

New Jersey State Report State Ratings 2014

The Polaris annual state ratings process tracks the presence or absence of 10 categories of state statutes that Polaris believes are critical to a comprehensive anti-trafficking legal framework. It is important to note that these 10 categories are not exhaustive of all the important legislation that helps combat human trafficking in a given state. Moreover, the ratings do not assess the effectiveness or implementation of these laws, nor the anti-trafficking efforts of task forces, law enforcement, prosecutors, judges, service providers, and advocates in the state. The purpose of the annual state ratings process is to document laws on the books, to motivate legislators and policy advocates, and to focus the attention of states on the statutes that still need to be enacted in order to achieve a strong anti-trafficking legal framework.

Recognition: Perfect Score

Rating: Tier One (green)

Total Points: 12

Credited Categories: 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture 3(b) Investigative Tools; 4(a) Training for Law Enforcement; 4(b) Human Trafficking Task Force; 5 No Requirement of Force, Fraud, or Coercion for Minor Victims of Sex Trafficking; 6 Posting of a Hotline; 7 Safe Harbor for Minors; 8 Victim Assistance; 9 Civil Remedy; and 10 Vacating Convictions.

Categories Still Needed: None.

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§2C:13-8. Human trafficking

1. Human trafficking. a. A person commits the crime of human trafficking if he:
 - (1) knowingly holds, recruits, lures, entices, harbors, transports, provides or obtains, by any means, another, to engage in sexual activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-1 or to provide labor or services:
 - (a) by causing or threatening to cause serious bodily harm or physical restraint against the person or any other person;
 - (b) by means of any scheme, plan, or pattern intended to cause the person to believe that the person or any other person would suffer serious bodily harm or physical restraint;
 - (c) by committing a violation of N.J.S.2C:13-5 against the person;
 - (d) by destroying, concealing, removing, confiscating, or possessing any passport, immigration-related document as defined in section 1 of P.L.1997, c.1 (C.2C:21-31), or other document issued by a governmental agency to any person which could be used as a means of verifying the person's identity or age or any other personal identifying information;
 - (e) by means of the abuse or threatened abuse of the law or legal process;
 - (f) by means of fraud, deceit, or misrepresentation against the person; or



- (g) by facilitating access to a controlled dangerous substance or controlled substance analog as set forth in chapter 35 of Title 2C of the New Jersey Statutes; or
- (2) receives anything of value from participation as an organizer, supervisor, financier or manager in a scheme or course of conduct which violates paragraph (1) of this subsection; or
- (3) knowingly holds, recruits, lures, entices, harbors, transports, provides or obtains, by any means, a child under 18 years of age, to engage in sexual activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-1, whether or not the actor mistakenly believed that the child was 18 years of age or older, even if that mistaken belief was reasonable.
- b. An offense under this section constitutes a crime of the first degree.
- c. It is an affirmative defense to prosecution for a violation of this section that, during the time of the alleged commission of the offense of human trafficking created by this section, the defendant was a victim of human trafficking.
- d. Notwithstanding the provisions of N.J.S.2C:43-6, the term of imprisonment imposed for a crime of the first degree under paragraph (2) or (3) of subsection a. of this section shall be either a term of 20 years during which the actor shall not be eligible for parole, or a specific term between 20 years and life imprisonment, of which the actor shall serve 20 years before being eligible for parole. Notwithstanding the provisions of N.J.S.2C:43-3, the sentence for a conviction for a crime of the first degree under this section shall include a fine in an amount of not less than \$25,000, which shall be collected as provided for the collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4) and forwarded to the Department of the Treasury to be deposited in the "Human Trafficking Survivor's Assistance Fund" established by section 2 of P.L.2013, c.51 (C.52:17B-238).
- e. In addition to any other disposition authorized by law, any person who violates the provisions of this section shall be ordered to make restitution to any victim. The court shall award to the victim restitution which is the greater of:
- (1) the gross income or value to the defendant of the victim's labor or services; or
 - (2) the value of the victim's labor or services as determined by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal Farm Labor Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws concerning the regulation of child labor in chapter 2 of Title 34 of the Revised Statutes, or any other applicable State law, and the "Fair Labor Standards Act of 1938," 29 U.S.C. s.201 et seq., or any other applicable federal law.

2C:13-9 Second degree crime; penalties.

5. a. A person commits a crime of the second degree if he:

(1) provides services, resources, or assistance with the knowledge that the services, resources, or assistance are intended to be used in furtherance of the commission of the crime of human trafficking in violation of section 1 of P.L.2005, c.77 (C.2C:13-8).

(a) For purposes of this paragraph, "services, resources, or assistance" shall include financial support, business services, lodging, transportation, the provision of false documentation or identification, equipment, facilities, or any other service or property with a pecuniary value that exceeds \$200, whether or not a person is compensated for the services, resources, or assistance, but shall not include humanitarian or charitable aid or services provided directly to a victim of human trafficking.

(b) For purposes of this paragraph, the requisite knowledge that services, resources, or assistance are intended to be used in furtherance of the commission of the crime of human trafficking may be inferred if the defendant was aware that a person to whom the defendant was providing services, resources, or assistance: (i) was subject to or subjected



another to restrictions on the person's freedom of movement, so that the person could not leave without accompaniment of another person or was otherwise subjected to obvious restrictions on mobility; or (ii) did not possess or have access to any means of communication, including but not limited to a cellular or other wireless telephone or other electronic communication device, and was not permitted or was otherwise unable to communicate with another person without supervision or permission; or

(2) procures or attempts to procure a person to engage in sexual activity as defined in paragraph (2) of subsection a. of N.J.S.2C:34-1, or to provide labor or services, whether for himself or another person, knowing that the person provided or to be provided was a victim of human trafficking, or under circumstances in which a reasonable person would conclude that there was a substantial likelihood that the person was a victim of human trafficking.

(a) For purposes of this paragraph, there shall be a rebuttable presumption that the defendant knew, and that a reasonable person would conclude there was a substantial likelihood, that a person was a victim of human trafficking if the person:

(i) could not leave the premises where the person provided labor or services without accompaniment of another person or was otherwise subjected to significant restrictions on the person's freedom of movement; or

(ii) did not possess or have access to any means of communication, including but not limited to a cellular or other wireless telephone or other electronic communication device, and was not permitted or was otherwise unable to communicate with another person without supervision or permission.

(b) For the purposes of this paragraph, there shall be a rebuttable presumption that: (i) a person knew that a child under the age of 18 years of age procured to engage in sexual activity or for whom attempts were made to procure for that activity was a victim of human trafficking; and (ii) a reasonable person would conclude that there was a substantial likelihood that a child under the age of 18 years of age procured to engage in sexual activity or for whom attempts were made to procure for that activity was a victim of human trafficking.

b.

(1) It is an affirmative defense to prosecution for a violation of this section that, during the time of the alleged commission of the crime, the defendant was a victim of human trafficking.

(2) There shall be a rebuttable presumption that a child under the age of 18 years of age charged with a violation of this section was a victim of human trafficking

c.

(1) Notwithstanding any provision of law to the contrary, a person convicted for a violation of this section shall be sentenced to a term of imprisonment, which shall include a period of parole ineligibility of one-third to one-half of the term of imprisonment imposed or three years, whichever is greater. Notwithstanding the provisions of N.J.S.2C:43-3, the sentence for a conviction under this section shall include a fine in an amount of not less than \$15,000, which shall be collected as provided for the collection of fines and restitutions in section 3 of P.L.1979, c.396 (C.2C:46-4) and forwarded to the Department of the Treasury to be deposited in the "Human Trafficking Survivor's Assistance Fund" established by section 2 of P.L.2013, c.51 (C.52:17B-238).

(2) Additionally, upon a finding of guilt or entry of a guilty plea for a crime described under this section, the court shall direct any issuing State, county, or municipal governmental agency to revoke any license, permit, certificate, approval, registration, charter, or similar form of business or professional authorization required by law concerning the operation of that person's business or profession, if that business or profession was used in the course of the crime.



d. Nothing in this section shall be construed to preclude, or limit in any way, the prosecution and conviction for any other offense, including prosecution and conviction pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8), human trafficking, N.J.S.2C:34-1, prostitution and related offenses, and N.J.S.2C:2-6, liability for another's conduct.

Category 2: Labor Trafficking Statute

Yes. See 2C:13-8.

Category 3(a): Asset Forfeiture

2C:64-1 Property subject to forfeiture.

a. Any interest in the following shall be subject to forfeiture and no property right shall exist in them:

(1) Controlled dangerous substances, firearms which are unlawfully possessed, carried, acquired or used, illegally possessed gambling devices, untaxed cigarettes, untaxed special fuel, unlawful sound recordings and audiovisual works and items bearing a counterfeit mark. These shall be designated prima facie contraband.

(2) All property which has been, or is intended to be, utilized in furtherance of an unlawful activity, including, but not limited to, conveyances intended to facilitate the perpetration of illegal acts, or buildings or premises maintained for the purpose of committing offenses against the State

(3) Property which has become or is intended to become an integral part of illegal activity, including, but not limited to, money which is earmarked for use as financing for an illegal gambling enterprise.

(4) Proceeds of illegal activities, including, but not limited to, property or money obtained as a result of the sale of prima facie contraband as defined by subsection a. (1), proceeds of illegal gambling, prostitution, bribery and extortion.

b. Any article subject to forfeiture under this chapter may be seized by the State or any law enforcement officer as evidence pending a criminal prosecution pursuant to section 2C:64-4 or, when no criminal proceeding is instituted, upon process issued by any court of competent jurisdiction over the property, except that seizure without such process may be made when not inconsistent with the Constitution of this State or the United States, and when

(1) The article is prima facie contraband; or

(2) The property subject to seizure poses an immediate threat to the public health, safety or welfare.

c. For the purposes of this section:

"Items bearing a counterfeit mark" means items bearing a counterfeit mark as defined in N.J.S.2C:21-32.

"Unlawful sound recordings and audiovisual works" means sound recordings and audiovisual works as those terms are defined in N.J.S.2C:21-21 which were produced in violation of N.J.S.2C:21-21.

"Untaxed special fuel" means diesel fuel, No. 2 fuel oil and kerosene on which the motor fuel tax imposed pursuant to R.S.54:39-1 et seq. is not paid that is delivered, possessed, sold or transferred in this State in a manner not authorized pursuant to R.S.54:39-1 et seq. or P.L.1938, c.163 (C.56:6-1 et seq.).



Category 3(b): Investigative Tools

§ 2C:41-1. Definitions

For purposes of this section and N.J.S.2C:41-2 through N.J.S.2C:41-6:

a. "Racketeering activity" means (1) any of the following crimes which are crimes under the laws of New Jersey or are equivalent crimes under the laws of any other jurisdiction:

(z) violation of section 1 of P.L.2005, c.77 (C.2C:13-8), human trafficking

Category 4(a): Training for Law Enforcement

The Police Training Commission, in consultation with the Attorney General and the Director of the Division of Criminal Justice in the Department of Law and Public Safety, shall develop and approve, as part of the police training courses required pursuant to P.L.1961, c. 56 (C.52:17B-66 et seq.), courses of study on the handling, response procedures, investigation, and prosecution of human trafficking cases. These courses shall be reviewed at least every two years and modified from time to time as need may require.

Category 4(b): Human Trafficking Task Force

52:17B-237. Commission on Human Trafficking; establishment; membership; term of office; compensation; duties; regulations; annual report

a. There is hereby created, in the Division of Criminal Justice in the Department of Law and Public Safety, a commission to be known as the Commission on Human Trafficking, consisting of 15 members as follows: the Attorney General, or his designee; the Commissioner of Children and Families, or his designee; the Commissioner of Human Services, or his designee; a county prosecutor, appointed by the Governor based upon the recommendation of the County Prosecutors Association of the State of New Jersey; one member of the New Jersey Human Trafficking Task Force established within the Department of Law and Public Safety, designated by the Attorney General; 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; 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; 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; 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 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. 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.

b. (1) Of the public members first appointed:

(a) the following shall serve for a term of three years: one member appointed upon the recommendation of the Senate President; one member appointed upon the recommendation of the Speaker of the General Assembly; and two members appointed by the Governor; and

(b) the following shall serve for a term of two years: one member appointed upon the recommendation of the Senate President; one member appointed upon the



recommendation of the Speaker of the General Assembly; each member appointed upon the recommendation of the Senate and Assembly Minority Leaders; and two members appointed by the Governor.

(c) Upon the conclusion of the initial terms, each public member shall be appointed for a term of three years.

(2) Each member appointed shall hold office for the term of appointment and until a successor shall have been appointed and qualified.

(3) Any vacancy in the membership of the commission shall be filled by appointment in the same manner as the original appointment was made.

c. (1) The commission shall organize upon the appointment of a majority of its authorized membership. The members shall elect one of the members to serve as chair and vice-chair, and the chair may appoint a secretary, who need not be a member of the commission.

(2) The commission shall meet at those times and places within the State of New Jersey as the commission shall determine. A majority of the commission's authorized membership shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission.

d. The members of the commission shall serve without compensation, but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties within the limits of funds appropriated or otherwise made available to the commission for its purposes.

e. The Division of Criminal Justice in the Department of Law and Public Safety shall, at the direction of the Attorney General, provide legal, stenographic, technical, clerical, and other staff and resource assistance to the commission, and additionally the commission may incur expenses as may be necessary in order to perform its duties within the limits of funds appropriated or otherwise made available to it for its purposes.

f. It shall be the duty of the commission to:

(1) Evaluate the existing law concerning human trafficking and the enforcement thereof, and to make recommendations for legislation, if appropriate;

(2) Review existing victim assistance programs and analyze the costs, organization, and availability of these services for victims of human trafficking and to make recommendations for legislation, if appropriate;

(3) Promote a coordinated response by public and private resources for victims of human trafficking; and

(4) Develop mechanisms to promote public awareness of human trafficking, including promotion of the national, 24-hour toll-free hotline telephone service on human trafficking described under section 18 of P.L.2013, c. 51 (C.2C:13-11), and the promotion of training courses and other educational materials for use by persons required under section 19 of P.L.2013, c. 51 (C. 2C:13-12) to undergo training on the handling of and response procedures for suspected human trafficking activities.

g. The commission shall report annually to the Governor and to the Legislature, pursuant to section 2 of P.L.1991, c. 164 (C.52:14-19.1), its activities, as well as its findings and recommendations for any needed new services or resources for victims of human trafficking, and any proposed changes to the current law concerning human trafficking.

Category 5: No Requirement of Force, Fraud, or Coercion for Sex Trafficking of Minors

Yes. See §2C:13-8 (4)(c).



Category 6: Posting of a Human Trafficking Hotline

52:17B-237. Commission on Human Trafficking; establishment; membership; term of office; compensation; duties; regulations; annual report

(4) Develop mechanisms to promote public awareness of human trafficking, including promotion of the national, 24-hour toll-free hotline telephone service on human trafficking described under section 18 of P.L.2013, c. 51 (C.2C:13-11), and the promotion of training courses and other educational materials for use by persons required under section 19 of P.L.2013, c. 51 (C. 2C:13-12) to undergo training on the handling of and response procedures for suspected human trafficking activities.

2C:13-11 Coordination of State's involvement with national, 24-hour toll-free hotline service on human trafficking.

18. The Attorney General shall, in consultation with the Commission on Human Trafficking established by section 1 of P.L.2013, c.51 (C.52:17B-237), coordinate the State's involvement with the national, 24-hour toll-free hotline telephone service on human trafficking that is operating pursuant to the National Human Trafficking Hotline, Training, and Technical Assistance Program authorized by 22 U.S.C. ss.7104(b) and 7105(b)(1)(B), 8 U.S.C. s.1522(c)(1)(A), or any successor federal law.

Category 7: Safe Harbor

C.2A:4A-21 Purposes.

2. Purposes. This act shall be construed so as to effectuate the following purposes:
- a. To preserve the unity of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of juveniles coming within the provisions of this act;
 - b. Consistent with the protection of the public interest, to remove from children committing delinquent acts certain statutory consequences of criminal behavior, and to substitute therefor an adequate program of supervision, care and rehabilitation, and a range of sanctions designed to promote accountability and protect the public;
 - c. To separate juveniles from the family environment only when necessary for their health, safety or welfare or in the interests of public safety;
 - d. To secure for each child coming under the jurisdiction of the court such care, guidance and control, preferably in his own home, as will conduce to the child's welfare and the best interests of the State; and when such child is removed from his own family, to secure for him custody, care and discipline as nearly as possible equivalent to that which should have been given by his parents;
 - e. To insure that children under the jurisdiction of the court are wards of the State, subject to the discipline and entitled to the protection of the State, which may intervene to safeguard them from neglect or injury and to enforce the legal obligations due to them and from them;
 - f. Consistent with the protection of the public interest, to insure that any services and sanctions for juveniles provide balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable children to become responsible and productive members of the community; and
 - g. To insure protection and a safe environment for those sexually exploited juveniles who are charged with prostitution or who are alleged to be victims of human trafficking; and to



provide these juveniles with the appropriate shelter, care, counseling and crisis intervention services from the time they are taken into custody and for the duration of any legal proceedings.

C.2A:4A-22 General definitions.

3. General definitions. As used in this act:

- a. "Juvenile" means an individual who is under the age of 18 years.
- b. "Adult" means an individual 18 years of age or older.
- c. "Detention" means the temporary care of juveniles in physically restricting facilities pending court disposition.
- d. "Shelter care" means the temporary care of juveniles in facilities without physical restriction pending court disposition.
- e. "Commit" means to transfer legal custody to an institution.
- f. "Guardian" means a person, other than a parent, to whom legal custody of the child has been given by court order or who is acting in the place of the parent or is responsible for the care and welfare of the juvenile.
- g. "Juvenile-family crisis" means behavior, conduct or a condition of a juvenile, parent or guardian or other family member which presents or results in (1) a serious threat to the well-being and physical safety of a juvenile, or (2) a serious conflict between a parent or guardian and a juvenile regarding rules of conduct which has been manifested by repeated disregard for lawful parental authority by a juvenile or misuse of lawful parental authority by a parent or guardian, or (3) unauthorized absence by a juvenile for more than 24 hours from his home, or (4) a pattern of repeated unauthorized absences from school by a juvenile subject to the compulsory education provision of Title 18A of the New Jersey Statutes, or (5) an act which if committed by an adult would constitute prostitution in violation of N.J.S.2C:34-1 or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.
- h. "Repetitive disorderly persons offense" means the second or more disorderly persons offense committed by a juvenile on at least two separate occasions and at different times
- i. "Court" means the Superior Court, Chancery Division, Family Part unless a different meaning is plainly required.

C.2A:4A-42 Predispositional evaluation.

23. Predispositional evaluation.

- a. Before making a disposition, the court may refer the juvenile to an appropriate individual, agency or institution for examination and evaluation.
- b. In arriving at a disposition, the court may also consult with such individuals and agencies as may be appropriate to the juvenile's situation, including the county probation division, the Department of Children and Families, the Juvenile Justice Commission established pursuant to section 2 of P.L.1995, c.284 (C.52:17B-170), the county youth services commission, school personnel, clergy, law enforcement authorities, family members and other interested and knowledgeable parties. In so doing, the court may convene a predispositional conference to discuss and recommend disposition.
- c. (1) The predisposition report ordered pursuant to the Rules of Court may include a statement by the victim of the offense for which the juvenile has been adjudicated delinquent or by the nearest relative of a homicide victim. The statement may include the nature and extent of any physical harm or psychological or emotional harm or trauma suffered by the victim, the extent of any loss to include loss of earnings or ability to work suffered by the victim and the effect of the crime upon the victim's family. The probation division shall notify the victim or nearest



relative of a homicide victim of his right to make a statement for inclusion in the predisposition report if the victim or relative so desires. Any statement shall be made within 20 days of notification by the probation division. The report shall further include information on the financial resources of the juvenile. This information shall be made available on request to the Victims of Crime Compensation Board established pursuant to section 3 of P.L.1971, c.317 (C.52:4B-3) or to any officer authorized under section 3 of P.L.1979, c.396 (C.2C:46-4) to collect payment of an assessment, restitution or fine.

(2) Any predisposition report prepared pursuant to this section shall include:

- (a) an analysis of the circumstances attending the commission of the act;
- (b) the impact of the offense on the community;
- (c) the offender's history of delinquency or criminality;
- (d) the offender's family situation;
- (e) the offender's financial resources;
- (f) the financial resources of the juvenile's parent or guardian;
- (g) the information concerning the parent or guardian's exercise of supervision and control relevant to commission of the act; and

(h) in any case where the juvenile is charged with an act which if committed by an adult would constitute prostitution in violation of N.J.S.2C:34-1 or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking, the predisposition report may include any information relevant to the commission of the act. Information concerning financial resources included in the report shall be made available to any officer authorized to collect payment on any assessment, restitution or fine.

C.2A:4A-71 Review and processing of complaints.

2. Review and processing of complaints.

a. The jurisdiction of the court in any complaint filed pursuant to section 11 of P.L.1982, c.77 (C.2A:4A-30) shall extend to the juvenile who is the subject of the complaint and his parents or guardian.

b. Every complaint shall be reviewed by court intake services for recommendation as to whether the complaint should be dismissed, diverted, or referred for court action. Where the complaint alleges a crime which, if committed by an adult, would be a crime of the first, second, third or fourth degree, or alleges a repetitive disorderly persons offense or any disorderly persons offense defined in chapter 35 or chapter 36 of Title 2C, the complaint shall be referred for court action, unless the prosecutor otherwise consents to diversion. Court intake services shall consider the following factors in determining whether to recommend diversion:

- (1) The seriousness of the alleged offense or conduct and the circumstances in which it occurred;
- (2) The age and maturity of the juvenile;
- (3) The risk that the juvenile presents as a substantial danger to others;
- (4) The family circumstances, including any history of drugs, alcohol abuse or child abuse on the part of the juvenile, his parents or guardian;
- (5) The nature and number of contacts with court intake services and the court that the juvenile or his family have had;
- (6) The outcome of those contacts, including the services to which the juvenile or family have been referred and the results of those referrals;
- (7) The availability of appropriate services outside referral to the court;
- (8) Any recommendations expressed by the victim or complainant, or arresting officer, as to how the case should be resolved;
- (9) Any recommendation expressed by the county prosecutor;



(10) The amenability of the juvenile to participation in a remedial education or counseling program that satisfies the requirements of subsection b. of section 2 of P.L.2011, c.128 (C.2A:4A-71.1) if the offense alleged is an eligible offense as defined in subsection c. of section 2 of P.L.2011, c.128 (C.2A:4A-71.1); and

(11) Any information relevant to the offense in any case where the juvenile is charged with an act which if committed by an adult would constitute prostitution in violation of N.J.S.2C:34-1 or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.

C.2A:4A-74 Court intake service conference.

5. Court intake service conference. a. Where the juvenile is diverted to a court intake service conference, notices of the conference shall be sent to the juvenile and his parents or guardian and to the complainant or victim. The parties may be requested to bring to the conference all pertinent documents in their possession, including medical, social, and school records.

b. In determining the appropriate resolution of a complaint, the following factors shall be considered by court intake services:

(1) The seriousness of the alleged offense or conduct and the circumstances in which it occurred;

(2) The age and maturity of the juvenile;

(3) The risk that the juvenile presents as a substantial danger to others;

(4) The family circumstances, including any history of drugs, alcohol abuse or child abuse on the part of the juvenile, his parents or guardian;

(5) The nature and number of contacts with court intake services and the court that the juvenile and his family have had;

(6) The outcome of those contacts, including the services to which the juvenile or family have been referred and the results of those referrals;

(7) The availability of appropriate services;

(8) Any recommendations expressed by the victim or complainant, or arresting officer, as to how the case should be disposed;

(9) Whether diversion can be accomplished in a manner that holds the juvenile accountable for the conduct;

(10) The impact of the offense on the victim or victims;

(11) The impact of the offense on the community; and

(12) Any information relevant to the offense in any case where the juvenile is charged with an act which if committed by an adult would constitute prostitution in violation of N.J.S.2C:34-1 or any offense which the juvenile alleges is related to the juvenile being a victim of human trafficking.

c. Each juvenile shall be reviewed without a presumption of guilt. The intake conference shall be concerned primarily with providing balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering interaction and dialogue between the offender, victim and community and the development of competencies to enable the juvenile offender to become a responsible and productive member of the community. In addition, the conference shall be concerned with preventing more serious future misconduct by the juvenile offender by obtaining the cooperation of the juvenile and his parents or guardian in complying with its recommendations. The court may schedule a hearing where the complainant or victim objects to the recommendations from the conference.

d. The resolution from the conference may include but shall not be limited to counseling, restitution, referral to appropriate community agencies, or any other community work programs or other conditions consistent with diversion that aids in providing balanced attention to the protection of the community, the imposition of accountability for offenses committed, fostering



interaction and dialogue between the offender, victim and community and the development of competencies to enable the juvenile offender to become a responsible and productive member of the community, provided that:

- (1) Obligations imposed as a result of the intake conference shall be an order of the court approved by the presiding judge and shall be set forth in writing and may not exceed six months. The juvenile and his or her parents or guardian shall receive copies, as shall any agencies providing services under the agreement;
 - (2) The court intake service worker shall inform the juvenile and the juvenile's parents or guardian in writing of their right to object at any time prior to their written agreement to the facts or terms of the intake conference decision, and if objections arise, the intake service worker may alter the terms of the proposed agreement or refer the matter to the presiding judge who shall determine if the complaint will be heard in court or returned to intake conference for further action;
 - (3) Written agreement pursuant to intake conferences may be terminated at any time upon the request of the juvenile and the matter referred to the presiding judge;
 - (4) The court intake services conference may not order the confinement of a juvenile, place a juvenile on probation, or remove a juvenile from his family as a disposition; and
 - (5) If, at any time during the diversion period, the court intake service worker determines that the obligations imposed under the written agreement are not being met, the intake worker shall notify the presiding judge in writing. In the case of failure to comply with the obligations imposed under the agreement by the parents or guardian, the court may proceed against such persons for enforcement of the agreement. In the case of failure to comply by the juvenile, the matter shall be referred to the court for action.
- e. At the end of the diversion period a second court intake services conference may be held with all parties to the written agreement present to ascertain if the terms of the agreement have been fulfilled. If all conditions have been met, the intake worker shall so inform the presiding judge in writing who shall order the complaint dismissed. A copy of the order dismissing the complaint shall be sent to the juvenile. If the conditions of the written agreement have not been met, the intake worker may refer the matter to the presiding judge who shall determine if the complaint will be heard in court or returned to court intake services for further action. Based on the evaluations required under this subsection, the intake conference agreement may be extended beyond the six-month maximum if all parties agree. In no case shall an intake conference agreement exceed nine months.
- f. All proceedings before the conference are confidential and they shall receive only those records which in the court's judgment are necessary to aid in making a recommendation.

2C:34-1. Prostitution and Related Offenses.

- a. As used in this section:
- (1) "Prostitution" is sexual activity with another person in exchange for something of economic value, or the offer or acceptance of an offer to engage in sexual activity in exchange for something of economic value.
 - (2) "Sexual activity" includes, but is not limited to, sexual intercourse, including genital-genital, oral-genital, anal-genital, and oral-anal contact, whether between persons of the same or opposite sex; masturbation; touching of the genitals, buttocks, or female breasts; sadistic or masochistic abuse and other deviate sexual relations.
 - (3) "House of prostitution" is any place where prostitution or promotion of prostitution is regularly carried on by one person under the control, management or supervision of another.
 - (4) "Promoting prostitution" is:



- (a) Owning, controlling, managing, supervising or otherwise keeping, alone or in association with another, a house of prostitution or a prostitution business;
 - (b) Procuring an inmate for a house of prostitution or place in a house of prostitution for one who would be an inmate;
 - (c) Encouraging, inducing, or otherwise purposely causing another to become or remain a prostitute;
 - (d) Soliciting a person to patronize a prostitute;
 - (e) Procuring a prostitute for a patron;
 - (f) Transporting a person into or within this State with purpose to promote that person's engaging in prostitution, or procuring or paying for transportation with that purpose; or
 - (g) Knowingly leasing or otherwise permitting a place controlled by the actor, alone or in association with others, to be regularly used for prostitution or promotion of prostitution, or failure to make a reasonable effort to abate such use by ejecting the tenant, notifying law enforcement authorities, or other legally available means.
- b. A person commits an offense if:
 - (1) The actor engages in prostitution;
 - (2) The actor promotes prostitution;
 - (3) The actor knowingly promotes prostitution of a child under 18 whether or not the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable;
 - (4) The actor knowingly promotes prostitution of the actor's child, ward, or any other person for whose care the actor is responsible;
 - (5) The actor compels another to engage in or promote prostitution;
 - (6) The actor promotes prostitution of the actor's spouse; or
 - (7) The actor knowingly engages in prostitution with a person under the age of 18, or if the actor enters into or remains in a house of prostitution for the purpose of engaging in sexual activity with a child under the age of 18, or if the actor solicits or requests a child under the age of 18 to engage in sexual activity. It shall be no defense to a prosecution under this paragraph that the actor mistakenly believed that the child was 18 years of age or older, even if such mistaken belief was reasonable.
- c. Grading of offenses under subsection b.
 - (1) An offense under subsection b. constitutes a crime of the second degree if the offense falls within paragraph (3) or (4) of that subsection.
 - (2) An offense under subsection b. constitutes a crime of the third degree if the offense falls within paragraph (5), (6) or (7) of that subsection.
 - (3) An offense under paragraph (2) of subsection b. constitutes a crime of the third degree if the conduct falls within subparagraph (a), (b), or (c) of paragraph (4) of subsection a. Otherwise the offense is a crime of the fourth degree.
 - (4) An offense under subsection b. constitutes a disorderly persons offense if the offense falls within paragraph (1) of that subsection except that a second or subsequent conviction for such an offense constitutes a crime of the fourth degree. In addition, where a motor vehicle was used in the commission of any offense under paragraph (1) of subsection b. the court shall suspend for six months the driving privilege of any such offender who has a valid driver's license issued by this State. Upon conviction, the court shall immediately collect the offender's driver's license and shall forward it, along with a report stating the first and last day of the suspension imposed pursuant to this paragraph, to the New Jersey Motor Vehicle Commission.



d. Presumption from living off prostitutes. A person, other than the prostitute or the prostitute's minor child or other legal dependent incapable of self-support, who is supported in whole or substantial part by the proceeds of prostitution is presumed to be knowingly promoting prostitution.

e. It is an affirmative defense to prosecution for a violation of this section that, during the time of the alleged commission of the offense, the defendant was a victim of human trafficking pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8) or the defendant was under the age of 18.

C.52:4B-44.1 Establishment of standard protocols for provision of information and services to victims of human trafficking, minors charged with prostitution.

7. The Attorney General shall, in consultation with the Commissioner of the Department of Health and Senior Services, the Commissioner of Children and Families, the Superintendent of State Police and representatives of providers of services to victims of human trafficking and sexually exploited minors, coordinate the establishment of standard protocols for the provision of information and services to victims of human trafficking and to minors under the age of 18 who are charged with prostitution, including coordination of efforts with the appropriate federal authorities pursuant to the "Trafficking Victims Protection Reauthorization Act of 2003," 22 U.S.C. s.7101 et seq. and shall make such protocols available upon request.

This act shall take effect immediately and shall be applicable to all offenses committed on or after the effective date.

Category 8: Victim Assistance

52:17B-238. Human Trafficking Survivor's Assistance Fund

a. There is established the "Human Trafficking Survivor's Assistance Fund" as a separate, non-lapsing, dedicated fund in the General Fund, which shall be administered by the Attorney General. All monies deposited in the fund pursuant to P.L.2013, c. 51 (C.52:17B-237 et al.), any other enactment, or as otherwise provided from any public or private source shall be used for the provision of services to victims of human trafficking, to promote awareness of human trafficking, and the development, maintenance, revision, and distribution of training course and other educational materials, and the operation of educational or training programs, in accordance with sections 11 and 19 of P.L.2013, c. 51 (C.2C:34-1.2 and C.2C:13-12). All expenditures from the fund shall be made by the Attorney General, in consultation with the Commission on Human Trafficking established by section 1 of P.L.2013, c. 51 (C.52:17B-237), and done so in accordance with rules and regulations promulgated by the Attorney General and other applicable law.

b. Receipt of expenditures from the fund by any provider of services to victims of human trafficking shall not be based or otherwise conditioned upon the previous, present, or future cooperation of the recipient regarding any law enforcement investigation or prosecution, or lack thereof.

Category 9: Civil Remedy

2C:13-8.1. Human trafficking; victim claims for injuries resulting from the offense; co-conspirators; authority to bring civil actions; proof; remedies

4. a. Any person injured, including injury due to the loss of moneys or property, real or personal, by an actor and all those acting in concert with that actor who committed a human trafficking offense in violation of section 1 of P.L.2005, c.77 (C.2C:13-8) or section 5 of P.L.2013, c.51



(C.2C:13-9) may bring a civil action in any court of competent jurisdiction against the actor and all those acting in concern with that actor. A civil action brought under this section shall not preclude the application of any other civil, administrative, or criminal remedy under any other provision of law.

b.

(1) The standard of proof in a civil action brought pursuant to this section is a preponderance of the evidence, and the fact that a prosecution against the offending actor is not instituted or, whenever instituted, terminates without a conviction, shall not preclude a civil action.

(2) A final judgment rendered in favor of the State in any criminal proceeding shall estop the defendant from denying the same conduct in any civil action brought pursuant to this section.

c. In any civil action brought pursuant to this section, the court shall, in addition to any other appropriate legal or equitable relief, including damages for pain and suffering, recovery of reasonable costs for necessary medical, dental, and psychological services and punitive damages, award damages in an amount that is the greater of:

(1) the gross income or value to the defendant of the injured party's labor or services; or

(2) the value of the injured party's labor or services as determined by the "New Jersey Prevailing Wage Act," P.L.1963, c.150 (C.34:11-56.25 et seq.), the "New Jersey State Wage and Hour Law," P.L.1966, c.113 (C.34:11-56a et seq.), the Seasonal Farm Labor Act, P.L.1945, c.71 (C.34:9A-1 et seq.), the laws concerning the regulation of child labor in chapter 2 of Title 34 of the Revised Statutes, or any other applicable State law, and the "Fair Labor Standards Act of 1938," 29 U.S.C. s.201 et seq., or any other applicable federal law.

d. In addition to any damages, penalty, injunction, or other appropriate relief awarded in an action brought pursuant to this section, the court may award to the injured person bringing suit reasonable attorney's fees and costs.

Category 10: Vacating Convictions

2C:44-1.1 Certain convictions vacated, expunged.

10. a.

(1) A person convicted of N.J.S.2C:34-1, prostitution and related offenses, or section 3 of P.L.1997, c.93 (C.2C:34-1.1), loitering for the purpose of engaging in prostitution, or a similar local ordinance, may file an application with the Superior Court in accordance with the Rules of Court to have the conviction vacated at any time following entry of a judgment of conviction, when the person's participation in the offense was a result of having been a victim of human trafficking pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8) or as defined in paragraph (14) of 22 U.S.C. s.7102.

(2) Notwithstanding any law to the contrary, the person may also in the same application seek an order for the expungement of any reference to the person's arrest, conviction, and any proceeding for prostitution in any records in the custody of a court, or law enforcement or correctional agency entitled to be served with the application pursuant to subsection b. of this section.

b.

(1) An application made under this section, together with a copy of all supporting documents, shall be served pursuant to the Rules of Court upon: the Attorney General; the county prosecutor of the county wherein the court is located; the Superintendent of State Police; the chief of police or other executive head of the police department of the



municipality wherein the offense was committed; the chief law enforcement officer of any other law enforcement agency of this State that participated in the arrest of the person; the superintendent or warden of any institution in which the person was confined; and, if a disposition was made in municipal court, upon the judge of that court. Any of the noticed parties herein may make an appearance or file a submission responding to the person's application.

(2) The application shall be made and heard within a reasonable time after the person has ceased to be a victim of human trafficking or has sought services for being a victim of human trafficking, whichever occurs later, subject to reasonable concerns for the safety of the person, family members of the person, or other victims of human trafficking that may be jeopardized by the bringing of the application, or for other reasons consistent with the purposes of this paragraph.

c.

(1) The court may vacate a conviction pursuant to this section if it finds by a preponderance of the evidence that the person was a victim of human trafficking pursuant to section 1 of P.L.2005, c.77 (C.2C:13-8) or as defined in paragraph (14) of 22 U.S.C. s.7102 at the time of the offense, and that the violation was a result of the person having been a victim of human trafficking.

(2) In making a determination:

(a) evidence documenting the person's status as a victim of human trafficking at the time of the offense from a federal, state, or local governmental agency shall create a rebuttable presumption that the person's participation in the offense was a result of having been a victim, but shall not be required to vacate a conviction under this section; and

(b) the court may additionally consider other evidence it deems appropriate in determining whether the person was a victim of human trafficking, including, but not limited to:

(i) certified records of federal or State court proceedings which demonstrate that the defendant was a victim of a trafficker charged with a human trafficking offense under section 1 of P.L.2005, c.77 (C.2C:13-8) or chapter 77 of Title 18 of the United States Code;

(ii) certified records of approval notices or law enforcement certifications generated from a federal immigration proceeding available to victims of human trafficking; and

(iii) testimony or a sworn statement from a trained professional staff member of a victim services organization, an attorney, a member of the clergy or a health care or other professional from whom the person has sought assistance in addressing the trauma associated with being a victim of human trafficking.

d. If the court finds, pursuant to subsection c. of this section, that the person was a victim of human trafficking, it shall enter an order vacating the conviction and directing that all court records be revised accordingly. When the person's application also seeks an order for expungement, the court order shall require that any court, law enforcement and correctional agencies, and other noticed parties pursuant to subsection b. of this section expunge all references to the person's arrest, conviction, and related proceedings for the violation of N.J.S.2C:34-1, prostitution and related offenses, or section 3 of P.L.1997, c.93 (C.2C:34-1.1), loitering for the purpose of engaging in prostitution, or a similar local ordinance from all records in their custody that relate to the vacated conviction. An expungement ordered pursuant to this section shall have the same force as an expungement ordered pursuant to N.J.S.2C:52-1 et seq.



If you would like assistance in enacting laws to fill in the gaps, please contact the Polaris Policy Program at policy@polarisproject.org.