

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2209
(Senators Dever, Miller, Nelson)
(Representatives Dahl, Delmore, Hawken)

AN ACT to create and enact a new chapter to title 12.1 of the North Dakota Century Code, relating to human trafficking; to amend and reenact subdivision f of subsection 2 of section 12.1-06.1-01 and subdivisions a and e of subsection 1 of section 12.1-32-15 of the North Dakota Century Code, relating to racketeering definitions and registration of offenders against children and sexual offenders; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new chapter to title 12.1 of the North Dakota Century Code is created and enacted as follows:

Human trafficking - Penalty.

1. A person is guilty of human trafficking if the person:
 - a. Benefits financially or receives anything of value from knowing participation in human trafficking; or
 - b. Promotes, recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to promote, recruit, entice, harbor, transport, provide, or obtain by any means, another person, knowing that the person will be subject to human trafficking.
2. An offense under this section is a class AA felony if the person subject to human trafficking is less than eighteen years of age. Otherwise, the offense is a class A felony.
3. If the person subject to human trafficking is under the age of eighteen years, it is no defense that the actor did not know the child's age or reasonably believed the child to be eighteen years of age or older.
4. In addition to any sentence or fine imposed for a conviction of an offense under this chapter, the court shall order the person convicted to make restitution to the victim of the crime.

Definitions. In this chapter:

1. "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of the debtor's personal services or those of a person under the debtor's control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.
2. "Forced labor or services" means labor or services that are performed or provided by another person and are obtained or maintained through an actor's:
 - a. Threat, either implicit or explicit, scheme, plan, or pattern, or other action intended to cause a person to believe that, if the person did not perform or provide the labor or services:
 - (1) That person or another person would suffer bodily harm or physical restraint; or

(2) That any fact or alleged fact tending to cause shame or to subject any person to hatred, contempt, or ridicule would be exposed;

- b. Physically restraining or threatening to physically restrain a person;
- c. Abuse or threatened abuse of the legal process; or
- d. Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.

"Forced labor or services" does not mean labor or services required to be performed by a person in compliance with a court order or as a required condition of probation, parole, or imprisonment.

- 3. "Human trafficking" means labor trafficking or sex trafficking.
- 4. "Labor trafficking" means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a person by any means, whether a United States citizen or foreign national, for the purpose of:
 - a. Debt bondage or forced labor or services;
 - b. Slavery or practices similar to slavery; or
 - c. The removal of organs through the use of coercion or intimidation.
- 5. "Sex trafficking" means the promotion, recruitment, transportation, transfer, harboring, enticement, provision, obtaining, or receipt of a person by any means, whether a United States citizen or foreign national, for the purpose of:
 - a. Causing the person or another to engage in sexual acts or sexual conduct in violation of chapter 12.1-20; or
 - b. Violating chapter 12.1-27.1, 12.1-27.2, or 12.1-29.

SECTION 2. AMENDMENT. Subdivision f of subsection 2 of section 12.1-06.1-01 of the North Dakota Century Code is amended and reenacted as follows:

- f. "Racketeering" means any act including any criminal attempt, facilitation, solicitation, or conspiracy, committed for financial gain, which is chargeable or indictable under the laws of the state in which the act occurred and, if the act occurred in a state other than this state, would be chargeable or indictable under the laws of this state had the act occurred in this state and punishable by imprisonment for more than one year, regardless of whether such act is charged or indicted, involving:
 - (1) Homicide.
 - (2) Robbery.
 - (3) Kidnapping.
 - (4) Forgery.
 - (5) Theft.
 - (6) Bribery.
 - (7) Gambling.

- (8) Usury.
- (9) Extortion.
- (10) Unlawful delivery of controlled substances.
- (11) Trafficking in explosives, weapons, or stolen property.
- (12) Leading a criminal association.
- (13) Obstructing or hindering criminal investigations or prosecutions.
- (14) Asserting false claims including, but not limited to, false claims asserted through fraud or arson.
- (15) Fraud.
- (16) Sale of unregistered securities or real property securities and transactions involving such securities by unregistered dealers or salesmen.
- (17) Obscenity.
- (18) Child pornography.
- (19) Prostitution.
- (20) Human trafficking.

SECTION 3. AMENDMENT. Subdivisions a and e of subsection 1 of section 12.1-32-15 of the North Dakota Century Code are amended and reenacted as follows:

- a. "A crime against a child" means a violation of chapter 12.1-16, section 12.1-17-01.1 if the victim is under the age of twelve, 12.1-17-02, 12.1-17-04, subdivision a of subsection 6 of section 12.1-17-07.1, section 12.1-18-01, 12.1-18-02, 12.1-18-05, chapter 12.1-29, or subdivision a of subsection 1 or subsection 2 of section 14-09-22, labor trafficking in violation of section 1 of this Act, or an equivalent offense from another court in the United States, a tribal court, or court of another country, in which the victim is a minor or is otherwise of the age required for the act to be a crime or an attempt to commit these offenses.
- e. "Sexual offender" means a person who has pled guilty to or been found guilty, including juvenile delinquent adjudications, of a violation of section 12.1-20-03, 12.1-20-03.1, 12.1-20-04, 12.1-20-05, 12.1-20-05.1, 12.1-20-06, 12.1-20-07 except for subdivision a, 12.1-20-11, 12.1-20-12.1, or 12.1-20-12.2, chapter 12.1-27.2, or subsection 2 of section 12.1-22-03.1, sex trafficking in violation of section 1 of this Act, or an equivalent offense from another court in the United States, a tribal court, or court of another country, or an attempt to commit these offenses.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2209.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 93 Nays 0 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,
at _____ o'clock _____ M.

Secretary of State