

New Jersey Human Trafficking Prevention, Protection and Treatment Act

The new nineteen section legislation, signed into law by Governor Chris Christie, The New Jersey Human Trafficking Prevention, Protection and Treatment Act was effective on May 6, 2013 for Sections One and Two and effective on July 1, 2013 for Sections Three through nineteen. The legislation outlines the following:

Section 1: Commission: Establishes a fifteen-person commission on human trafficking within the Division of Criminal Justice, Department of Law and Public Safety. This committee controls any legal changes to the legislation, evaluates current assistance programs and raises public awareness of human trafficking as well as the resources available for victims, including the 24-hour national hotline. Further and more specific duties include evaluating the legitimacy of victim assistance programs as well as the costs; coordinate response group for victims of human trafficking, which will be comprised of both public and private organizations; and control the Human Trafficking Survivor's Assistance Fund.

COMMISSION

1. The Attorney General, or his designee;
2. The Commissioner of Children and Families, or his designee;
3. The Commissioner of Human Services, or his designee;
4. A county prosecutor, appointed by the Governor based upon the recommendation of the County Prosecutors Association of the State of New Jersey;
5. One member of the New Jersey Human Trafficking Task Force established within the Department of Law and Public Safety, designated by the Attorney General;
6. Two public members appointed by the Governor based upon the recommendation of the Senate President, one representing law enforcement and one representing a victim's assistance organization;
7. One public member appointed by the Governor based upon the recommendation of the Senate Minority Leader representing either a non-profit health care facility or mental health services;
8. Two public members appointed by the Governor based upon the recommendation of the Speaker of the General Assembly, one representing law enforcement and one representing a victim's assistance organization;
9. One public member appointed by the Governor based upon the recommendation of the Assembly Minority Leader representing either a non-profit health care facility or mental health services; and
10. Four public members appointed by the Governor, one of whom shall be a representative of a child advocacy organization concerning missing, abducted, or exploited children, and one of whom shall be a human trafficking survivor.
- 11. All public members shall have experience with, possess a background in, or demonstrate a specialized knowledge of, the legal, policy, educational, social, or psychological aspects of human trafficking.**

Section 2: Establishes the non-lapsing Human Trafficking Survivor's Assistance Fund run by the Attorney General. The purpose of the Fund is to provide services for victims of human trafficking and also develop new training courses as well as raise awareness of such issues. Fines from cases will be deposited into the Fund.

Section 3: Establishes new criminal liability for both traffickers and those who use the services. It also revises the crime to be “human trafficking by means of fraud, deceit, or misrepresentation and by facilitating access to a controlled dangerous substance or controlled analog.” Human trafficking is also referred to as a “crime of the first degree for holding, recruiting, luring, enticing, harboring, transporting, providing or obtaining by any means any child under the age of 18 to engage in sexual activity even if the child was believed to be 18 years or older.” The actor is subject to a charge with a crime in the first degree, 20 years to life in prison with no less than a \$25,000 fine, and 20 years served with no parole.

Section 4: Enables civil action to be brought against the person committing the human trafficking offense or any actor working with the offender. Under this, the injured party may also receive the attorney’s fees and costs.

Section 5: Assisting in Human Trafficking and Procuring Services to Trafficking Victims: The law establishes the following a crime of the second degree: to provide services, resources or assistance to victims knowing that the services, resources, or assistance will further the crime of human trafficking and procure a person into engaging with sexual activity. This law also makes it illegal for persons to be used for other services with the knowledge that they are victims of human trafficking. This law also applies to assistance in the crime of human trafficking, which is punishable with a term of imprisonment and a fine of at least \$15,000. And if the person is found guilty, the court must revoke any license, permit, certificate, approval, registration or professional authorization that was used to facilitate the crime.

Section 6: Claims that human trafficking is a crime of the first degree according to NJ state law.

Sections 7 and 8: The removal of tenants due to human trafficking is now legal under this law if they were involved with human trafficking. Also allows for “civil liability or a criminal conviction for human trafficking committed within or upon a leased premises, building, or complex of buildings as a basis for removal.”

Section 9: The performance of prostitution has been clarified and made illegal, especially if the person performing is receiving economic benefits. Further, the utilization of the service is considered a disorderly persons offense. This law also requires the patron to participate in a Prostitution Offender Program (known as Johns’ School in some states). Also, the penalties for engaging underage persons in prostitution have been upgraded to a crime of the first degree.

Section 10: This permits victims of human trafficking to apply to vacate their convictions. If the person is able to prove that they were a victim of human trafficking and not prostitution, then they are able to have their convictions “vacated” from their records.

Section 11: The Prostitution Offender Program is required for all patrons convicted of disorderly persons offense, unless the judge waives participation. There is also a \$500 fee required by the patron, which is then distributed among the “Human Trafficking Survivor’s Fund”, the law enforcement office responsible for bringing the crime to the court, and the Offender Program.

Section 12: Creates a new crime of the first degree for advertising commercial sexual abuse to minors. A \$25,000 fine accompanies the offense.

Section 13: Discusses endangering the welfare of children. The offense is increased to a crime of the third degree if the person processes or views any evidence of the child engaging in sexual activity. This section also edits the meaning of “child” which is any person under the age of 18.

Section 14: This section establishes a court authorized wiretap.

Section 15: This section adds that the crime of human trafficking has bail-restriction

Section 16 and 17: This section addresses victim protection for court testimonies. New protections have been established, which include witness testimony from a “closed TV circuit.”

Section 18: This section requires that the Attorney General dictate state involvement with the national 24-hour hotline.

Section 19: This section establishes the requirement for training programs for both government and non-governmental organizations. “Administrative Office of the Courts will develop a training course and a curriculum to raise the awareness of judges and judicial personnel on the seriousness of the crime of human trafficking, its impact on human rights and the need to adequately implement anti-trafficking laws, including not only the prosecution and sentencing of defendants charged with human trafficking, but the need to respect and restore rights and needs of victims of human trafficking.” The training programs must be evaluated every two years and funds may be taken from the Human Trafficking Survivors Assistance Fund for training programs.