

**To: New Jersey Law Revision Commission**  
**Fr: Laura C. Tharney, Executive Director**  
**Re: Update Recommending Conclusion of NJLRC Work in the Human Trafficking Area at This Time**  
**Date: February 07, 2022**

## **MEMORANDUM**

### **Project Summary**

When the Commission last considered its work on New Jersey's body of statutory law pertaining to human trafficking, Staff was directed to contact New Jersey's Commission on Human Trafficking to see if there was anything that the NJLRC can do to be of assistance in this area and, if not, to close the NJLRC's open project file on human trafficking.

### **Background**

Nearly a decade ago, the Uniform Law Commission (ULC) acknowledged, and proposed statutory language to address, the crime of human trafficking when it released the Uniform Act on Prevention of and Remedies for Human Trafficking (UAPRHT).

Released in 2013, the UAPRHT contained three components intended to end human trafficking: a set of comprehensive criminal penalties; protections for the victims of human trafficking; and methods to improve public awareness and prevention.<sup>1</sup>

Independent of the work of the ULC, New Jersey had recognized the seriousness and prevalence of human trafficking and taken an aggressive approach to combating it, enacting the Human Trafficking Prevention, Protection and Treatment Act in 2013 to amend and supplement various provisions of New Jersey's existing law. The HTPPT Act was widely recognized as a comprehensive and expansive approach to combating human trafficking.

In February of 2014, the NJLRC released a Draft Final Report (DFR) regarding the UAPRHT. The DFR recognized the serious nature of the crime of human trafficking and the New Jersey Legislature's substantial efforts to draft, implement, and enforce stringent anti-trafficking laws. In light of New Jersey's strong commitment to enforcing its recently-enhanced laws concerning human trafficking, the DFR recommended suspending Commission work in the area pending further implementation of the relatively new laws.

After the release of the DFR, Staff was contacted by the Rutgers School of Law – Newark's International Human Rights Clinic (Clinic). Penny M. Venetis, the Director of the International

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<sup>1</sup> Uniform Law Commission, Uniform Act on Prevention of and Remedies for Human Trafficking, <https://www.uniformlaws.org/committees/community-home?CommunityKey=0c541796-903d-450a-bb0e-8485650bf360>, last visited January 21, 2022.

Human Rights Clinic, requested that the DFR be held until the Clinic had an opportunity to thoroughly evaluate the UAPRHT and to comment on the Commission's Report.

In May of 2014, the Clinic provided an eighteen-page Memorandum identifying four areas in which it said that New Jersey's human trafficking law could be further strengthened:

- Amendment of New Jersey law immunizing human trafficking victims, particularly minors, from prosecution for prostitution-related offenses;
- Revision of New Jersey law to establish business entity liability for human trafficking crimes;
- Expansion of the New Jersey Human Trafficking Commission's duties to include oversight of a broader anti-trafficking public awareness campaign; and
- Clarification of some inconsistent and confusing language existing in current New Jersey anti-trafficking laws.

Staff was authorized in October of 2014 to move forward with changes to clarify the language of the statute to eliminate inconsistent language in the human trafficking and prostitution statutes.

A Tentative Report was released by the Commission in February of 2015, recommending statutory changes to address the fact that New Jersey law, as presently written, conflates individual and business entity liability. The Report noted that the language of the Uniform Act and other jurisdictions more clearly articulate the circumstances under which a business entity could be held liable for human trafficking violations. Staff proposed modifications to the New Jersey law that more clearly delineate when a business entity could be held liable by referencing New Jersey's existing law on criminal corporate liability.

In addition, the New Jersey law addresses human trafficking involving "sexual activity" and "labor or services," but does not explicitly criminalize forced or coerced sexually explicit performances. The proposed addition of language in N.J.S. 2C:13-8(a)(1) to address forced sexually explicit performances was considered the most straightforward and least invasive method of addressing this potential venue of human trafficking.

Staff worked in conjunction with New Jersey's Commission on Human Trafficking (CHT) and provided the CHT with the NJLRC's research and reports. The CHT indicated that it supported the narrow clarification of the law and recommended prohibiting sexually explicit materials in the main text of the statute.

A Final Report containing the changes to the law proposed in the Tentative Report was released in June 2016.

The Commission last considered an Update Memorandum in January of 2020. At that time, it reviewed a summary of legislative activity in this area, including the following:

- In the 2010-2011 legislative session, two identical bills were introduced in the Assembly and Senate that sought to publicize a hotline and mandate law enforcement training in this area;
- During the 2012-2013 session, eight bills concerning human trafficking were introduced;
- Five bills regarding human trafficking were introduced during the 2014-2015 session;
- In the 2016-2017 session, eight bills pertaining to human trafficking issues were introduced; and
- During the 2018-2019 session, 15 bills were introduced in the Assembly and Senate dealing with human trafficking, two of which were enacted (P.L. 2019, c. 258, made a supplemental appropriation of \$100,000 to the Commission on Human Trafficking and P.L. 2019, c. 189, required the Department of Education to develop guidelines for school districts concerning child trafficking awareness and prevention).

Staff also advised the Commission that, according to the National Human Trafficking Hotline, as of December 31, 2018, New Jersey had 224 reported cases of human trafficking, making it the state with the fourteenth highest number of such cases reported to the hotline. In addition, the New Jersey Coalition Against Human Trafficking described New Jersey as having some of the toughest anti-trafficking laws in the country.

The Commission considered the current law, the legislative awareness of the pertinent issues - as evidenced by the bills introduced on the topic of human trafficking - and the existence of a Commission on Human Trafficking with specialized knowledge on this subject matter. Staff was directed to contact the CHT to ask if there is anything that the NJLRC could do to be of assistance and, if not, to formally conclude the Commission's work in this area.

### **Outreach**

Laura Tharney met with Annmarie Taggart, a CHT Commissioner, to discuss the work of the NJLRC and of the CHT. At this time, the CHT is not actively working on recommendations for statutory change, but is focusing on non-law enforcement initiatives to combat human trafficking.

On behalf of the CHT, Commissioner Taggart indicated that she appreciated the outreach, and will contact the NJLRC if, moving forward, the CHT would like the NJLRC to consider work on a particular aspect of the human trafficking statutes, or if an opportunity to work collaboratively presents itself. She said the CHT had no objection to the NJLRC concluding its work in this area and would be happy to hear from the NJLRC in the future if an issue arises concerning the human trafficking statutes that identifies a potential area for NJLRC work.

### **Conclusion**

In light of the foregoing, Staff recommends the conclusion of the Commission's work in this area at this time.