

Article 10A.

Human Trafficking.

§ 14-43.10. Definitions.

- (a) Definitions. – The following definitions apply in this Article:
- (1) Coercion. – The term includes all of the following:
 - a. Causing or threatening to cause bodily harm to any person, physically restraining or confining any person, or threatening to physically restrain or confine any person.
 - b. Exposing or threatening to expose any fact or information that if revealed would tend to subject a person to criminal or immigration proceedings, hatred, contempt, or ridicule.
 - c. 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 any person.
 - d. Providing a controlled substance, as defined by G.S. 90-87, to a person.
 - (2) Deception. – The term includes all of the following:
 - a. Creating or confirming another's impression of an existing fact or past event that is false and which the accused knows or believes to be false.
 - b. Maintaining the status or condition of a person arising from a pledge by that person of his or her personal services as security for a 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, or preventing a person from acquiring information pertinent to the disposition of such debt.
 - c. Promising benefits or the performance of services that the accused does not intend to deliver or perform or knows will not be delivered or performed.
 - (3) Involuntary servitude. – The term includes the following:
 - a. The performance of labor, whether or not for compensation, or whether or not for the satisfaction of a debt; and
 - b. By deception, coercion, or intimidation using violence or the threat of violence or by any other means of coercion or intimidation.
 - (4) Minor. – A person who is less than 18 years of age.
 - (5) Sexual servitude. – The term includes the following:
 - a. Any sexual activity as defined in G.S. 14-190.13 for which anything of value is directly or indirectly given, promised to, or received by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years; or
 - b. Any sexual activity as defined in G.S. 14-190.13 that is performed or provided by any person, which conduct is induced or obtained by coercion or deception or which conduct is induced or obtained from a person under the age of 18 years.
 - (6) Victim. – Unless the context requires otherwise, a person subjected to the practices set forth in G.S. 14-43.11, 14-43.12, or 14-43.13.

(b) Reserved. (2006-247, s. 20(b); 2018-75, s. 1; 2018-145, s. 11(e).)

§ 14-43.11. Human trafficking.

(a) A person commits the offense of human trafficking when that person (i) knowingly or in reckless disregard of the consequences of the action recruits, entices, harbors, transports, provides, or obtains by any means another person with the intent that the other person be held in involuntary servitude or sexual servitude or (ii) willfully or in reckless disregard of the consequences of the action causes a minor to be held in involuntary servitude or sexual servitude.

(b) A person who violates this section is guilty of a Class C felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class B2 felony if the victim of the offense is a minor.

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

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

(d) A person who is not a legal resident of North Carolina, and would consequently be ineligible for State public benefits or services, shall be eligible for the public benefits and services of any State agency if the person is otherwise eligible for the public benefit and is a victim of an offense charged under this section. Eligibility for public benefits and services shall terminate at such time as the victim's eligibility to remain in the United States is terminated under federal law. (2006-247, s. 20(b); 2007-547, s. 1; 2013-368, s. 1; 2017-151, s. 1.)

§ 14-43.12. Involuntary servitude.

(a) A person commits the offense of involuntary servitude when that person knowingly and willfully or in reckless disregard of the consequences of the action holds another in involuntary servitude.

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

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

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

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

(e) If any person reports a violation of this section, which violation arises out of any contract for labor, to any party to the contract, the party shall immediately report the violation to the sheriff of the county in which the violation is alleged to have occurred for appropriate action. A person violating this subsection shall be guilty of a Class 1 misdemeanor. (1983, ch. 746, s. 1; 1993, c. 539, ss. 23, 1146; 1994, Ex. Sess., c. 24, s. 14(c); 2006-247, s. 20(b); 2013-368, s. 2.)

§ 14-43.13. Sexual servitude.

(a) A person commits the offense of sexual servitude when that person knowingly or in reckless disregard of the consequences of the action subjects, maintains, or obtains another for the purposes of sexual servitude.

(b) A person who violates this section is guilty of a Class D felony if the victim of the offense is an adult. A person who violates this section is guilty of a Class C felony if the victim of the offense is a minor.

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

(c) Each violation of this section constitutes a separate offense and shall not merge with any other offense. Evidence of failure to deliver benefits or perform services standing alone shall not be sufficient to authorize a conviction under this section. (2006-247, s. 20(b); 2013-368, s. 3; 2019-158, s. 1(a).)

§ 14-43.14. Unlawful sale, surrender, or purchase of a minor.

(a) A person commits the offense of unlawful sale, surrender, or purchase of a minor when that person, acting with willful or reckless disregard for the life or safety of a minor, participates in any of the following: the acceptance, solicitation, offer, payment, or transfer of any compensation, in money, property, or other thing of value, at any time, by any person in connection with the unlawful acquisition or transfer of the physical custody of a minor, except as ordered by the court. This section does not apply to actions that are ordered by a court, authorized by statute, or otherwise lawful.

(b) A person who violates this section is guilty of a Class F felony and shall pay a minimum fine of five thousand dollars (\$5,000). For each subsequent violation, a person is guilty of a Class F felony and shall pay a minimum fine of ten thousand dollars (\$10,000).

(c) A minor whose parent, guardian, or custodian has sold or attempted to sell a minor in violation of this Article is an abused juvenile as defined by G.S. 7B-101(1). The court may place the minor in the custody of the Department of Social Services or with such other person as is in the best interest of the minor.

(d) A violation of this section is a lesser included offense of G.S. 14-43.11.

(e) When a person is convicted of a violation of this section, the sentencing court shall consider whether the person is a danger to the community and whether requiring the person to register as a sex offender pursuant to Article 27A of this Chapter would further the purposes of that Article as stated in G.S. 14-208.5. If the sentencing court rules that the person is a danger to the community and that the person shall register, then an order shall be entered requiring the person to register. (2012-153, s. 1.)

§ 14-43.15. Minor victims.

Any minor victim of a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 shall be alleged to be abused and neglected and the provisions of Subchapter I of Chapter 7B of the General Statutes shall apply. (2018-68, s. 8.1(c); 2019-177, s. 3.)

§ 14-43.16. Affirmative defense.

(a) Affirmative Defense. – It is an affirmative defense to a prosecution under this Article that the person charged with the offense was a victim at the time of the offense and was coerced or deceived into committing the offense as a direct result of the person's status as a victim.

(b) Construction. – Nothing in this section shall be construed to limit or abrogate any other affirmative defense to a prosecution under this Article available to a person by statute or common law. (2018-75, s. 2(a); 2018-145, s. 11(a).)

§ 14-43.17. Victim confidentiality; penalty for unlawful disclosure.

(a) Confidentiality Requirement. – Except as otherwise provided in subsections (b) and (d) of this section, the name, address, or other information that reasonably could be expected to lead directly to the identity of any of the following, is confidential and shall not be considered a public record as that term is defined in G.S. 132-1:

- (1) A victim.
- (2) An alleged victim.
- (3) An immediate family member of a victim or alleged victim. For purposes of this subdivision, the term "immediate family member" means a spouse, child, sibling, parent, grandparent, grandchild, or the spouse of an immediate family member. This term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

(b) Exceptions. – Information subject to the confidentiality requirement set forth in subsection (a) of this section may be disclosed only for the following purposes:

- (1) For use in a law enforcement investigation or criminal prosecution.
- (2) To ensure the provision of medical care, housing, or family services or benefits to any of the persons listed in subdivisions (1) through (3) of subsection (a) of this section.
- (3) Upon written request by any of the persons listed in subdivisions (1) through (3) of subsection (a) of this section.
- (4) As required by federal law or court order.

(c) Penalty. – A person who knowingly violates subsection (a) of this section is guilty of a Class 3 misdemeanor.

(d) Court Records. – This section does not apply to records that have been made part of a court file in the custody of the General Court of Justice. (2018-75, s. 3(a); 2018-145, ss. 11(b), 23.)

§ 14-43.18. Civil cause of action; damages and attorneys' fees; limitation.

(a) Cause of Action. – An individual who is a victim may bring a civil action against a person who violates this Article or a person who knowingly benefits financially or by receiving anything of value from participation in a venture which that person knew or should have known violates this Article.

(b) Relief and Damages. – The victim may seek and the court may award any or all of the following types of relief:

- (1) An injunction to enjoin continued violation of this Article.
- (2) Compensatory damages, which includes the following:
 - a. The greater of (i) the gross income or value to the defendant of the victim's labor; or (ii) value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA).

- b. Any costs reasonably incurred by the victim for medical care, psychological treatment, temporary housing, transportation, and any other services designed to assist a victim in recovering from any injuries or loss resulting from a violation of this Article.

(3) General damages for noneconomic losses.

(c) Attorneys' Fees. – The court may award to the plaintiff and assess against the defendant the reasonable costs and expenses, including attorneys' fees, of the plaintiff in bringing an action pursuant to this section. If the court determines that the plaintiff's action is frivolous, it may award to the defendant and assess against the plaintiff the reasonable costs and expenses, including attorneys' fees, of the defendant in defending the action brought pursuant to this section.

(d) Stay Pending Criminal Action. – Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the plaintiff is the victim. The term "criminal action" includes investigation and prosecution and is pending until final adjudication in the trial court.

(e) Statute of Limitations. – No action may be maintained under subsection (a) of this section unless it is commenced no later than either of the following:

- (1) Ten years after the cause of action arose.
- (2) Ten years after the victim reaches 18 years of age if the victim was a minor at the time of the alleged offense.

(f) Jury Trial. – Parties to a civil action brought pursuant to this section shall have the right to a jury trial as provided under G.S. 1A-1, Rules of Civil Procedure. (2019-158, s. 3(a).)

§ 14-43.19: Reserved for future codification purposes.

§ 14-43.20. Mandatory restitution; victim services; forfeiture.

(a) Repealed by Session Laws 2018-75, s. 4(a), effective December 1, 2018.

(b) Restitution. – Restitution for a victim is mandatory under this Article. At a minimum, the court shall order restitution in an amount equal to the value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA). In addition, the judge may order any other amount of loss identified, including the gross income or value to the defendant of the victim's labor or services and any costs reasonably certain to be incurred by or on behalf of the victim for medical care, psychological treatment, temporary housing, transportation, funeral services, and any other services designed to assist a victim recover from any injuries or loss resulting from an offense committed under G.S. 14-43.11, 14-43.12, or 14-43.13.

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

(d) Certification. – The Attorney General, a district attorney, or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this Article for a violation of G.S. 14-43.11, 14-43.12, or 14-43.13 has begun and the individual who is a likely victim of one of those crimes is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law

enforcement shall not be required of victims who are under 18 years of age. This certification shall be made available to the victim and the victim's designated legal representative.

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

(f) Escheat. – If a judge finds that the victim to whom restitution is due under this Article is unavailable to claim the restitution award, then the judge shall order the restitution be made payable to the clerk of superior court in the county in which the conviction for the offense requiring restitution occurred. If the victim fails to claim the restitution award within two years of the date of the restitution order issued by the judge, the clerk shall remit the restitution proceeds to the Crime Victims Compensation Fund established pursuant to G.S. 15B-23. Notwithstanding any provision of G.S. 15B-23 to the contrary, funds remitted to the Crime Victims Compensation Fund shall be used only to provide aid to victims who are (i) worthy and needy as determined by the Crime Victims Compensation Commission and (ii) enrolled in public institutions of higher education of this State. (2013-368, s. 17; 2018-75, s. 4(a); 2018-145, s. 11(c).)