

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 296

FISCAL
NOTE

BY SENATORS TRUMP, GAUNCH, HALL, TAKUBO, RUCKER

AND AZINGER

[Introduced February 14, 2017; Referred
to the Committee on the Judiciary]

1 A BILL to repeal §61-2-17 of the Code of West Virginia, 1931, as amended; to amend and reenact
2 §15-9A-2 of said code; to amend and reenact §49-1-201 of said code; to amend said code
3 by adding thereto a new article, designated §61-14-1, §61-14-2, §61-14-3, §61-14-4, §61-
4 14-5, §61-14-6, §61-14-7, §61-14-8 and §61-14-9; and to amend and reenact §62-1D-8
5 of said code, all relating generally to human trafficking; designating the Division of Justice
6 and Community Services to be the state administrative agency responsible for criminal
7 justice and juvenile justice systems for the planning and development of state programs
8 and grants relating to human trafficking; defining terms; repealing existing civil remedies;
9 criminal offense and penalties for human trafficking; creating criminal felony offenses and
10 penalties for trafficking an individual; creating criminal felony offenses and penalties for
11 using an individual in forced labor; creating criminal felony offenses and penalties for using
12 an individual in debt bondage; creating criminal felony offenses and penalties for
13 compelling an adult through coercion to engage in commercial sexual activity; creating a
14 criminal felony offense for maintaining or making available a minor for the purpose of
15 engaging in commercial sexual activity; clarifying that consent of minor and misbelief as
16 to age are not defenses to prosecution for sexual servitude offense; creating a criminal
17 felony offense of patronizing an individual to engage in commercial sexual activity;
18 clarifying that each victim shall be considered a separate offense; limiting ability for parole
19 in circumstances where the court makes a finding of aggravated circumstances; defining
20 "aggravated circumstances"; providing for restitution to victims and the enforcement of a
21 judgment order for restitution; directing unclaimed restitution to be paid to the Crime
22 Victims Compensation Fund; providing for disgorgement of profits and debarment from
23 state and local government contracts; making victims eligible for compensation under the
24 Crime Victims Compensation Fund; specifying the notification procedure to be followed by
25 a law-enforcement officer upon encountering a child who appears to be a victim of an
26 offense under this article; providing for immunity for offense of prostitution for minors;

27 defining a minor victim of sex trafficking as an abused child and establishing a child's
28 eligibility for services therefor; providing for expungement of prostitution conviction for
29 victims of trafficking; and authorizing the use of wiretaps to conduct investigations.

Be it enacted by the Legislature of West Virginia:

1 That §61-2-17 of the Code of West Virginia, 1931, as amended, be repealed; that §15-9A-
2 2 of said code be amended and reenacted; that §49-1-201 of said code be amended and
3 reenacted; that said code be amended by adding thereto a new article, designated §61-14-1, §61-
4 14-2, §61-14-3, §61-14-4, §61-14-5, §61-14-6, §61-14-7, §61-14-8 and §61-14-9; and that §62-
5 1D-8 of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 9A. DIVISION OF JUSTICE AND COMMUNITY SERVICES.

§15-9A-2. Division established; appointment of director.

1 (a) The Division of Justice and Community Services is created. The purpose of the division
2 is to provide executive and administrative support to the Governor's Committee on Crime
3 Delinquency and Correction in the coordination of planning for the criminal justice system, to
4 administer federal and state grant programs assigned to it by the actions of the Governor or
5 Legislature and to perform such other duties as the Legislature may from time to time assign to
6 the division. The division is the designated staffing agency for the Governor's Committee on
7 Crime, Delinquency and Correction, and all of its subcommittees. The division may apply for
8 grants and other funding from federal or state programs, foundations, corporations and
9 organizations which funding is consistent with its responsibilities and the purposes assigned to it
10 or the subcommittees it staffs. The Division of Justice and Community Services is hereby
11 designated as the state administrative agency responsible for criminal justice and juvenile justice
12 systems, and various component agencies of state and local government, for the planning and
13 development of state programs and grants which may be funded by federal, state or other

14 allocations in the areas of community corrections, law-enforcement training and compliance,
 15 sexual assault forensic examinations, victim services, human trafficking and juvenile justice.

16 (b) The director of the division shall be named by the Governor to serve at his will and
 17 pleasure.

18 (c) The director of the division shall take and subscribe to an oath of office in conformity
 19 with article IV, section five of the Constitution of the State of West Virginia.

CHAPTER 49. CHILD WELFARE

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

PART II. DEFINITIONS.

§49-1-201. Definitions related, but not limited to, child abuse and neglect.

1 When used in this chapter, terms defined in this section have the meanings ascribed to
 2 them that relate to, but are not limited to, child abuse and neglect, except in those instances where
 3 a different meaning is provided or the context in which the word is used clearly indicates that a
 4 different meaning is intended.

5 "Abandonment" means any conduct that demonstrates the settled purpose to forego the
 6 duties and parental responsibilities to the child;

7 "Abused child" means a child whose health or welfare is being harmed or threatened by:

8 (A) A parent, guardian or custodian who knowingly or intentionally inflicts, attempts to
 9 inflict or knowingly allows another person to inflict, physical injury or mental or emotional injury,
 10 upon the child or another child in the home. Physical injury may include an injury to the child as a
 11 result of excessive corporal punishment;

12 (B) Sexual abuse or sexual exploitation;

13 (C) The sale or attempted sale of a child by a parent, guardian or custodian in violation of
 14 section fourteen-h, article two, chapter sixty-one of this code; or

15 (D) Domestic violence as defined in section two hundred two, article twenty-seven, chapter

16 forty-eight of this code; or

17 (E) Trafficking of a child, or attempt to traffic a child, in violation of section two, article
18 fourteen, chapter sixty-one of this code.

19 “Abusing parent” means a parent, guardian or other custodian, regardless of his or her
20 age, whose conduct has been adjudicated by the court to constitute child abuse or neglect as
21 alleged in the petition charging child abuse or neglect.

22 “Battered parent,” for the purposes of part six, article four of this chapter, means a
23 respondent parent, guardian, or other custodian who has been adjudicated by the court to have
24 not condoned the abuse or neglect and has not been able to stop the abuse or neglect of the child
25 or children due to being the victim of domestic violence as defined by section two hundred two,
26 article twenty-seven, chapter forty-eight of this code which was perpetrated by the same person
27 or persons determined to have abused or neglected the child or children.

28 “Child abuse and neglect services” means social services which are directed toward:

29 (A) Protecting and promoting the welfare of children who are abused or neglected;

30 (B) Identifying, preventing and remedying conditions which cause child abuse and neglect;

31 (C) Preventing the unnecessary removal of children from their families by identifying family
32 problems and assisting families in resolving problems which could lead to a removal of children
33 and a breakup of the family;

34 (D) In cases where children have been removed from their families, providing time-limited
35 reunification services to the children and the families so as to reunify those children with their
36 families or some portion thereof;

37 (E) Placing children in suitable adoptive homes when reunifying the children with their
38 families, or some portion thereof, is not possible or appropriate; and

39 (F) Assuring the adequate care of children or juveniles who have been placed in the
40 custody of the department or third parties.

41 “Condition requiring emergency medical treatment” means a condition which, if left

42 untreated for a period of a few hours, may result in permanent physical damage; that condition
43 includes, but is not limited to, profuse or arterial bleeding, dislocation or fracture, unconsciousness
44 and evidence of ingestion of significant amounts of a poisonous substance.

45 "Imminent danger to the physical well-being of the child" means an emergency situation
46 in which the welfare or the life of the child is threatened. These conditions may include an
47 emergency situation when there is reasonable cause to believe that any child in the home is or
48 has been sexually abused or sexually exploited, or reasonable cause to believe that the following
49 conditions threaten the health, life, or safety of any child in the home:

50 (A) Nonaccidental trauma inflicted by a parent, guardian, custodian, sibling or a babysitter
51 or other caretaker;

52 (B) A combination of physical and other signs indicating a pattern of abuse which may be
53 medically diagnosed as battered child syndrome;

54 (C) Nutritional deprivation;

55 (D) Abandonment by the parent, guardian or custodian;

56 (E) Inadequate treatment of serious illness or disease;

57 (F) Substantial emotional injury inflicted by a parent, guardian or custodian;

58 (G) Sale or attempted sale of the child by the parent, guardian or custodian;

59 (H) The parent, guardian or custodian's abuse of alcohol or drugs or other controlled
60 substance as defined in section one hundred one, article one, chapter sixty-a of this code, has
61 impaired his or her parenting skills to a degree as to pose an imminent risk to a child's health or
62 safety; or

63 (I) Any other condition that threatens the health, life, or safety of any child in the home.

64 "Neglected child" means a child:

65 (A) Whose physical or mental health is harmed or threatened by a present refusal, failure
66 or inability of the child's parent, guardian or custodian to supply the child with necessary food,
67 clothing, shelter, supervision, medical care or education, when that refusal, failure or inability is

68 not due primarily to a lack of financial means on the part of the parent, guardian or custodian; or

69 (B) Who is presently without necessary food, clothing, shelter, medical care, education or
70 supervision because of the disappearance or absence of the child's parent or custodian;

71 (C) "Neglected child" does not mean a child whose education is conducted within the
72 provisions of section one, article eight, chapter eighteen of this code.

73 "Petitioner or copetitioner" means the department or any reputable person who files a child
74 abuse or neglect petition pursuant to section six hundred one, article four, of this chapter.

75 "Permanency plan" means the part of the case plan which is designed to achieve a
76 permanent home for the child in the least restrictive setting available.

77 "Respondent" means all parents, guardians, and custodians identified in the child abuse
78 and neglect petition who are not petitioners or copetitioners.

79 "Sexual abuse" means:

80 (A) Sexual intercourse, sexual intrusion, sexual contact, or conduct proscribed by section
81 three, article eight-c, chapter sixty-one, which a parent, guardian or custodian engages in,
82 attempts to engage in, or knowingly procures another person to engage in with a child
83 notwithstanding the fact that for a child who is less than sixteen years of age the child may have
84 willingly participated in that conduct or the child may have suffered no apparent physical injury or
85 mental or emotional injury as a result of that conduct or, for a child sixteen years of age or older
86 the child may have consented to that conduct or the child may have suffered no apparent physical
87 injury or mental or emotional injury as a result of that conduct;

88 (B) Any conduct where a parent, guardian or custodian displays his or her sex organs to
89 a child, or procures another person to display his or her sex organs to a child, for the purpose of
90 gratifying the sexual desire of the parent, guardian or custodian, of the person making that display,
91 or of the child, or for the purpose of affronting or alarming the child; or

92 (C) Any of the offenses proscribed in sections seven, eight or nine of article eight-b,
93 chapter sixty-one of this code.

94 "Sexual assault" means any of the offenses proscribed in sections three, four or five of
95 article eight-b, chapter sixty-one of this code.

96 "Sexual contact" means sexual contact as that term is defined in section one, article eight-
97 b, chapter sixty-one of this code.

98 "Sexual exploitation" means an act where:

99 (A) A parent, custodian or guardian, whether for financial gain or not, persuades, induces,
100 entices or coerces a child to engage in sexually explicit conduct as that term is defined in section
101 one, article eight-c, chapter sixty-one of this code; or

102 (B) A parent, guardian or custodian persuades, induces, entices or coerces a child to
103 display his or her sex organs for the sexual gratification of the parent, guardian, custodian or a
104 third person, or to display his or her sex organs under circumstances in which the parent, guardian
105 or custodian knows that the display is likely to be observed by others who would be affronted or
106 alarmed;

107 (C) A parent, guardian or custodian who knowingly maintains or makes available a child
108 for the purpose of engaging the minor in commercial sexual activity in violation of section five,
109 article fourteen, chapter sixty-one of this code.

110 "Sexual intercourse" means sexual intercourse as that term is defined in section one,
111 article eight-b, chapter sixty-one of this code.

112 "Sexual intrusion" means sexual intrusion as that term is defined in section one, article
113 eight-b, chapter sixty-one of this code.

114 "Serious physical abuse" means bodily injury which creates a substantial risk of death,
115 which causes serious or prolonged disfigurement, prolonged impairment of health or prolonged
116 loss or impairment of the function of any bodily organ.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 14. HUMAN TRAFFICKING.

§61-14-1. Definitions.

1 When used in this article, the following words and terms have the meanings specified
2 unless the context clearly indicates a different meaning:

3 “Adult” means an individual eighteen years of age or older.

4 “Coercion” means:

5 (A) The use or threat of force against, abduction of, serious harm to or physical restraint
6 of an individual;

7 (B) The use of a plan, pattern or statement with intent to cause an individual to believe
8 that failure to perform an act will result in the use of force against, abduction of, serious harm to,
9 physical restraint of or deportation of an individual;

10 (C) The abuse or threatened abuse of law or legal process;

11 (D) The destruction or taking of, or the threatened destruction or taking of, an individual’s
12 identification document or other property; or

13 (E) The use of an individual’s physical or mental impairment when the impairment has a
14 substantial adverse effect on the individual’s cognitive or volitional function.

15 As used in this article, “coercion” shall not include statements or actions made by a duly
16 authorized state or federal law-enforcement officer as part of a lawful law-enforcement
17 investigation or undercover action.

18 “Commercial sexual activity” means sexual activity for which anything of value is given to,
19 promised to or received by a person.

20 “Debt bondage” means inducing an individual to provide:

21 (A) Commercial sexual activity in payment toward or satisfaction of a real or purported
22 debt; or

23 (B) Labor or services in payment toward or satisfaction of a real or purported debt if:

24 (i) The reasonable value of the labor or services is not applied toward the liquidation of
25 the debt; or

26 (ii) The length of the labor or services is not limited, and the nature of the labor or services
27 is not defined.

28 “Forced labor” means labor or services that are performed or provided by another person
29 and are obtained or maintained through the following:

30 (A) Threat, either implicit or explicit, deception or fraud, scheme, plan, or pattern or other
31 action intended to cause a person to believe that, if the person did not perform or provide the
32 labor or services that person or another person would suffer serious bodily harm, physical restraint
33 or deportation: *Provided*, That this does not include work or services provided by a minor to the
34 minor’s parent or legal guardian so long as the legal guardianship or custody of the minor was not
35 obtained for the purpose compelling the minor to participate in commercial sex acts or sexually
36 explicit performance, or perform forced labor or services.

37 (B) Physically restraining or threatening to physically restrain a person;

38 (C) Abuse or threatened abuse of the legal process; or

39 (D) Destroying, concealing, removing, confiscating or possessing any actual or purported
40 passport or other immigration document, or any other actual or purported government
41 identification document of another person: *Provided*, That “forced labor” does not mean labor or
42 services required to be performed by a person in compliance with a court order or as a required
43 condition of probation, parole, or imprisonment.

44 “Identification document” means a passport, driver’s license, immigration document, travel
45 document or other government-issued identification document, including a document issued by a
46 foreign government.

47 “Labor or services” means activity having economic value.

48 “Minor” means an individual less than eighteen years of age.

49 “Patronize” means giving, agreeing to give or offering to give anything of value to another
50 person in exchange for commercial sexual activity.

51 “Person” means an individual, estate, business or nonprofit entity, or other legal entity.

52 The term does not include a public corporation or government or governmental subdivision,
53 agency or instrumentality.

54 “Serious harm” means harm, whether physical or nonphysical, including psychological,
55 economic or reputational, to an individual which would compel a reasonable individual of the same
56 background and in the same circumstances to perform or continue to perform labor or services
57 or sexual activity to avoid incurring the harm.

58 “Sexual activity” means sexual contact, sexual intercourse or sexual intrusion, as defined
59 in section one, article eight-b of this chapter, or sexually explicit conduct, as defined in section
60 one, article eight-c of this chapter.

61 “Sexual servitude” means:

62 (A) Maintaining or making available a minor for the purpose of engaging the minor in
63 commercial sexual activity; or

64 (B) Using coercion to compel an adult to engage in commercial sexual activity.

65 “Traffic” or “trafficking” means to recruit, transport, transfer, harbor, receive, provide,
66 obtain, isolate, maintain or entice an individual in furtherance of forced labor or sexual servitude.

67 “Victim” means an individual who is subjected to trafficking, regardless of whether a
68 perpetrator is prosecuted or convicted.

§61-14-2. Trafficking an individual; penalties.

1 (a) Any person who knowingly and willfully traffics an adult is guilty of a felony and, upon
2 conviction, shall be confined in a state correctional facility for not less than three nor more than
3 fifteen years, fined not more than \$200,000, or both confined and fined.

4 (b) Any person who knowingly and willfully traffics a minor is guilty of a felony and, upon
5 conviction, shall be confined in a state correctional facility for not less than five nor more than
6 twenty years, fined not more than \$300,000, or both confined and fined.

§61-14-3. Forced labor; penalties.

1 (a) Any person who knowingly uses an adult in forced labor to provide labor or services,

2 is guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not
3 less than one nor more than five years, fined not more than \$100,000, or both confined and fined.

4 (b) Any person who knowingly uses a minor in forced labor to provide labor or services, is
5 guilty of a felony and, upon conviction, shall be confined in a state correctional facility for not less
6 than three nor more than fifteen years, fined not more than \$300,000, or both confined and fined.

§61-14-4. Debt bondage; penalties.

1 (a) Any person who knowingly uses an adult in debt bondage is guilty of a felony and,
2 upon conviction, shall be confined in a state correctional facility for not less than one nor more
3 than five years, fined not more than \$100,000, or both confined and fined.

4 (b) Any person who knowingly uses a minor in debt bondage is guilty of a felony and, upon
5 conviction, shall be confined in a state correctional facility for not less than three nor more than
6 fifteen years, fined not more than \$300,000, or both confined and fined.

§61-14-5. Sexual servitude; penalties.

1 (a) Any person who knowingly uses coercion to compel an adult to engage in commercial
2 sexual activity is guilty of a felony and, upon conviction, shall be confined in a state correctional
3 facility for not less than three, nor more than fifteen years, fined not more than \$200,000, or both
4 confined and fined.

5 (b) Any person who knowingly maintains or makes available a minor for the purpose of
6 engaging the minor in commercial sexual activity is guilty of a felony and, upon conviction, shall
7 be confined in a state correctional facility for not less than five nor more than twenty years, fined
8 not more than \$300,000, or both confined and fined.

9 (c) It is not a defense in a prosecution under subsection (b) of this section that the minor
10 consented to engage in the commercial sexual activity, or that the defendant believed the minor
11 was an adult.

§61-14-6. Patronizing a victim of sexual servitude; penalties.

1 (a) Any person who knowingly patronizes an individual to engage in commercial sexual

2 activity with a third-party who is an adult, and who knows that such adult is a victim of sexual
3 servitude, is guilty of a felony and, upon conviction thereof, shall be confined in a state correctional
4 facility for not less than one nor more than five years, fined not more than \$100,000, or both
5 confined and fined.

6 (b) Any person who knowingly patronizes an individual to engage in commercial sexual
7 activity with a third-party who is a minor is guilty of a felony and, upon conviction, shall be confined
8 in a state correctional facility for not less than three nor more than fifteen years, fined not more
9 than \$300,000, or both confined and fined.

§61-14-7. General provisions and other penalties.

1 (a) Separate violations — For purposes of this article, each adult or minor victim is a
2 separate offense.

3 (b) Aggravating circumstance. —

4 (1) If an individual is convicted of an offense under this article and the court makes a
5 finding that the offense involved an aggravating circumstance, the individual may not be eligible
6 for parole before serving three years in a state correctional facility.

7 (2) For purposes of this subsection, “aggravating circumstance” means the individual
8 recruited, enticed or obtained the victim of the offense from a shelter or facility that serves runaway
9 youths, children in foster care, the homeless or individuals subjected to human trafficking,
10 domestic violence or sexual assault.

11 (c) Restitution. —

12 (1) The court shall order a person convicted of an offense under this article to pay
13 restitution to the victim of the offense.

14 (2) A judgment order for restitution may be enforced by the state or a victim named in the
15 order to receive the restitution in the same manner as a judgment in a civil action in accordance
16 with section four, article eleven-a of this chapter, including filing a lien against the person, firm or
17 corporation against whom restitution is ordered.

18 (3) The court shall order restitution under subdivision (1) of this subsection even if the
19 victim is unavailable to accept payment of restitution.

20 (4) If the victim does not claim restitution ordered under subdivision (1) of this subsection
21 for five years after entry of the order, the restitution shall be paid to the Crime Victims
22 Compensation Fund created under section four, article two-a, chapter fourteen of this code.

23 (d) Disgorgement. — In addition to the fine and penalties set forth in this article, any
24 business entity that engages in the offenses established in this article may be fined not more than
25 \$500,000 for each violation, be required to disgorge profit from activity in violation of this article
26 pursuant to section five, article thirteen of this chapter and be debarred from state and local
27 government contracts.

28 (e) Eligibility for Compensation Fund. — Notwithstanding the definition of victim in section
29 three, article two-a, chapter fourteen of this code a victim of any offense under this article is a
30 victim for all purposes of article two-a, chapter fourteen of this code: *Provided*, That for purposes
31 of subsection (b), section fourteen, article two-a, chapter fourteen of this code, if otherwise
32 qualified, a victim of any offense under this article may not be denied eligibility solely for the failure
33 to report to law enforcement within the designated time frame.

34 (f) Law-Enforcement Notification. — Should a law-enforcement officer encounter a child
35 who reasonably appears to be a victim of an offense under this article, the officer shall notify the
36 Department of Health and Human Resources and, if available, the Domestic Violence Program
37 serving the area where the child is found.

§61-14-8. Immunity for minor victim of sex trafficking.

1 (a) A minor is not criminally liable or subject to juvenile proceedings for an offense of
2 prostitution in violation of subsection (b), section five, article eight of this chapter because it is
3 presumed that he or she committed the offense as a direct result of being a victim.

4 (b) This section does not apply in a prosecution or a juvenile proceeding for soliciting,
5 inducing, enticing or procuring a prostitute in violation of subsection (b), section five, article eight

6 of this chapter, unless it is determined by the court that the minor was coerced into the criminal
 7 behavior.

8 (c) A minor who, under subsection (a) or (b) of this section, is not subject to criminal liability
 9 or a juvenile delinquency proceeding is presumed to be an abused child, and may be eligible for
 10 services under chapter forty-nine of this code including, but not limited to, appropriate child
 11 welfare services.

§61-14-9. Petition to vacate and expunge conviction of sex trafficking victim.

1 (a) Notwithstanding the age and criminal history limitations set forth in section twenty-six,
 2 article eleven of this chapter, an individual convicted of prostitution in violation of subsection (b),
 3 section five, article eight of this chapter as a direct result of being a victim of trafficking, may apply
 4 by petition to the circuit court in the county of conviction to vacate the conviction and expunge the
 5 record of conviction. The court may grant the petition upon a finding that the individual's
 6 participation in the offense was a direct result of being a victim of trafficking.

7 (b) A victim of trafficking seeking relief under this section shall not be required to complete
 8 any type of rehabilitation in order to obtain expungement.

9 (c) A petition filed under subsection (a) of this section, any hearing conducted on the
 10 petition, and any relief granted shall meet the procedural requirements of section twenty-six,
 11 article eleven of this chapter: *Provided*, That a victim of trafficking is not subject to the age or
 12 criminal history limitations in that section.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 1D. WIRETAPPING AND ELECTRONIC SURVEILLANCE ACT.

**§62-1D-8. County prosecuting attorney or duly appointed special prosecutor may apply for
 order authorizing interception.**

1 The prosecuting attorney of any county or duly appointed special prosecutor may apply to
 2 one of the designated circuit judges referred to in section seven of this article and such judge, in

3 accordance with the provisions of this article, may grant an order authorizing the interception of
4 wire, oral or electronic communications by an officer of the investigative or law-enforcement
5 agency when the prosecuting attorney or special prosecutor has shown reasonable cause to
6 believe the interception would provide evidence of the commission of (i) kidnapping or abduction
7 as defined and prohibited by the provisions of sections fourteen and fourteen-a, article two,
8 chapter sixty-one of this code and including threats to kidnap or demand ransom as defined and
9 prohibited by the provisions of section fourteen-c of said article two, or (ii) of any offense included
10 and prohibited by section eleven, article four, chapter twenty-five of said code, sections eight, nine
11 and ten, article five, chapter sixty-one of said code or section one, article eight, chapter sixty-two
12 of said code to the extent that any of said sections provide for offenses punishable as a felony or
13 (iii) dealing, transferring or trafficking in any controlled substance or substances in the felonious
14 violation of chapter sixty-a of this code; ~~or~~ (iv) of any offense included and prohibited by article
15 fourteen, chapter sixty-one of this code; or (v) any aider or abettor to any of the foregoing offenses
16 or any conspiracy to commit any of the foregoing offenses if any aider, abettor or conspirator is a
17 party to the communication to be intercepted.

NOTE: The purpose of this bill is to strengthen and establish criminal offenses relating to human trafficking. The bill eliminates an existing criminal offense and penalty for human trafficking, and establishes a new article with multiple offenses and penalties. In addition to human trafficking, the bill creates felony offenses and penalties for using an individual in forced labor, debt bondage, and commercial sexual activity. The bill also creates a felony offense of patronizing an individual to engage in commercial sexual activity. The bill clarifies that each victim shall be considered a separate offense, and limits ability for parole in circumstances where the court makes a finding of aggravated circumstances. The bill provides for restitution to victims and the enforcement of a judgment order for restitution. The bill provides for disgorgement of profits and debarment from state and local government contracts. The bill provides for criminal immunity for offense of prostitution if individual was a minor at time of offense and was a victim at time of offense. The bill provides for expungement of prostitution conviction for victims of trafficking. The bill authorizes law-enforcement to use wiretaps to conduct investigations. The bill also designates the Division of Justice and Community Services to be the state administrative agency responsible for criminal justice and juvenile justice systems for the planning and development of state programs and grants relating to human trafficking.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.