

1

H.153

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Introduced by Representatives Grad of Moretown, Larson of Burlington, Ram

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of Burlington, Lippert of Hinesburg, Martin of Springfield,

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Pugh of South Burlington and Wizowaty of Burlington

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Referred to Committee on

6

Date:

7

Subject: Crimes; human trafficking

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Statement of purpose: This bill proposes to establish a comprehensive system

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of criminal penalties and prevention programs for human trafficking, and a

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program of services for human trafficking victims.

11

An act relating to human trafficking

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It is hereby enacted by the General Assembly of the State of Vermont:

13

~~Sec. 1. 13 V.S.A. chapter 60 is added to read:~~

14

~~CHAPTER 60. HUMAN TRAFFICKING~~

15

~~Subchapter 1. Criminal Acts~~

16

~~§ 2651. DEFINITIONS~~

17

~~As used in this subchapter:~~

18

~~(1) "Blackmail" means the extortion of money, labor, commercial~~

19

~~sexual activity, or anything of value from a person through use of a threat to~~

1 ~~expose a secret or publicize an asserted fact, whether true or false, that would~~
2 ~~tend to subject the person to hatred, contempt, ridicule, or prosecution.~~

3 (2) "Commercial sex act" means any sex act on account of which
4 anything of value is promised to, given to, or received by any person.

5 (3) "Debt bondage" means a condition or arrangement in which a person
6 requires that a debtor or a another person under the control of a debtor perform
7 labor, services, sexual acts, sexual conduct, or a sexually explicit performance
8 in order to retire, repay, or service a real or purported debt which the person
9 has caused by a systematic, continuous course of conduct with the intent to
10 defraud the debtor.

11 (4) "Family member" means a spouse, child, sibling, parent, next of kin,
12 domestic partner, or legal guardian of a victim.

13 (5) "Human trafficking" means to recruit, entice, harbor, transport,
14 provide, subject, or obtain by any means another person for labor servitude or
15 sexual servitude.

16 (6)(A) "Labor servitude" means labor or services performed or provided
17 by a person which are induced or maintained through another person's conduct
18 by one or more of the following means:

19 (i) Withholding, destroying, or confiscating any actual or
20 purported passport, immigration document, or any other government
21 identification document of the person;

- 1 ~~(ii) Abusing or threatening to abuse the law or legal process;~~
- 2 (iii) Force, threats of force, physical restraint, or threats of
- 3 physical restraint;
- 4 (iv) Imposing or threatening to impose financial harm on the
- 5 person;
- 6 (v) Providing a drug to the person with the intent to impair the
- 7 person's judgment or maintain a state of chemical dependence;
- 8 (vi) Wrongfully taking, obtaining, or withholding any property of
- 9 the person;
- 10 (vii) Deception or fraud;
- 11 (viii) Blackmail;
- 12 (ix) Asserting control over the finances of the person;
- 13 (x) Debt bondage;
- 14 (xi) Making false promises relating to the terms and conditions of
- 15 employment, education, marriage, or financial support;
- 16 (xii) Withholding or threatening to withhold food or medication;
- 17 or
- 18 (xiii) Any scheme, plan, or pattern intended to cause the person to
- 19 believe that if he or she did not perform such labor or services, he or she or
- 20 another person would suffer bodily injury, restraint, or financial harm.

1 ~~(B) "Labor servitude" shall not include labor or services performed~~
2 ~~by family members in a family business or commercial establishment.~~

3 (7) "Person" shall have the same meaning as in section 128 of Title 1.

4 (8) "Serious bodily injury" shall have the same meaning as in
5 subdivision 1021(2) of this title.

6 (9) "Sexual act" shall have the same meaning as in subdivision 3251(1)
7 of this title.

8 (10) "Sexual conduct" shall have the same meaning as in subdivision
9 3251(2) of this title.

10 (11) "Sexually explicit performance" means a public, live,
11 photographed, recorded, or videotaped act or show which:

12 (A) Depicts a sexual act or sexual conduct;

13 (B) Is intended to arouse, satisfy the sexual desires of, or appeal to
14 the prurient interests of patrons or viewers; and

15 (C) Lacks literary, artistic, political, or scientific value.

16 (12) "Sexual servitude" means the performance of any sexual act, sexual
17 conduct, or sexually explicit performance which is induced or maintained
18 through another person's conduct by one or more of the following means:

19 (A) Withholding, destroying, or confiscating any actual or purported
20 passport, immigration document, or any other government identification
21 document of the person;

1 ~~(B) Abusing or threatening to abuse the law;~~

2 (C) Force, threats of force, physical restraint, or threats of physical
3 restraint;

4 (D) Imposing or threatening to impose financial harm on another
5 person;

6 (E) Providing a drug to the person with the intent to impair the
7 person's judgment or maintain a state of chemical dependence;

8 (F) Wrongfully taking, obtaining, or withholding any property of
9 another person;

10 (G) Deception or fraud;

11 (H) Blackmail;

12 (I) Asserting control over the finances of another person;

13 (J) Debt bondage;

14 (K) Making false promises relating to the terms and conditions of
15 employment, education, marriage, or financial support;

16 (L) Withholding or threatening to withhold food or medication; or

17 (M) Any scheme, plan, or pattern intended to cause the person to
18 believe that, if he or she did not perform such labor or services, he or she or
19 another person would suffer bodily injury, restraint, or financial harm.

20 (13) "Victim of human trafficking" means a person who has been
21 subject to labor servitude or sexual servitude.

§ 2652. HUMAN TRAFFICKING FOR LABOR SERVITUDE

(a) No person shall knowingly:

(1) Subject another person to labor servitude;

(2) Recruit, entice, solicit, harbor, transport, provide, or obtain by any means another person for the purposes of labor servitude; or

(3) Benefit financially or by receiving anything of value as a result of participating in a venture which is in violation of subdivision (1) or (2) of this subsection.

(b) A person who violates this section shall be imprisoned not more than 20 years or fined not more than \$75,000.00, or both.

(c) Evidence of consent or permission by a victim of human trafficking or by anyone on the victim's behalf shall not constitute a defense to a prosecution under this section, and such evidence shall not preclude a conviction under this section.

§ 2653. HUMAN TRAFFICKING FOR SEXUAL SERVITUDE

(a) No person shall knowingly:

(1) Subject another person to sexual servitude;

(2) Recruit, entice, solicit, harbor, transport, provide, or obtain by any means another person for the purposes of sexual servitude; or

1 ~~(3) Benefit financially or by receiving anything of value as a result of~~
2 ~~participating in a venture which is in violation of subdivision (1) or (2) of this~~
3 ~~subsection.~~

4 (b) A person who violates any subdivision of this section shall be
5 imprisoned not more than 20 years or fined not more than \$75,000.00, or both.

6 (c) In a prosecution for a violation of this section, the alleged consent of the
7 victim and evidence of the victim's prior sexual conduct are irrelevant and
8 shall not be admitted.

9 (d) In a prosecution for a violation of this section, age of consent of sex,
10 legal age of marriage, or other discretionary age shall not be used as a defense.

11 (e) In a prosecution for a violation of this section, a mistake as to the
12 victim's age shall not be a defense, even if the mistake was reasonable.

13 § 2654. AGGRAVATED HUMAN TRAFFICKING

14 (a) A person commits the crime of aggravated human trafficking if the
15 person commits human trafficking for labor or sexual servitude under any of
16 the following circumstances:

17 (1) The offense involves a victim of human trafficking who is a child
18 under the age of 18;

19 (2) The person has previously been convicted of a violation of section
20 2652 or 2653 of this title;

1 ~~(3) The victim of human trafficking suffers serious bodily injury or~~
2 ~~death; or~~

3 ~~(4) The actor commits the crime of human trafficking under~~
4 ~~circumstances which constitute the crime of sexual assault as defined in section~~
5 ~~3252 of this title, aggravated sexual assault as defined in section 3253 of this~~
6 ~~title, or aggravated sexual assault of a child as defined in section 3253a of this~~
7 ~~title.~~

8 ~~(b) A person who violates this section shall be imprisoned not less than 20~~
9 ~~years and a maximum term of life or fined not more than \$100,000.00, or both.~~

10 ~~(c) In a prosecution for a violation of this section, a mistake as to the~~
11 ~~victim's age shall not be a defense, even if the mistake was reasonable.~~

12 § 2655. PATRONIZING OR FACILITATING HUMAN TRAFFICKING

13 (a) No person shall knowingly:

14 (1) Permit a place, structure, or building owned by the person or under
15 the person's control to be used for the purpose of human trafficking for labor
16 servitude or sexual servitude;

17 (2) Receive or offer or agree to receive or offer a person into a place,
18 structure, or building for the purpose of human trafficking for labor servitude
19 or sexual servitude; or

1 ~~(3) Permit a person to remain in a place, structure, building, or~~
2 ~~conveyance for the purpose of human trafficking for labor servitude or sexual~~
3 ~~servitude.~~

4 ~~(b) A person who violates this section shall be imprisoned not more than~~
5 ~~two years or fined not more than \$25,000.00, or both.~~

6 ~~§ 2655a. SOLICITATION~~

7 ~~(a) No person shall knowingly solicit a commercial sex act from a victim of~~
8 ~~human trafficking.~~

9 ~~(b) A person who violates this section shall be imprisoned not more than~~
10 ~~two years or fined not more than \$25,000.00, or both.~~

11 ~~§ 2656. CRIMINAL LIABILITY OF BUSINESS ENTITIES~~

12 ~~If a business entity, including a corporation, partnership, association, or any~~
13 ~~other legal entity, is convicted of violating this chapter, the court, in addition to~~
14 ~~any other applicable penalty, may order:~~

15 ~~(1) The dissolution or reorganization of the business entity;~~

16 ~~(2) The suspension or revocation of any license, permit, or prior~~
17 ~~approval granted to the entity by a state or local government body; or~~

18 ~~(3) The surrender of its charter if the entity is organized under the laws~~
19 ~~of this state or the revocation of its certificate to conduct business in Vermont~~
20 ~~if the entity is not organized under the laws of this state.~~

1 ~~§ 2657. RESTITUTION~~

2 ~~(a) A person convicted of a violation of this subchapter shall be ordered to~~
3 ~~pay restitution to the victim of human trafficking. In addition to any other loss~~
4 ~~identified, the restitution order shall compensate the victim of human~~
5 ~~trafficking for:~~

6 ~~(1) Costs of medical and psychological treatment;~~

7 ~~(2) Costs of physical and occupational therapy and rehabilitation;~~

8 ~~(3) Costs of necessary transportation, temporary housing, and child care;~~

9 ~~(4) Attorneys' fees and costs, including expert witness fees and~~
10 ~~expenses, and victim advocate fees;~~

11 ~~(5) The value of any of the victim's property which was taken or~~
12 ~~destroyed by the defendant; and~~

13 ~~(6) The greater of either:~~

14 ~~(A) The gross income or value of the labor performed for the~~
15 ~~defendant by the victim of human trafficking; or~~

16 ~~(B) The value of the labor performed by the victim of human~~
17 ~~trafficking as guaranteed under the minimum wage and overtime provisions of~~
18 ~~21 V.S.A. § 385.~~

19 ~~(b) Restitution shall be paid to the victim promptly upon the conviction of~~
20 ~~the defendant.~~

1 ~~(c) If the victim of human trafficking to whom restitution is owed dies as a~~
2 ~~result of being trafficked, any restitution ordered shall be paid to the victim's~~
3 ~~spouse. If no surviving spouse exists, then restitution shall be paid in~~
4 ~~accordance with 14 V.S.A. § 314.~~

5 (d) The return of the victim of human trafficking to his or her home country
6 or other absence of the victim from the jurisdiction shall not limit the victim's
7 right to receive restitution pursuant to this section.

8 Subchapter 2. Forfeiture

9 § 2665. SCOPE

10 (a) The following property shall be subject to this subchapter:

11 (1) All property, both real and personal, used or intended to be used in
12 connection with or in furtherance of a violation of subchapter 1 of this chapter;

13 (2) All books and records, including tapes, computers, software, and
14 data, used or intended to be used in connection with or in furtherance of a
15 violation of subchapter 1 of this chapter;

16 (3) Any consideration, including monies, negotiable instruments and
17 securities given or received, and any proceeds or derivative proceeds in
18 connection with or in furtherance of a violation of subchapter 1 of this chapter;

19 (4) All conveyances, including aircraft, vehicles, or vessels, which are
20 used or intended for use in connection with or in furtherance of a violation of
21 subchapter 1 of this chapter.

1 ~~(b) Notwithstanding subsection (a) of this section, no conveyance shall be~~
2 ~~forfeited:~~

3 ~~(1) Which is used by a person as a common carrier in the transaction of~~
4 ~~business as a common carrier, unless the owner or other person in charge of~~
5 ~~such conveyance was a consenting party or privy to a violation of subchapter 1~~
6 ~~of this chapter;~~

7 ~~(2) By reason of any act or omission of any person other than the owner~~
8 ~~while the conveyance was unlawfully in the possession of a person other than~~
9 ~~the owner in violation of the criminal laws of the United States, this state, or~~
10 ~~any other state; or~~

11 ~~(3) By reason of the use or intended use of the conveyance in violation~~
12 ~~of subchapter 1 of this chapter by a person other than the owner, unless the~~
13 ~~owner knew or had reason to believe that the conveyance was used in that~~
14 ~~manner.~~

15 § 2666. SEIZURE

16 (a) The court may issue, at the request of the state ex parte, a preliminary
17 order or process to seize or secure property for which forfeiture is sought and
18 to provide for its custody. Process for seizure of such property shall issue only
19 upon a showing of probable cause that the property is subject to forfeiture.
20 Application therefor and issuance, execution, and return shall be subject to
21 provisions of applicable law.

1 ~~(b) Any property subject to forfeiture under this subchapter may be seized~~
2 ~~upon process. Seizure without process may be made when:~~

3 ~~(1) The seizure is incident to an arrest with probable cause or a search~~
4 ~~under a valid search warrant;~~

5 ~~(2) The property subject to seizure has been the subject of a prior~~
6 ~~judgment in favor of the state in a forfeiture proceeding under this subchapter;~~
7 ~~or~~

8 ~~(3) The seizure is incident to a valid warrantless search.~~

9 ~~(c) If property is seized without process under subdivision (b)(1) or (3) of~~
10 ~~this section, the state shall forthwith petition the court for a preliminary order~~
11 ~~or process under subsection (a) of this section.~~

12 § 2667. PETITION FOR FORFEITURE

13 ~~(a) The state shall file a petition for forfeiture of any property seized under~~
14 ~~section 2668 of this title promptly but, in any case, not more than 14 days from~~
15 ~~the date the preliminary order or process is issued. The petition shall be filed~~
16 ~~in the superior court of the county in which the property is located or in any~~
17 ~~court with jurisdiction over a criminal proceeding related to the property.~~

18 ~~(b) A copy of the petition shall be sent by certified mail to all persons~~
19 ~~named in the petition. In addition, the state shall cause notice of the petition to~~
20 ~~be published in a newspaper of general circulation in the state, as ordered by~~
21 ~~the court. The petition shall state:~~

1 ~~(1) The facts upon which the forfeiture is requested, including a~~
2 ~~description of the property subject to forfeiture; and~~

3 ~~(2) The names of the apparent owner or owners, lien holders who have~~
4 ~~properly recorded their interests, and any other person appearing to have an~~
5 ~~interest; and, in the case of a conveyance, the name of the person holding title,~~
6 ~~the registered owner, and the make, model, and year of the conveyance.~~

7 § 2668. FORFEITURE HEARING

8 ~~(a) The court shall hold a hearing on the petition no less than 14 nor more~~
9 ~~than 30 days after notice. For good cause shown or on the court's own motion,~~
10 ~~the court may stay the forfeiture proceedings pending resolution of related~~
11 ~~criminal proceedings. If a person named in the petition is a defendant in a~~
12 ~~related criminal proceeding and the proceeding is dismissed or results in a~~
13 ~~judgment of acquittal, the petition shall be dismissed as to the defendant's~~
14 ~~interest in the property.~~

15 ~~(b) A lien holder who has received notice of a forfeiture proceeding may~~
16 ~~intervene as a party. If the court finds that the lien holder has a valid, good~~
17 ~~faith interest in the property which is not held through a straw purchase, trust,~~
18 ~~or otherwise for the actual benefit of another, and that the lien holder did not at~~
19 ~~any time have knowledge or reason to believe that the property was being or~~
20 ~~would be used in violation of the law, the court upon forfeiture shall order~~
21 ~~compensation to the lien holder to the extent of the lien holder's interest.~~

1 ~~(c) The proceeding shall be against the property and shall be deemed civil~~
2 ~~in nature. The state shall have the burden of proving all material facts by clear~~
3 ~~and convincing evidence.~~

4 ~~(d) The court shall make findings of fact and conclusions of law and shall~~
5 ~~issue a final order if the burden of proof is met.~~

6 ~~(e) Upon issuance of the court's final order, the state shall have a lien on all~~
7 ~~of the property subject to the order. The priority of the state's lien shall relate~~
8 ~~back to the date of seizure.~~

9 § 2669. MAINTENANCE

10 Law enforcement agencies seizing property under this subchapter shall
11 ensure that the property is properly maintained. Equipment and conveyances
12 seized shall be removed to an appropriate place for storage. Any monies,
13 negotiable instruments, or securities seized shall, if practicable, be deposited in
14 an interest-bearing account pending final disposition by the court, unless the
15 seizing agency determines the property to be of an evidentiary nature and
16 provides for its security in another manner. Any such deposit in an
17 interest-bearing account shall only be accomplished pursuant to a court order
18 directing the same, and the court shall have jurisdiction to enter such order or
19 any other order directing interim disposition of the property pending final
20 disposition by the court.

~~§ 2670. COSTS AND DISPOSITION OF PROPERTY~~

~~(a) All costs incurred by the state in any proceeding under this subchapter shall be taxed to the defendant in any related criminal proceeding, provided he or she is convicted.~~

~~(b) All property forfeited to the state pursuant to this subchapter shall be sold at public auction as-is, subject to all liens and encumbrances.~~

~~(c) The sale proceeds from any public auction held pursuant to this section shall be distributed in the following order:~~

~~(1) First, to satisfy any outstanding, properly perfected liens upon the assets which have not otherwise been forfeited and which enjoy priority over the state's lien as described in section 2668 of this subchapter;~~

~~(2) Second, to any restitution order issued pursuant to section 2666 of this subchapter; and~~

~~(3) Third, to the victims' compensation special fund created in section 5359 of this title.~~

~~(d) Nothing in this section shall prejudice the rights of the bona fide owner of any forfeited property, upon affirmative proof by such owner, that he or she had no express or implied knowledge that such property was being used or was intended to be used in connection with the crime for which the defendant was convicted. The bona fide owner shall be entitled to a return of the forfeited~~

1 ~~property if he or she appears in court before adjudication of the forfeiture and~~
2 establishes his or her right to such return.

3 § 2671. RECORDS

4 (a) A state law enforcement agency or department or other state agencies or
5 departments which have custody of any property subject to forfeiture under
6 this subchapter or which dispose of such property shall keep and maintain full
7 and complete records, including the following:

8 (1) The source from whom the property was received;

9 (2) A description of the property;

10 (3) The value of the property;

11 (4) The location of the account and the amount of interest, if the
12 property is deposited in an interest-bearing account;

13 (5) The authority under which the property was held, received, or
14 disposed;

15 (6) The person to whom the property was delivered; and

16 (7) The date and manner of destruction or disposition of the property.

17 (b) The records shall be submitted to the state treasurer and shall be open to
18 inspection pursuant to 1 V.S.A. §§ 315–320. Persons making final disposition
19 or destruction of the property under court order shall report, under oath, to the
20 court the exact circumstances of that disposition or destruction, and a copy of
21 that report shall be sent to the state treasurer.

~~Subchapter 3. Posting of Resource Guides; Private Cause of Action for~~

Victims; Victim Protection

§ 2680. RESOURCE GUIDE POSTING REQUIREMENTS; PENALTY

(a) The following persons shall prominently display in and around each place of business printed notices available from the official website of the Vermont department of labor:

(1) An employer, as defined in 21 V.S.A. § 302(1);

(2) A person hiring or contracting for the labor or services of another and who maintains a permanent place of business within this state;

(3) A person who owns or operates a hotel, as defined in 32 V.S.A. § 9202(3); and

(4) A person who owns or operates an establishment with either a first or a third class license pursuant to 7 V.S.A. § 222 or 224.

(b) The notice required by this section shall, at a minimum, be no smaller in dimension than 8.5 inches by 11 inches, provide contact information for at least one local law enforcement agency, and provide the following information regarding the National Human Trafficking Resource Center (NHTRC) hotline in substantially the following form:

“If you or someone you know is being forced to engage in any activity and cannot leave – whether it is commercial sex, housework, farm work, or any other activity – call the toll-free National Human Trafficking

~~Resource Center Hotline at 1-888-373-7888 to access help and services.~~

The toll-free hotline is:

- Available 24 hours a day, 7 days a week
- Operated by a nonprofit, nongovernmental organization
- Anonymous and confidential
- Accessible in 170 languages
- Able to provide help, referral to services, training, and general information.

(c) The notice required by this section shall be printed in English, Spanish, and another language which is either spoken by an employee after the Vermont department of labor is notified of the presence of such language in the workplace, or which is deemed advisable by the appropriate licensing agency, after the Vermont department of labor is notified by such agency.

(d) A person who violates this section shall be fined not more than \$100.00.

§ 2681. PRIVATE CAUSE OF ACTION

(a) A victim of human trafficking may bring an action against the offender in the civil division of the superior court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees. Actual damages may include any loss for which restitution is available under section 2657 of this chapter.

1 ~~(b) If the victim is deceased or otherwise unable to represent himself or~~
2 ~~herself, the victim may be represented by a legal guardian, family member, or~~
3 ~~other representative appointed by the court.~~

4 (c) In a civil action brought under this section, the alleged consent of the
5 victim and evidence of the victim's prior sexual conduct are irrelevant and
6 shall not be admitted except as necessary to prove the allegations of the
7 complaint.

8 (d) A civil action brought under this section may be commenced at any
9 time after the commission of the offense.

10 § 2682. SAFE HARBOR

11 (a) A victim of human trafficking is not criminally liable for any sexual act,
12 sexual conduct, sexually explicit performance, or an act of prostitution
13 committed as a direct result of or incident to being a victim of human
14 trafficking. If the victim was under 18 years of age at the time of the offense,
15 the department for children and families shall respond to this person as a
16 subject of a child protection matter.

17 (b) Duress or coercion may be used as an affirmative defense if a victim of
18 human trafficking is prosecuted for any other offense resulting from acts
19 performed while being trafficked.

~~§ 2683. CONFIDENTIALITY OF VICTIM IDENTITY~~

~~In a prosecution for a violation of this chapter, the identity of the victim and the victim's family shall be deemed confidential and shall not be released to the public.~~

~~§ 2684. DEPARTMENT FOR CHILDREN AND FAMILIES; PROTOCOL~~

~~The Vermont department for children and families shall develop a statewide protocol for the interplay between the immunity provisions for minor victims of human trafficking established by this chapter and other existing child protection statutes. The protocol shall address the use of the child protection registry maintained by the Vermont department for children and families to record adult convictions for violations of this chapter.~~

~~§ 2685. SERVICES FOR VICTIMS OF HUMAN TRAFFICKING;~~

~~IMMIGRATION ASSISTANCE~~

~~(a) Services for victims of human trafficking.~~

~~(1) The Vermont center for crime victim services may coordinate with and assist social service providers, victim service providers, state agencies, law enforcement agencies, state's attorneys' offices, the office of the attorney general, and other agencies and nongovernmental organizations as necessary to develop a statewide protocol to provide services for victims of human trafficking in Vermont. The protocol may include a public awareness and education campaign.~~

1 ~~(2) The Vermont center for crime victim services may enter into~~
2 ~~contracts with individuals and nongovernmental organizations in order to~~
3 ~~develop a statewide protocol and to coordinate services to victims of human~~
4 ~~trafficking, insofar as funds are available for that purpose. Such services may~~
5 ~~include:~~
6 ~~(A) Case management;~~
7 ~~(B) Emergency temporary housing;~~
8 ~~(C) Health care;~~
9 ~~(D) Mental health counseling;~~
10 ~~(E) Drug addiction screening and treatment;~~
11 ~~(F) Language interpretation and translation services;~~
12 ~~(G) English language instruction;~~
13 ~~(H) Job training and placement assistance;~~
14 ~~(I) Post-employment services for job retention; and~~
15 ~~(J) Services to assist the victim of human trafficking and any of his or~~
16 ~~her family members to establish a permanent residence in Vermont or the~~
17 ~~United States.~~

18 ~~(3) Nothing in this section precludes the Vermont center for crime~~
19 ~~victim services or any local social services organization from providing~~
20 ~~victims of human trafficking in Vermont with any benefits or services for~~
21 ~~which they may otherwise be eligible.~~

1 ~~(b) Classification of victims of human trafficking.~~

2 ~~(1) As soon as practicable after the initial encounter with a person who~~
3 ~~reasonably appears to a law enforcement agency, state's attorneys' office, or~~
4 ~~the office of the attorney general to be a victim of human trafficking, such~~
5 ~~agency or office shall notify the victim's compensation program at the center~~
6 ~~for crime victim services that such person may be eligible for services under~~
7 ~~this chapter.~~

8 ~~(2) The referring agency or office shall make a preliminary assessment~~
9 ~~of whether such victim or possible victim of human trafficking appears to meet~~
10 ~~the criteria for certification as a victim of a severe form of trafficking in~~
11 ~~persons as defined in section 7105 of Title 22 of the United States Code~~
12 ~~(Trafficking Victims Protection Act) or appears to be otherwise eligible for any~~
13 ~~federal, state, or local benefits and services. If it is determined that the victim~~
14 ~~appears to meet such criteria, the agency shall report the finding to the victim~~
15 ~~and shall refer the victim to services available, including legal service~~
16 ~~providers. If the possible victim is under the age of 18 or is a vulnerable adult,~~
17 ~~the agency or office shall also notify the department for children and families~~
18 ~~or the office of adult protective services in the department of disabilities,~~
19 ~~aging, and independent living.~~

20 ~~(c) Law enforcement assistance with respect to immigration. After the~~
21 ~~referring agency or office makes a preliminary assessment that a victim of~~

1 ~~human trafficking or possible victim of human trafficking appears to meet the~~
2 criteria for certification as a victim of a severe form of trafficking in persons,
3 as defined in section 7105 of Title 22 of the United States Code, and upon the
4 request of such victim, the referring agency or office shall provide the victim
5 of human trafficking with a completed and executed United States citizenship
6 and immigration service (USCIS) form I-194 supplement B declaration of law
7 enforcement officer for victim of human trafficking in persons and a USCIS
8 form I-918, supplement B, U nonimmigrant status certification. These
9 endorsements shall be completed by the certifying officer in accordance with
10 the forms' instructions and applicable rules and regulations. The victim of
11 human trafficking may choose which form to have the certifying officer
12 complete.

13 Sec. 2. 4 V.S.A. § 32 is amended to read:

14 § 32. JURISDICTION; CRIMINAL DIVISION

15 * * *

16 (c) The criminal division shall have jurisdiction of the following civil
17 actions:

18 * * *

19 (14) Human trafficking forfeiture proceedings under subchapter 2 of
20 chapter 60 of Title 13.

1 ~~Sec. 3. 13 V.S.A. § 4501 is amended to read:~~

2 § 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN FELONIES

3 (a) Prosecutions for aggravated sexual assault, aggravated sexual assault of
4 a child, human trafficking for labor servitude, human trafficking for sexual
5 servitude, aggravated human trafficking, murder, arson causing death, and
6 kidnapping may be commenced at any time after the commission of the
7 offense.

8 * * *

9 Sec. 4. 13 V.S.A. § 9 is amended to read:

10 § 9. ATTEMPTS

11 (a) A person who attempts to commit an offense and does an act toward the
12 commission thereof, but by reason of being interrupted or prevented fails in the
13 execution of the same, shall be punished as herein provided unless other
14 express provision is made by law for the punishment of the attempt. If the
15 offense attempted to be committed is murder, aggravated murder, kidnapping,
16 arson causing death, human trafficking for labor servitude, human trafficking
17 for sexual servitude, aggravated sexual assault, or sexual assault, a person shall
18 be punished as the offense attempted to be committed is by law punishable.

19 * * *

1 ~~Sec. 5. 13 V.S.A. § 5301 is amended to read:~~

2 § 5301. DEFINITIONS

3 * * *

4 (7) For the purpose of this chapter, "listed crime" means any of the
5 following offenses:

6 * * *

7 (CC) aggravated sexual assault of a child in violation of section
8 3253a of this title; ~~and~~

9 (DD) sex trafficking of children or sex trafficking by force, fraud, or
10 coercion as defined in section 2635a of this title;

11 (EE) human trafficking for sexual servitude as defined in section
12 2653 of this title; and

13 (FF) aggravated human trafficking as defined in section 2654 of this
14 title.

15 Sec. 6. EFFECTIVE DATE

16 ~~This act shall take effect on July 1, 2011.~~

~~*Sec. 1. 13 V.S.A. chapter 60 is added to read:*~~

~~*CHAPTER 60. HUMAN TRAFFICKING*~~

~~*Subchapter 1. Criminal Acts*~~

~~*§ 2651. DEFINITIONS*~~

~~*As used in this subchapter:*~~

~~(1) "Blackmail" means the extortion of money, labor, commercial sexual activity, or anything of value from a person through use of a threat to expose a secret or publicize an asserted fact, whether true or false, that would tend to subject the person to hatred, contempt, ridicule, or prosecution.~~

~~(2) "Coercion" means:~~

~~(A) threat of serious harm, including physical or financial harm, to, or physical restraint against, any person;~~

~~(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious bodily harm or financial harm to, or physical restraint against, any person;~~

~~(C) the abuse or threatened abuse of law or the legal process;~~

~~(D) withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other government identification document of another person;~~

~~(E) providing a drug, including alcohol, to another person with the intent to impair the person's judgment or maintain a state of chemical dependence;~~

~~(F) wrongfully taking, obtaining, or withholding any property of another person;~~

~~(G) blackmail;~~

~~(H) asserting control over the finances of another person;~~

~~(I) debt bondage; or~~

~~(J) withholding or threatening to withhold food or medication.~~

~~(3) “Commercial sex act” means any sex act or sexually explicit performance on account of which anything of value is promised to, given to, or received by any person.~~

~~(4) “Debt bondage” means a condition or arrangement in which a person requires that a debtor or another person under the control of a debtor perform labor, services, sexual acts, sexual conduct, or a sexually explicit performance in order to retire, repay, or service a real or purported debt which the person has caused with the intent to defraud the debtor.~~

~~(5) “Family member” means a spouse, child, sibling, parent, next of kin, domestic partner, or legal guardian of a victim.~~

~~(6) “Human trafficking” means to subject a person to a violation of section 2652 of this title.~~

~~(7) “Labor servitude” means labor or services performed or provided by a person which are induced or maintained through force, fraud, or coercion. “Labor servitude” shall not include labor or services performed by a family member of a person who is engaged in the business of farming as defined in 10 V.S.A. § 6001(22) unless force, fraud, or coercion is used.~~

~~(8) “Serious bodily injury” shall have the same meaning as in subdivision 1021(2) of this title.~~

~~(9) "Sexual act" shall have the same meaning as in subdivision 3251(1) of this title.~~

~~(10) "Sexual conduct" shall have the same meaning as in subdivision 2821(2) of this title.~~

~~(11) "Sexually explicit performance" means a public, live, photographed, recorded, or videotaped act or show which:~~

~~(A) Depicts a sexual act or sexual conduct;~~

~~(B) Is intended to arouse, satisfy the sexual desires of, or appeal to the prurient interests of patrons or viewers; and~~

~~(C) Lacks literary, artistic, political, or scientific value.~~

~~(12) "Venture" means any group of two or more individuals associated in fact, whether or not a legal entity.~~

~~(13) "Victim of human trafficking" means a victim of a violation of section 2652 of this title.~~

~~§ 2652. HUMAN TRAFFICKING~~

~~(a) No person shall knowingly:~~

~~(1) recruit, entice, harbor, transport, provide, or obtain by any means a person under the age of 18 for the purpose of having the person engage in a commercial sex act;~~

~~(2) recruit, entice, harbor, transport, provide, or obtain a person through force, fraud, or coercion for the purpose of having the person engage in a commercial sex act;~~

~~(3) compel a person through force, fraud, or coercion to engage in a commercial sex act;~~

~~(4) benefit financially or by receiving anything of value from participation in a venture, knowing that force, fraud, or coercion was or will be used to compel any person to engage in a commercial sex act as part of the venture;~~

~~(5) subject a person to labor servitude;~~

~~(6) recruit, entice, harbor, transport, provide, or obtain a person for the purpose of subjecting the person to labor servitude; or~~

~~(7) benefit financially or by receiving anything of value from participation in a venture, knowing that a person will be subject to labor servitude as part of the venture.~~

~~(b) A person who violates subsection (a) of this section shall be imprisoned for a term up to and including life or fined not more than \$25,000.00 or both.~~

~~(c)(1) A person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title shall not be found in violation of or be the subject of a delinquency petition based on chapter 59 (lewdness and~~

~~prostitution) or 63 (obscenity) of this title for any conduct committed as a victim of sex trafficking.~~

~~(2) If a person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)-(4) of this title is prosecuted for any offense or is the subject of any delinquency petition, other than a violation of chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title, which arises out of the sex trafficking or benefits the sex trafficker, the person may raise as an affirmative defense that he or she committed the offense as a result of force, fraud, or coercion by a sex trafficker.~~

~~(d) In a prosecution for a violation of this section, the victim's alleged consent to the human trafficking is immaterial and shall not be admitted.~~

~~(e) In a prosecution for a violation of this section, a mistake as to the victim's age shall not be a defense, even if the mistake was reasonable.~~

~~(f) If a person who is a victim of human trafficking is under 18 years of age at the time of the offense, the state may treat the person as the subject of a child in need of care or supervision proceeding.~~

~~§ 2653. AGGRAVATED HUMAN TRAFFICKING~~

~~(a) A person commits the crime of aggravated human trafficking if the person commits human trafficking in violation of section 2652 of this title under any of the following circumstances:~~

~~(1) The offense involves a victim of human trafficking who is a child under the age of 18;~~

~~(2) The person has previously been convicted of a violation of section 2652 of this title;~~

~~(3) The victim of human trafficking suffers serious bodily injury or death; or~~

~~(4) The actor commits the crime of human trafficking under circumstances which constitute the crime of sexual assault as defined in section 3252 of this title, aggravated sexual assault as defined in section 3253 of this title, or aggravated sexual assault of a child as defined in section 3253a of this title.~~

~~(b) A person who violates this section shall be imprisoned not less than 20 years and a maximum term of life or fined not more than \$100,000.00, or both.~~

~~(c) In a prosecution for a violation of this section, a mistake as to the victim's age shall not be a defense, even if the mistake was reasonable.~~

~~(d) The provisions of this section do not limit or restrict the prosecution for murder or manslaughter.~~

~~§ 2654. PATRONIZING OR FACILITATING HUMAN TRAFFICKING~~

~~(a) No person shall knowingly:~~

~~(1) Permit a place, structure, or building owned by the person or under the person's control to be used for the purpose of human trafficking;~~

~~(2) Receive or offer or agree to receive or offer a person into a place, structure, or building for the purpose of human trafficking; or~~

~~(3) Permit a person to remain in a place, structure, building, or conveyance for the purpose of human trafficking.~~

~~(b) A person who violates this section shall be imprisoned not more than two years or fined not more than \$25,000.00, or both.~~

~~§ 2655. SOLICITATION~~

~~(a) No person shall knowingly solicit a commercial sex act from a victim of human trafficking.~~

~~(b) A person who violates this section shall be imprisoned not more than two years or fined not more than \$25,000.00, or both.~~

~~§ 2656. HUMAN TRAFFICKING BY A BUSINESS ENTITY;~~

~~DISSOLUTION~~

~~If a business entity, including a corporation, partnership, association, or any other legal entity, is convicted of violating this chapter, the attorney general may commence a proceeding in the civil division of the superior court to dissolve the entity pursuant to 11A V.S.A. § 14.30-14.33.~~

~~§ 2657. RESTITUTION~~

~~(a) A person convicted of a violation of this subchapter shall be ordered to pay restitution to the victim pursuant to section 7043 of this title.~~

~~(b) If the victim of human trafficking to whom restitution has been ordered dies before restitution is paid, any restitution ordered shall be paid to the victim's heir or legal representative.~~

~~(c) The return of the victim of human trafficking to his or her home country or other absence of the victim from the jurisdiction shall not limit the victim's right to receive restitution pursuant to this section.~~

~~Subchapter 2. Resource Guide Posting; Private Cause of Action for Victims; Victim Protection~~

~~§ 2661. RESOURCE GUIDE POSTING~~

~~(a) A notice offering help to victims of human trafficking shall be accessible on the official website of the Vermont department of labor and may be posted in a prominent and accessible location in workplaces.~~

~~(b) The notice should provide contact information for at least one local law enforcement agency, and provide the following information regarding the National Human Trafficking Resource Center (NHTRC) hotline as follows:~~

~~"If you or someone you know is being forced to engage in any activity and cannot leave – whether it is commercial sex, housework, farm work, or any other activity – call the toll-free National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services.~~

~~The toll-free hotline is:~~

- ~~• Available 24 hours a day, 7 days a week~~

- ~~• Operated by a nonprofit, nongovernmental organization~~
- ~~• Anonymous and confidential~~
- ~~• Accessible in 170 languages~~
- ~~• Able to provide help, referral to services, training, and general information.”~~

~~(c) The notice described in this section should be made available in English, Spanish, and, if requested, another language.~~

~~§ 2662. PRIVATE CAUSE OF ACTION~~

~~(a) A victim of human trafficking may bring an action against the offender in the civil division of the superior court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney’s fees. Actual damages may include any loss for which restitution is available under section 2657 of this chapter.~~

~~(b) If the victim is deceased or otherwise unable to represent himself or herself, the victim may be represented by a legal guardian, family member, or other representative appointed by the court.~~

~~(c) In a civil action brought under this section, the victim’s alleged consent to the human trafficking is immaterial and shall not be admitted.~~

~~§ 2663. CLASSIFICATION OF VICTIMS; IMMIGRATION ASSISTANCE~~

~~(a) Classification of victims of human trafficking. As soon as practicable after the initial encounter with a person who reasonably appears to a law~~

~~enforcement agency, state's attorneys' office, or the office of the attorney
general to be a victim of human trafficking, such agency or office shall:~~

~~(1) notify the victim's compensation program at the center for crime
victim services that such person may be eligible for services under this
chapter; and~~

~~(2) make a preliminary assessment of whether such victim or possible
victim of human trafficking appears to meet the criteria for certification as a
victim of a severe form of trafficking in persons as defined in section 7105 of
Title 22 of the United States Code (Trafficking Victims Protection Act) or
appears to be otherwise eligible for any federal, state, or local benefits and
services. If it is determined that the victim appears to meet such criteria, the
agency shall report the finding to the victim and shall refer the victim to
services available, including legal service providers. If the possible victim is
under the age of 18 or is a vulnerable adult, the agency or office shall also
notify the family services division of the department for children and families
or the office of adult protective services in the department of disabilities,
aging, and independent living.~~

~~(b) Law enforcement assistance with respect to immigration. After the
referring agency or office makes a preliminary assessment that a victim of
human trafficking or possible victim of human trafficking appears to meet the
criteria for certification as a victim of a severe form of trafficking in persons,~~

~~as defined in section 7105 of Title 22 of the United States Code, and upon the request of such victim, the referring agency or office shall provide the victim of human trafficking with a completed and executed United States citizenship and immigration service (USCIS) form I-914 supplement B declaration of law enforcement officer for victim of human trafficking in persons, or a USCIS form I-918, supplement B, U nonimmigrant status certification, or both. These endorsements shall be completed by the certifying officer in accordance with the forms' instructions and applicable rules and regulations. The victim of human trafficking may choose which form to have the certifying officer complete.~~

**Sec. 2. DEPARTMENT FOR CHILDREN AND FAMILIES; PROTOCOL;
REPORT**

~~The Vermont department for children and families shall develop a statewide protocol for the interplay between the immunity provisions for minor victims of human trafficking established by this chapter and other existing child protection statutes. The protocol shall address the use of the child protection registry maintained by the department to record adult convictions for violations of this chapter. The department shall report the protocol developed pursuant to this section to the senate and house committees on judiciary, the house committee on human services, and the senate committee on health and welfare no later than January 15, 2012.~~

~~Sec. 3. SERVICES FOR VICTIMS OF HUMAN TRAFFICKING~~

~~(a) The Vermont center for crime victim services may coordinate with and assist social service providers, victim service providers, state agencies, law enforcement agencies, state's attorneys' offices, the office of the attorney general, and other agencies and nongovernmental organizations as necessary to develop a statewide protocol to provide services for victims of human trafficking in Vermont. The protocol may include a public awareness and education campaign.~~

~~(b) The Vermont center for crime victim services may enter into contracts with individuals and nongovernmental organizations in order to develop a statewide protocol and to coordinate services to victims of human trafficking, insofar as funds are available for that purpose. Such services may include:~~

~~(A) Case management;~~

~~(B) Emergency temporary housing;~~

~~(C) Health care;~~

~~(D) Mental health counseling;~~

~~(E) Drug addiction screening and treatment;~~

~~(F) Language interpretation and translation services;~~

~~(G) English language instruction;~~

~~(H) Job training and placement assistance;~~

~~(I) Post-employment services for job retention; and~~

~~(J) Services to assist the victim of human trafficking and any of his or her family members to establish a permanent residence in Vermont or the United States.~~

~~(c) Nothing in this section precludes the Vermont center for crime victim services or any local social services organization from providing victims of human trafficking in Vermont with any benefits or services for which they may otherwise be eligible.~~

~~Sec. 4. 13 V.S.A. § 4501 is amended to read:~~

~~§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN FELONIES~~

~~(a) Prosecutions for aggravated sexual assault, aggravated sexual assault of a child, human trafficking, aggravated human trafficking, murder, arson causing death, and kidnapping may be commenced at any time after the commission of the offense.~~

~~* * *~~

~~Sec. 5. 13 V.S.A. § 9 is amended to read:~~

~~§ 9. ATTEMPTS~~

~~(a) A person who attempts to commit an offense and does an act toward the commission thereof, but by reason of being interrupted or prevented fails in the execution of the same, shall be punished as herein provided unless other express provision is made by law for the punishment of the attempt. If the offense attempted to be committed is murder, aggravated murder, kidnapping,~~

~~arson causing death, human trafficking, aggravated human trafficking,~~
aggravated sexual assault, or sexual assault, a person shall be punished as the
offense attempted to be committed is by law punishable.

* * *

Sec. 6. 13 V.S.A. § 5301 is amended to read:

§ 5301. DEFINITIONS

* * *

(7) For the purpose of this chapter, "listed crime" means any of the
following offenses:

* * *

(CC) aggravated sexual assault of a child in violation of section
3253a of this title; ~~and~~

(DD) ~~sex trafficking of children or sex trafficking by force, fraud, or
coercion as defined in section 2635a of this title~~ human trafficking in violation
of section 2652 of this title; and

(EE) aggravated human trafficking in violation of section 2653 of
this title.

Sec. 7. 13 V.S.A. § 7043 is amended to read:

§ 7043. RESTITUTION

~~(a)(1) Restitution shall be considered in every case in which a victim of a crime, as defined in subdivision 5301(4) of this title, has suffered a material loss.~~

~~(2) For purposes of this section, "material loss" means uninsured property loss, uninsured out-of-pocket monetary loss, uninsured lost wages, and uninsured medical expenses.~~

~~(3) In cases where restitution is ordered to the victim as a result of a human trafficking conviction under chapter 60 of this title, "material loss" shall also mean:~~

~~(A) attorney's fees and costs; and~~

~~(B) the greater of either:~~

~~(i) the gross income or value of the labor performed for the offender by the victim; or~~

~~(ii) the value of the labor performed by the victim as guaranteed by the minimum wage and overtime provisions of 21 V.S.A. § 385.~~

~~* * *~~

~~Sec. 8. 13 V.S.A. § 3255 is amended to read:~~

~~§ 3255. EVIDENCE~~

~~(a) In a prosecution for a crime defined in this chapter and in sections 2601 and 2602 of this title, for human trafficking or aggravated human~~

~~trafficking under chapter 60 of this title, or for abuse of an a vulnerable adult under chapter 28 of this title or chapter 69 of Title 33:~~

~~(1) Neither opinion evidence of, nor evidence of the reputation of the complaining witness' sexual conduct shall be admitted.~~

~~(2) Evidence shall be required as it is for all other criminal offenses and additional corroborative evidence heretofore set forth by case law regarding sexual assault shall no longer be required.~~

~~(3) Evidence of prior sexual conduct of the complaining witness shall not be admitted; provided, however, where it bears on the credibility of the complaining witness or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:~~

~~(A) Evidence of the complaining witness' past sexual conduct with the defendant;~~

~~(B) Evidence of specific instances of the complaining witness' sexual conduct showing the source of origin of semen, pregnancy or disease;~~

~~(C) Evidence of specific instances of the complaining witness' past false allegations of violations of this chapter.~~

~~(b) In a prosecution for a crime defined in this chapter and in a prosecution pursuant to sections 2601 and 2602 of this title, for human trafficking or aggravated human trafficking under chapter 60 of this title, or for abuse or exploitation of ~~an~~ a vulnerable adult under subsection 6913(b) of~~

~~Title 33, if a defendant proposes to offer evidence described in subdivision (a)(3) of this section, the defendant shall prior to the introduction of such evidence file written notice of intent to introduce that evidence, and the court shall order an in camera hearing to determine its admissibility. All objections to materiality, credibility and probative value shall be stated on the record by the prosecutor at the in camera hearing, and the court shall rule on the objections forthwith, and prior to the taking of any other evidence.~~

~~(c) In a prosecution for a crime defined in this chapter and in sections 2601 and 2602 of this title or for human trafficking or aggravated human trafficking under chapter 60 of this title, if the defendant takes the deposition of the complaining witness, questions concerning the evidence described in subdivisions (a)(1) and (3) of this section shall not be permitted.~~

~~Sec. 9. 13 V.S.A. § 5401 is amended to read:~~

~~§ 5401. DEFINITIONS~~

~~* * *~~

~~(10) "Sex offender" means:~~

~~(A) A person who is convicted in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court of any of the following offenses:~~

~~(i) sexual assault as defined in 13 V.S.A. § 3252.~~

~~(ii) aggravated sexual assault as defined in 13 V.S.A. § 3253.~~

- ~~(iii) lewd and lascivious conduct as defined in 13 V.S.A. § 2601.~~
- ~~(iv) sexual abuse of a vulnerable adult as defined in 13 V.S.A. § 1379.~~
- ~~(v) second or subsequent conviction for voyeurism as defined in 13 V.S.A. § 2605(b) or (c).~~
- ~~(vi) kidnapping with intent to commit sexual assault as defined in 13 V.S.A. § 2405(a)(1)(D).~~
- ~~(vii) aggravated sexual assault of a child in violation of section 3253a of this title; and~~
- ~~(viii) human trafficking in violation of subdivisions 2652(a)(1)-(4) of this title;~~
- ~~(ix) aggravated human trafficking in violation of subdivision 2653(a)(4) of this title; and~~
- ~~(x) a federal conviction in federal court for any of the following offenses:~~
- ~~(I) Sex trafficking of children as defined in 18 U.S.C. § 1591.~~
- ~~(II) Aggravated sexual abuse as defined in 18 U.S.C. § 2241.~~
- ~~(III) Sexual abuse as defined in 18 U.S.C. § 2242.~~
- ~~(IV) Sexual abuse of a minor or ward as defined in 18 U.S.C. § 2243.~~
- ~~(V) Abusive sexual contact as defined in 18 U.S.C. § 2244.~~

- ~~(VI) Offenses resulting in death as defined in 18 U.S.C. § 2245.~~
- ~~(VII) Sexual exploitation of children as defined in 18 U.S.C. § 2251.~~
- ~~(VIII) Selling or buying of children as defined in 18 U.S.C. § 2251A.~~
- ~~(IX) Material involving the sexual exploitation of minors as defined in 18 U.S.C. § 2252.~~
- ~~(X) Material containing child pornography as defined in 18 U.S.C. § 2252A.~~
- ~~(XI) Production of sexually explicit depictions of a minor for import into the United States as defined in 18 U.S.C. § 2260.~~
- ~~(XII) Transportation of a minor for illegal sexual activity as defined in 18 U.S.C. § 2421.~~
- ~~(XIII) Coercion and enticement of a minor for illegal sexual activity as defined in 18 U.S.C. § 2422.~~
- ~~(XIV) Transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, and engaging in illicit sexual conduct in foreign places as defined in 18 U.S.C. § 2423.~~
- ~~(XV) Transmitting information about a minor to further criminal sexual conduct as defined in 18 U.S.C. § 2425.~~

~~(XVI) Trafficking in persons as defined in 18 U.S.C. sections 2251–2252(a), 2260, or 2421–2423 if the violation included sexual abuse, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse.~~

~~(ix)(xi) an attempt to commit any offense listed in this subdivision (A).~~

Sec. 10. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon their release from confinement:

(1) Sex offenders who have been convicted of:

(A) Aggravated sexual assault of a child (13 V.S.A. § 3253a).

(B) Aggravated sexual assault (13 V.S.A. § 3253).

(C) Sexual assault (13 V.S.A. § 3252).

(D) Kidnapping with intent to commit sexual assault (13 V.S.A. § 2405(a)(1)(D)).

(E) Lewd or lascivious conduct with child (13 V.S.A. § 2602).

(F) A second or subsequent conviction for voyeurism (13 V.S.A. § 2605(b) or (c)).

~~(G) Slave traffic if a registrable offense under subdivision 5401(10)(B)(iv) of this title (13 V.S.A. § 2635).~~

~~(H) Sex trafficking of children or sex trafficking by force, fraud, or coercion (13 V.S.A. § 2635a).~~

~~(I) Sexual exploitation of a minor (13 V.S.A. § 3258(b)).~~

~~(J) Any offense regarding the sexual exploitation of children (chapter 64 of this title).~~

~~(K) Sexual abuse of a vulnerable adult (13 V.S.A. § 1379).~~

~~(L) Human trafficking as defined in subdivisions 2652(a)(1)–(4) of this title.~~

~~(M) Aggravated human trafficking as defined in subdivision 2653(a)(4) of this title.~~

~~(N) A federal conviction in federal court for any of the following offenses:~~

~~(i) Sex trafficking of children as defined in 18 U.S.C. § 1591.~~

~~(ii) Aggravated sexual abuse as defined in 18 U.S.C. § 2241.~~

~~(iii) Sexual abuse as defined in 18 U.S.C. § 2242.~~

~~(iv) Sexual abuse of a minor or ward as defined in 18 U.S.C. § 2243.~~

~~(v) Abusive sexual contact as defined in 18 U.S.C. § 2244.~~

~~(vi) Offenses resulting in death as defined in 18 U.S.C. § 2245.~~

~~(vii) Sexual exploitation of children as defined in 18 U.S.C. § 2251.~~

~~(viii) Selling or buying of children as defined in 18 U.S.C. § 2251A.~~

~~(ix) Material involving the sexual exploitation of minors as defined in 18 U.S.C. § 2252.~~

~~(x) Material containing child pornography as defined in 18 U.S.C. § 2252A.~~

~~(xi) Production of sexually explicit depictions of a minor for import into the United States as defined in 18 U.S.C. § 2260.~~

~~(xii) Transportation of a minor for illegal sexual activity as defined in 18 U.S.C. § 2421.~~

~~(xiii) Coercion and enticement of a minor for illegal sexual activity as defined in 18 U.S.C. § 2422.~~

~~(xiv) Transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, and engaging in illicit sexual conduct in foreign places as defined in 18 U.S.C. § 2423.~~

~~(xv) Transmitting information about a minor to further criminal sexual conduct as defined in 18 U.S.C. § 2425.~~

~~(xvi) Trafficking in persons as defined in 18 U.S.C. sections 2251–2252(a), 2260, or 2421–2423 if the violation included sexual abuse, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse.~~

~~(O) An attempt to commit any offense listed in this subdivision (a)(1).~~

~~* * *~~

~~Sec. 11. REPEAL~~

~~13 V.S.A. § 2635a (sex trafficking of children; sex trafficking of any person by force, fraud, or coercion) is repealed.~~

~~Sec. 12. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2011.~~

~~Sec. 1. FINDINGS~~

~~The general assembly finds that:~~

~~(1) According to the report of the Vermont Human Trafficking Task Force:~~

~~(A) the number of human beings estimated to be enslaved today has reached over 27 million worldwide, the highest in recorded history; and~~

~~(B) Vermont and all of its bordering states have seen elements of human trafficking, yet Vermont is the only remaining state in the Northeast and one of the remaining five in the nation lacking legislation on this issue. Vermont's geographical location bordering Canada makes it susceptible to human trafficking activity.~~

~~(2) As a result of the efforts of the Vermont Human Trafficking Task Force and numerous national organizations dedicated to combating human trafficking, Vermont will with the passage of this act make substantial progress toward protecting citizens of this state and persons everywhere from the dangers and tragic consequences of human trafficking.~~

~~Sec. 2. 13 V.S.A. chapter 60 is added to read:~~

~~CHAPTER 60. HUMAN TRAFFICKING~~

~~Subchapter 1. Criminal Acts~~

§ 2651. DEFINITIONS

As used in this subchapter:

(1) “Blackmail” means the extortion of money, labor, commercial sexual activity, or anything of value from a person through use of a threat to expose a secret or publicize an asserted fact, whether true or false, that would tend to subject the person to hatred, contempt, ridicule, or prosecution.

(2) “Coercion” means:

(A) threat of serious harm, including physical or financial harm, to or physical restraint against any person;

(B) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious bodily or financial harm to or physical restraint of any person;

(C) the abuse or threatened abuse of law or the legal process;

(D) withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other government identification document of another person;

(E) providing a drug, including alcohol, to another person with the intent to impair the person’s judgment or maintain a state of chemical dependence;

(F) wrongfully taking, obtaining, or withholding any property of another person;

(G) blackmail;

(H) asserting control over the finances of another person;

(I) debt bondage; or

(J) withholding or threatening to withhold food or medication.

(3) “Commercial sex act” means any sex act or sexually explicit performance on account of which anything of value is promised to, given to, or received by any person.

(4) “Debt bondage” means a condition or arrangement in which a person requires that a debtor or another person under the control of a debtor perform labor, services, sexual acts, sexual conduct, or a sexually explicit performance in order to retire, repay, or service a real or purported debt which the person has caused with the intent to defraud the debtor.

(5) “Family member” means a spouse, child, sibling, parent, next of kin, domestic partner, or legal guardian of a victim.

(6) "Human trafficking" means:

(A) to subject a person to a violation of section 2652 of this title; or

(B) "severe form of trafficking" as defined by 21 U.S.C. § 7105.

(7) "Labor servitude" means labor or services performed or provided by a person which are induced or maintained through force, fraud, or coercion. "Labor servitude" shall not include labor or services performed by a family member of a person who is engaged in the business of farming as defined in 10 V.S.A. § 6001(22) unless force, fraud, or coercion is used.

(8) "Serious bodily injury" shall have the same meaning as in subdivision 1021(2) of this title.

(9) "Sexual act" shall have the same meaning as in subdivision 3251(1) of this title.

(10) "Sexual conduct" shall have the same meaning as in subdivision 2821(2) of this title.

(11) "Sexually explicit performance" means a public, live, photographed, recorded, or videotaped act or show which:

(A) Depicts a sexual act or sexual conduct;

(B) Is intended to arouse, satisfy the sexual desires of, or appeal to the prurient interests of patrons or viewers; and

(C) Lacks literary, artistic, political, or scientific value.

(12) "Venture" means any group of two or more individuals associated in fact, whether or not a legal entity.

(13) "Victim of human trafficking" means a victim of a violation of section 2652 of this title.

§ 2652. HUMAN TRAFFICKING

(a) No person shall knowingly:

(1) recruit, entice, harbor, transport, provide, or obtain by any means a person under the age of 18 for the purpose of having the person engage in a commercial sex act;

(2) recruit, entice, harbor, transport, provide, or obtain a person through force, fraud, or coercion for the purpose of having the person engage in a commercial sex act;

(3) compel a person through force, fraud, or coercion to engage in a commercial sex act;

(4) benefit financially or by receiving anything of value from participation in a venture, knowing that force, fraud, or coercion was or will be used to compel any person to engage in a commercial sex act as part of the venture;

(5) subject a person to labor servitude;

(6) recruit, entice, harbor, transport, provide, or obtain a person for the purpose of subjecting the person to labor servitude; or

(7) benefit financially or by receiving anything of value from participation in a venture, knowing that a person will be subject to labor servitude as part of the venture.

(b) A person who violates subsection (a) of this section shall be imprisoned for a term up to and including life or fined not more than \$500,000.00, or both.

(c)(1)(A) A person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)–(4) of this title shall not be found in violation of or be the subject of a delinquency petition based on chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title for any conduct committed as a victim of sex trafficking.

(B) Notwithstanding any other provision of law, a person under the age of 18 shall be immune from prosecution in the criminal division of the superior court for a violation of section 2632 of this title (prohibited acts; prostitution), but may be treated as a juvenile under chapter 52 of Title 33 or referred to the department for children and families for treatment under chapter 53 of Title 33.

(2) If a person who is a victim of sex trafficking in violation of subdivisions 2652(a)(1)–(4) of this title is prosecuted for any offense or is the subject of any delinquency petition other than a violation of chapter 59 (lewdness and prostitution) or 63 (obscenity) of this title which arises out of the sex trafficking or benefits the sex trafficker, the person may raise as an affirmative defense that he or she committed the offense as a result of force, fraud, or coercion by a sex trafficker.

(d) In a prosecution for a violation of this section, the victim's alleged consent to the human trafficking is immaterial and shall not be admitted.

(e) If a person who is a victim of human trafficking is under 18 years of age at the time of the offense, the state may treat the person as the subject of a child in need of care or supervision proceeding.

§ 2653. AGGRAVATED HUMAN TRAFFICKING

(a) A person commits the crime of aggravated human trafficking if the person commits human trafficking in violation of section 2652 of this title under any of the following circumstances:

(1) The offense involves a victim of human trafficking who is a child under the age of 18;

(2) The person has previously been convicted of a violation of section 2652 of this title;

(3) The victim of human trafficking suffers serious bodily injury or death; or

(4) The actor commits the crime of human trafficking under circumstances which constitute the crime of sexual assault as defined in section 3252 of this title, aggravated sexual assault as defined in section 3253 of this title, or aggravated sexual assault of a child as defined in section 3253a of this title.

(b) A person who violates this section shall be imprisoned not less than 20 years and a maximum term of life or fined not more than \$100,000.00, or both.

(c) The provisions of this section do not limit or restrict the prosecution for murder or manslaughter.

§ 2654. PATRONIZING OR FACILITATING HUMAN TRAFFICKING

(a) No person shall knowingly:

(1) Permit a place, structure, or building owned by the person or under the person's control to be used for the purpose of human trafficking;

(2) Receive or offer or agree to receive or offer a person into a place, structure, or building for the purpose of human trafficking; or

(3) Permit a person to remain in a place, structure, building, or conveyance for the purpose of human trafficking.

(b) A person who violates this section shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

§ 2655. SOLICITATION

(a) No person shall knowingly solicit a commercial sex act from a victim of human trafficking.

(b) A person who violates this section shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

§ 2656. HUMAN TRAFFICKING BY A BUSINESS ENTITY; DISSOLUTION

If a business entity, including a corporation, partnership, association, or any other legal entity, is convicted of violating this chapter, the attorney general may commence a proceeding in the civil division of the superior court to dissolve the entity pursuant to 11A V.S.A. § 14.30–14.33.

§ 2657. RESTITUTION

(a) A person convicted of a violation of this subchapter shall be ordered to pay restitution to the victim pursuant to section 7043 of this title.

(b) If the victim of human trafficking to whom restitution has been ordered dies before restitution is paid, any restitution ordered shall be paid to the victim's heir or legal representative, provided that the heir or legal representative has not benefited in any way from the trafficking.

(c) The return of the victim of human trafficking to his or her home country or other absence of the victim from the jurisdiction shall not limit the victim's right to receive restitution pursuant to this section.

Subchapter 2. Resource Guide Posting; Private Cause
of Action for Victims; Victim Protection

§ 2661. RESOURCE GUIDE POSTING

(a) A notice offering help to victims of human trafficking shall be accessible on the official website of the Vermont department of labor and may be posted in a prominent and accessible location in workplaces.

(b) The notice should provide contact information for at least one local law enforcement agency and provide information regarding the National Human Trafficking Resource Center (NHTRC) hotline as follows:

"If you or someone you know is being forced to engage in any activity and cannot leave – whether it is commercial sex, housework, farm work, or any other activity – call the toll-free National Human Trafficking Resource Center Hotline at 1-888-373-7888 to access help and services. The toll-free hotline is:

- Available 24 hours a day, 7 days a week
- Operated by a nonprofit, nongovernmental organization
- Anonymous and confidential
- Accessible in 170 languages
- Able to provide help, referral to services, training, and general information."

(c) The notice described in this section should be made available in English, Spanish, and, if requested by an employer, another language.

(d) The Vermont department of labor shall develop and implement an education plan to raise awareness among Vermont employers about the problem of human trafficking, about the hotline described in this section, and about other resources that may be available to employers, employees, and potential victims of human trafficking. On or before January 15, 2013, the department shall report to the house and senate committees on judiciary, the house committee on human services, and the senate committee on health and welfare on the progress achieved in developing and implementing the notice requirement and education plan required by this section.

§ 2662. PRIVATE CAUSE OF ACTION

(a) A victim of human trafficking may bring an action against the offender in the civil division of the superior court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees. Actual damages may include any loss for which restitution is available under section 2657 of this chapter.

(b) If the victim is deceased or otherwise unable to represent himself or herself, the victim may be represented by a legal guardian, family member, or other representative appointed by the court, provided that the legal guardian, family member, or other representative appointed by the court has not benefited in any way from the trafficking.

(c) In a civil action brought under this section, the victim's alleged consent to the human trafficking is immaterial and shall not be admitted.

§ 2663. CLASSIFICATION OF VICTIMS; IMMIGRATION ASSISTANCE

(a) Classification of victims of human trafficking. As soon as practicable after the initial encounter with a person who reasonably appears to a law enforcement agency, a state's attorneys' office, or the office of the attorney general to be a victim of human trafficking, such agency or office shall:

(1) notify the victim's compensation program at the center for crime victim services that such person may be eligible for services under this chapter; and

(2) make a preliminary assessment of whether such victim or possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking in persons as defined in section 7105 of Title 22 of the United States Code (Trafficking Victims Protection Act) or appears to be otherwise eligible for any federal, state, or local benefits and services. If it is determined that the victim appears to meet such criteria, the agency or office shall report the finding to the victim and shall refer the victim

to services available, including legal service providers. If the possible victim is under the age of 18 or is a vulnerable adult, the agency or office shall also notify the family services division of the department for children and families or the office of adult protective services in the department of disabilities, aging, and independent living.

(b) Law enforcement assistance with respect to immigration. After the agency or office makes a preliminary assessment pursuant to subdivision (a)(2) of this section that a victim of human trafficking or a possible victim of human trafficking appears to meet the criteria for certification as a victim of a severe form of trafficking in persons, as defined in section 7105 of Title 22 of the United States Code and upon the request of such victim, the agency or office shall provide the victim of human trafficking with a completed and executed United States citizenship and immigration service (USCIS) form I-914 supplement B declaration of law enforcement officer for victim of human trafficking in persons or a USCIS form I-918, supplement B, U nonimmigrant status certification, or both. These endorsements shall be completed by the certifying officer in accordance with the forms' instructions and applicable rules and regulations. The victim of human trafficking may choose which form to have the certifying officer complete.

Sec. 3. SERVICES FOR VICTIMS OF HUMAN TRAFFICKING

(a) The Vermont center for crime victim services may convene a task force to assist social service providers, victim service providers, state agencies, law enforcement agencies, state's attorneys' offices, the office of the attorney general, and other agencies and nongovernmental organizations as necessary to develop a statewide protocol to provide services for victims of human trafficking in Vermont. The protocol may include a public awareness and education campaign.

(b) The Vermont center for crime victim services may enter into contracts with individuals and nongovernmental organizations in order to develop a statewide protocol and to coordinate services to victims of human trafficking, insofar as funds are available for that purpose. Such services may include:

- (1) Case management;
- (2) Emergency temporary housing;
- (3) Health care;
- (4) Mental health counseling;
- (5) Drug addiction screening and treatment;
- (6) Language interpretation and translation services;
- (7) English language instruction;

(8) Job training and placement assistance;

(9) Post-employment services for job retention; and

(10) Services to assist the victim of human trafficking and any of his or her family members to establish a permanent residence in Vermont or the United States.

(c) Nothing in this section precludes the Vermont center for crime victim services or any local social services organization from providing victims of human trafficking in Vermont with any benefits or services for which they may otherwise be eligible.

Sec. 4. 13 V.S.A. § 4501 is amended to read:

§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN FELONIES

(a) Prosecutions for aggravated sexual assault, aggravated sexual assault of a child, human trafficking, aggravated human trafficking, murder, arson causing death, and kidnapping may be commenced at any time after the commission of the offense.

* * *

Sec. 5. 13 V.S.A. § 9 is amended to read:

§ 9. ATTEMPTS

(a) A person who attempts to commit an offense and does an act toward the commission thereof, but by reason of being interrupted or prevented fails in the execution of the same, shall be punished as herein provided unless other express provision is made by law for the punishment of the attempt. If the offense attempted to be committed is murder, aggravated murder, kidnapping, arson causing death, human trafficking, aggravated human trafficking, aggravated sexual assault, or sexual assault, a person shall be punished as the offense attempted to be committed is by law punishable.

* * *

Sec. 6. 13 V.S.A. § 5301 is amended to read:

§ 5301. DEFINITIONS

* * *

(7) For the purpose of this chapter, "listed crime" means any of the following offenses:

* * *

(CC) aggravated sexual assault of a child in violation of section 3253a of this title; ~~and~~

~~(DD) sex trafficking of children or sex trafficking by force, fraud, or coercion as defined in section 2635a of this title~~ human trafficking in violation of section 2652 of this title; and

~~(EE) aggravated human trafficking in violation of section 2653 of this title.~~

Sec. 7. 13 V.S.A. § 7043 is amended to read:

§ 7043. RESTITUTION

(a)(1) Restitution shall be considered in every case in which a victim of a crime, as defined in subdivision 5301(4) of this title, has suffered a material loss.

(2) For purposes of this section, “material loss” means uninsured property loss, uninsured out-of-pocket monetary loss, uninsured lost wages, and uninsured medical expenses.

(3) In cases where restitution is ordered to the victim as a result of a human trafficking conviction under chapter 60 of this title, “material loss” shall also mean:

(A) attorney’s fees and costs; and

(B) the greater of either:

(i) the gross income or value of the labor performed for the offender by the victim; or

(ii) the value of the labor performed by the victim as guaranteed by the minimum wage and overtime provisions of 21 V.S.A. § 385.

* * *

Sec. 8. 13 V.S.A. § 3255 is amended to read:

§ 3255. EVIDENCE

(a) In a prosecution for a crime defined in this chapter and in sections 2601 and 2602 of this title, for human trafficking or aggravated human trafficking under chapter 60 of this title, or for abuse of ~~an~~ a vulnerable adult under chapter 28 of this title or chapter 69 of Title 33:

(1) Neither opinion evidence of, nor evidence of the reputation of the complaining witness’ sexual conduct shall be admitted.

(2) Evidence shall be required as it is for all other criminal offenses and additional corroborative evidence heretofore set forth by case law regarding sexual assault shall no longer be required.

(3) Evidence of prior sexual conduct of the complaining witness shall not be admitted; provided, however, where it bears on the credibility of the complaining witness or it is material to a fact at issue and its probative value outweighs its private character, the court may admit:

(A) Evidence of the complaining witness' past sexual conduct with the defendant;

(B) Evidence of specific instances of the complaining witness' sexual conduct showing the source of origin of semen, pregnancy or disease;

(C) Evidence of specific instances of the complaining witness' past false allegations of violations of this chapter.

(b) In a prosecution for a crime defined in this chapter and in a prosecution pursuant to sections 2601 and 2602 of this title, for human trafficking or aggravated human trafficking under chapter 60 of this title, or for abuse or exploitation of ~~an~~ a vulnerable adult under subsection 6913(b) of Title 33, if a defendant proposes to offer evidence described in subdivision (a)(3) of this section, the defendant shall prior to the introduction of such evidence file written notice of intent to introduce that evidence, and the court shall order an in camera hearing to determine its admissibility. All objections to materiality, credibility and probative value shall be stated on the record by the prosecutor at the in camera hearing, and the court shall rule on the objections forthwith, and prior to the taking of any other evidence.

(c) In a prosecution for a crime defined in this chapter and in sections 2601 and 2602 of this title or for human trafficking or aggravated human trafficking under chapter 60 of this title, if the defendant takes the deposition of the complaining witness, questions concerning the evidence described in subdivisions (a)(1) and (3) of this section shall not be permitted.

Sec. 9. 13 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

* * *

(10) "Sex offender" means:

(A) A person who is convicted in any jurisdiction of the United States, including a state, territory, commonwealth, the District of Columbia, or military, federal, or tribal court of any of the following offenses:

(i) sexual assault as defined in 13 V.S.A. § 3252.

(ii) aggravated sexual assault as defined in 13 V.S.A. § 3253.

(iii) lewd and lascivious conduct as defined in 13 V.S.A. § 2601.

(iv) *sexual abuse of a vulnerable adult as defined in 13 V.S.A. § 1379.*

(v) *second or subsequent conviction for voyeurism as defined in 13 V.S.A. § 2605(b) or (c).*

(vi) *kidnapping with intent to commit sexual assault as defined in 13 V.S.A. § 2405(a)(1)(D).*

(vii) *aggravated sexual assault of a child in violation of section 3253a of this title; ~~and~~*

(viii) human trafficking in violation of subdivisions 2652(a)(1)–(4) of this title;

(ix) aggravated human trafficking in violation of subdivision 2653(a)(4) of this title; and

(x) a federal conviction in federal court for any of the following offenses:

(I) Sex trafficking of children as defined in 18 U.S.C. § 1591.

(II) Aggravated sexual abuse as defined in 18 U.S.C. § 2241.

(III) Sexual abuse as defined in 18 U.S.C. § 2242.

(IV) Sexual abuse of a minor or ward as defined in 18 U.S.C. § 2243.

(V) Abusive sexual contact as defined in 18 U.S.C. § 2244.

(VI) Offenses resulting in death as defined in 18 U.S.C. § 2245.

(VII) Sexual exploitation of children as defined in 18 U.S.C. § 2251.

(VIII) Selling or buying of children as defined in 18 U.S.C. § 2251A.

(IX) Material involving the sexual exploitation of minors as defined in 18 U.S.C. § 2252.

(X) Material containing child pornography as defined in 18 U.S.C. § 2252A.

(XI) Production of sexually explicit depictions of a minor for import into the United States as defined in 18 U.S.C. § 2260.

(XII) Transportation of a minor for illegal sexual activity as defined in 18 U.S.C. § 2421.

(XIII) Coercion and enticement of a minor for illegal sexual activity as defined in 18 U.S.C. § 2422.

(XIV) Transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, and engaging in illicit sexual conduct in foreign places as defined in 18 U.S.C. § 2423.

(XV) Transmitting information about a minor to further criminal sexual conduct as defined in 18 U.S.C. § 2425.

(XVI) Trafficking in persons as defined in 18 U.S.C. sections 2251–2252(a), 2260, or 2421–2423 if the violation included sexual abuse, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse.

~~(ix)~~(xi) an attempt to commit any offense listed in this subdivision (A).

* * *

Sec. 10. 13 V.S.A. § 5411a is amended to read:

§ 5411a. ELECTRONIC POSTING OF THE SEX OFFENDER REGISTRY

(a) Notwithstanding 20 V.S.A. §§ 2056a-2056e, the department shall electronically post information on the Internet in accordance with subsection (b) of this section regarding the following sex offenders, upon their release from confinement:

(1) Sex offenders who have been convicted of:

(A) Aggravated sexual assault of a child (13 V.S.A. § 3253a).

(B) Aggravated sexual assault (13 V.S.A. § 3253).

(C) Sexual assault (13 V.S.A. § 3252).

(D) Kidnapping with intent to commit sexual assault (13 V.S.A. § 2405(a)(1)(D)).

(E) Lewd or lascivious conduct with child (13 V.S.A. § 2602).

(F) A second or subsequent conviction for voyeurism (13 V.S.A. § 2605(b) or (c)).

(G) Slave traffic if a registrable offense under subdivision 5401(10)(B)(iv) of this title (13 V.S.A. § 2635).

(H) Sex trafficking of children or sex trafficking by force, fraud, or coercion (13 V.S.A. § 2635a).

(I) Sexual exploitation of a minor (13 V.S.A. § 3258(b)).

(J) Any offense regarding the sexual exploitation of children (chapter 64 of this title).

(K) Sexual abuse of a vulnerable adult (13 V.S.A. § 1379).

(L) Human trafficking as defined in subdivisions 2652(a)(1)–(4) of this title.

(M) Aggravated human trafficking as defined in subdivision 2653(a)(4) of this title.

(N) A federal conviction in federal court for any of the following offenses:

(i) Sex trafficking of children as defined in 18 U.S.C. § 1591.

(ii) Aggravated sexual abuse as defined in 18 U.S.C. § 2241.

(iii) Sexual abuse as defined in 18 U.S.C. § 2242.

(iv) Sexual abuse of a minor or ward as defined in 18 U.S.C. § 2243.

(v) Abusive sexual contact as defined in 18 U.S.C. § 2244.

(vi) Offenses resulting in death as defined in 18 U.S.C. § 2245.

(vii) Sexual exploitation of children as defined in 18 U.S.C. § 2251.

(viii) Selling or buying of children as defined in 18 U.S.C. § 2251A.

(ix) Material involving the sexual exploitation of minors as defined in 18 U.S.C. § 2252.

(x) Material containing child pornography as defined in 18 U.S.C. § 2252A.

(xi) Production of sexually explicit depictions of a minor for import into the United States as defined in 18 U.S.C. § 2260.

(xii) Transportation of a minor for illegal sexual activity as defined in 18 U.S.C. § 2421.

(xiii) Coercion and enticement of a minor for illegal sexual activity as defined in 18 U.S.C. § 2422.

(xiv) Transportation of minors for illegal sexual activity, travel with the intent to engage in illicit sexual conduct with a minor, and engaging in illicit sexual conduct in foreign places as defined in 18 U.S.C. § 2423.

(xv) Transmitting information about a minor to further criminal sexual conduct as defined in 18 U.S.C. § 2425.

(xvi) Trafficking in persons as defined in 18 U.S.C. sections 2251–2252(a), 2260, or 2421–2423 if the violation included sexual abuse, aggravated sexual abuse, or the attempt to commit aggravated sexual abuse.

~~(M)(O)~~ An attempt to commit any offense listed in this subdivision (a)(1).

* * *

Sec. 11. STATE'S ATTORNEYS; FORFEITURE ATTORNEY; REPORT

On or before January 15, 2012, the department of state's attorneys and sheriffs shall report to the general assembly a plan for funding and hiring a forfeiture attorney in this state.

Sec. 12. 13 V.S.A. § 5322 is added to read:

§ 5322. CONFIDENTIALITY

When responding to a request for public records, or on any state website or state payment report, the state of Vermont shall not disclose to the public the name or any other identifying information, including the town of residence or the type or purpose of the payment, of an applicant to the victim's compensation program, a victim named in a restitution judgment order, or a recipient of the domestic and sexual violence survivors' transitional employment program.

Sec. 13. 13 V.S.A. § 5363 is amended to read:

§ 5363. CRIME VICTIMS' RESTITUTION SPECIAL FUND

* * *

(d)(1) The restitution unit is authorized to advance up to \$10,000.00 to a victim or to a deceased victim's heir or legal representative if the victim:

(A) was first ordered by the court to receive restitution on or after July 1, 2004;

*(B) is a natural person or the natural person's legal representative;
and*

(C) has not been reimbursed under subdivision (2) of this subsection.

(2) The restitution unit may make advances of up to \$10,000.00 under this subsection to the following persons or entities:

(A) A victim service agency approved by the restitution unit if the agency has advanced monies which would have been payable to a victim under subdivision (1) of this subsection.

(B) A victim who is a natural person or the natural person's legal representative in a case where the defendant, before or after an adjudication of guilt, enters into a drug court contract requiring payment of restitution.

(3) An advance under this subsection shall not be made to the government or to any governmental subdivision or agency.

(4) An advance under this subsection shall not be made to a victim who:

(A) fails to provide the restitution unit with the documentation necessary to support the victim's claim for restitution; or

(B) violated a criminal law of this state which caused or contributed to the victim's material loss.

(5) An advance under this subsection shall not be made for the amount of cash loss included in a restitution judgment order.

* * *

Sec. 14. 13 V.S.A. § 7043(n) is amended to read:

~~(n)(1) All restitution orders made or modified on or after January 1, 2008 shall include an order for wage withholding unless the court in its discretion finds good cause not to order wage withholding or the parties have entered into an alternative arrangement by written agreement which is affirmatively stated in the order. The wage withholding order shall direct current and subsequent employers of the offender to pay a portion of the offender's wages directly to the restitution unit until the offender's restitution obligation is satisfied. The wages of the offender shall be exempt as follows:~~

~~(A) to the extent provided under Section 303(b) of the Consumer Credit Protection Act (15 U.S.C. § 1673(b)); or~~

~~(B) if the court finds the weekly expenses reasonably incurred by the debtor for his or her maintenance and that of dependents exceed the amounts exempted by subdivision (1)(A) of this subsection, such greater amount of earnings as the court shall order.~~

~~(2) The court shall transmit all wage withholding orders issued under this section to the restitution unit, which shall forward the orders to the offender's employers. Upon receipt of a wage withholding order from the restitution unit, an employer shall:~~

~~(A) withhold from the wages paid to the offender the amount specified in the order for each wage period;~~

~~(B) forward the withheld wages to the restitution unit within seven working days after wages are withheld, specifying the date the wages were withheld;~~

~~(C) retain a record of all withheld wages;~~

~~(D) cease withholding wages upon notice from the restitution unit;
and~~

~~(E) notify the restitution unit within 10 days of the date the offender's employment is terminated.~~

~~(3) In addition to the amounts withheld pursuant to this section, the employer may retain not more than \$5.00 per month from the offender's wages as compensation for administrative costs incurred.~~

~~(4) Any employer who fails to withhold wages pursuant to a wage withholding order within 10 working days of receiving actual notice or upon the next payment of wages to the employee, whichever is later, shall be liable to the restitution unit in the amount of the wages required to be withheld.~~

~~(5) An employer who makes an error in the amount of wages withheld shall not be held liable if the error was made in good faith.~~

~~(6) For purposes of this subsection, "wages" means any compensation paid or payable for personal services, whether designated as wages, salary, commission, bonuses, or otherwise, and shall include periodic payments under pension or retirement programs and workers' compensation or insurance policies of any type.~~

After restitution is ordered and prior to sentencing, the court shall order the offender to provide the court with full financial disclosure on a form approved by the court administrator. The disclosure shall include copies of the offender's most recent state and federal tax returns. The court shall provide copies of the form and the tax returns to the restitution unit.

Sec. 15. 13 V.S.A. § 7043(d)(3) is added to read:

(3) An order of restitution may require the offender to pay restitution for an offense for which the offender was not convicted if the offender knowingly and voluntarily executes a plea agreement which provides that the offender pay restitution for that offense.

Sec. 16. PILOT PROJECT; REPORT

(a) The restitution unit shall develop and implement a pilot project in Chittenden County which permits the unit to require a crime victim who may be eligible for an advance payment of restitution from the crime victims' restitution special fund pursuant to subsection 5363(d) of this title to submit a

request for restitution to the restitution unit prior to sentencing. The unit shall investigate the victim's request and may require that the victim submit supporting documentation in order to verify the claimed material loss. If the unit determines that the victim appears to be eligible for an advance payment, the unit shall notify the victim and the court of the amount that appears eligible to be advanced to the victim from the fund.

(b) The restitution unit shall report the results of the pilot project established by this section to the senate and house committees on judiciary on or before January 15, 2012.

Sec. 17. REPEALS

(a) Sec. 27a of No. 1 of the Acts of 2009 (July 1, 2011 sunset of amendment to Rule 15 of Vermont Rules of Criminal Procedure related to depositions of minors in sexual assault cases) is repealed.

(b) Sec. 1 (amendment to Rule 15 of Vermont Rules of Criminal Procedure) and Sec. 5(a) (July 1, 2011 effective date of amendment to Rule 15 of Vermont Rules of Criminal Procedure) of No. 66 of the Acts of the 2009 Adj. Sess. (2010) are repealed.

(c) 13 V.S.A. § 2635a (sex trafficking of children; sex trafficking of any person by force, fraud, or coercion) is repealed.

Sec. 18. EFFECTIVE DATE

This act shall take effect on July 1, 2011.

Sec. 19. Sec. 13 of No. 40 of the Acts of 2007 is amended to read:

Sec. 13. EFFECTIVE DATE

Sec. 9 of this act shall take effect on ~~July 1, 2012~~ July 1, 2014.