liberties with the juvenile, as provided in G.S. 14-202.1;
- e. Creates or allows to be created serious emotional damage to the juvenile; serious emotional damage is evidenced by a juvenile's severe anxiety, depression, withdrawal, or aggressive behavior toward himself or others; ~~or~~
- f. Encourages, directs, or approves of delinquent acts involving moral turpitude committed by the ~~juvenile~~ juvenile;

1 g. Commits or allows to be committed an offense under G.S. 14-43.11  
2 (human trafficking), G.S. 14-43.12 (involuntary servitude), or G.S.  
3 14-43.13 (sexual servitude against the child).

4 "...."

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

7 **"§ 14-43.20. Mandatory restitution; victim services; forfeiture.**

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

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

15 (c) Trafficking victim services. – Subject to the availability of funds, the Department of  
16 Health and Human Services may provide or fund emergency services and assistance to  
17 individuals who are victims of one or more offenses under G.S. 14-43.11, 14-43.12, or  
18 14-43.13.

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

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

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

32 **"§ 14-190.13. Definitions for certain offenses concerning minors.**

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

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

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

1 G.S. 14-190.16 (first degree sexual exploitation of a minor), G.S. 14-190.17  
2 (second degree sexual exploitation of a minor), G.S. 14-190.17A (third  
3 degree sexual exploitation of a minor), ~~G.S. 14-190.18 (promoting~~  
4 ~~prostitution of a minor)~~, G.S. 14-190.19 (participating in the prostitution of a  
5 ~~minor)~~,—G.S. 14-202.1 (taking indecent liberties with children),  
6 G.S. 14-202.3 (Solicitation of child by computer or certain other electronic  
7 devices to commit an unlawful sex act), G.S. 14-202.4(a)(taking indecent  
8 liberties with a student), G.S. 14-203.5 (promoting prostitution of a minor),  
9 G.S. 14-203.7 (patronizing a minor engaged in prostitution);  
10 G.S. 14-318.4(a1)(parent or caretaker commit or permit act of prostitution  
11 with or by a juvenile), or G.S. 14-318.4(a2)(commission or allowing of  
12 sexual act upon a juvenile by parent or guardian). The term also includes the  
13 following: a solicitation or conspiracy to commit any of these offenses;  
14 aiding and abetting any of these offenses."

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

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

- 18 a. A Class A, B1, B2, C, D, or E felony.
- 19 b. A Class F felony if it is a violation of one of the following:  
20 G.S. 14-16.6(b); 14-16.6(c); 14-18; 14-32.1(e); 14-32.2(b)(3);  
21 14-32.3(a); 14-32.4; 14-34.2; 14-34.6(c); 14-41; 14-43.3; 14-43.11;  
22 14-190.17; ~~14-190.19~~; 14-202.1; 14-203.7; 14-277.3A; 14-288.9;  
23 20-138.5; or former G.S. 14-277.3.
- 24 c. A Class G felony if it is a violation of one of the following:  
25 G.S. 14-32.3(b); 14-51; 14-58; 14-87.1; or 20-141.4.
- 26 d. A Class H felony if it is a violation of one of the following:  
27 G.S. 14-32.3(a); 14-32.3(c); 14-33.2; 14-277.3A; or former  
28 G.S. 14-277.3.
- 29 e. A Class I felony if it is a violation of one of the following:  
30 G.S. 14-32.3(b); 14-34.6(b); or 14-190.17A.
- 31 f. An attempt of any of the felonies listed in this subdivision if the  
32 attempted felony is punishable as a felony.
- 33 g. Any of the following misdemeanor offenses when the offense is  
34 committed between persons who have a personal relationship as  
35 defined in G.S. 50B-1(b): G.S. 14-33(c)(1); 14-33(c)(2); 14-33(a);  
36 14-34; 14-134.3; 14-277.3A; or former G.S. 14-277.3.
- 37 h. Any violation of a valid protective order under G.S. 50B-4.1."

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

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

1 also include a conviction of the following: any attempt, solicitation, or conspiracy to commit  
2 any of these offenses or any aiding and abetting any of these offenses. The term shall also  
3 include a conviction in another jurisdiction for an offense which if committed in this State has  
4 the same or substantially similar elements to an offense against a minor as defined by this  
5 section."

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

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

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

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

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

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

1                    prostitution, G.S. 14-203.7; and child abuse under G.S. 14-318.4. The Board  
2 shall mail notice of its intent to act pursuant to this subdivision by certified  
3 mail, return receipt requested, directed to the teacher or school administrator  
4 at their last known address. The notice shall inform the teacher or school  
5 administrator that it will revoke the person's license unless the teacher or  
6 school administrator notifies the Board in writing within 10 days after  
7 receipt of the notice that the defendant identified in the criminal record is not  
8 the same person as the teacher or school administrator. If the teacher or  
9 school administrator provides this written notice to the Board, the Board  
10 shall not revoke the license unless it can establish as a fact that the defendant  
11 and the teacher or school administrator are the same person."

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