



## MEMORANDUM

**TO:** NYS Law Enforcement and NYS District Attorney's Offices

**FROM:** Ken Franzblau, Director of Human Trafficking Prevention and Training

**DATE:** October 30, 2007

**SUBJECT:** Human Trafficking

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Effective November 1, 2007 amendments and additions to New York Penal Law and Social Services law to address human trafficking will take effect. These amendments and additions have created a comprehensive law enforcement and social service response to this crime. A copy of the bill setting forth these changes is enclosed. Penal Law changes are creation of the crimes of Sex Trafficking (Penal Law 230.34), Labor Trafficking (Penal Law 135.35), redefining Promoting Prostitution in the third degree (Penal Law 230.25), the repeal of Penal Law 230.03 and the amendment of Penal Law 230.04.

Sex Trafficking is defined as advancing or profiting from prostitution by use of one or more of the means contained in Penal Law 230.34 (1)-(5). The prohibited means of promoting prostitution set forth in Penal Law 230.34 are derived from methods that have been used in previous cases of sex trafficking from various jurisdictions. These include, but are not limited to, making false material statements, threatening to invoke deportation proceedings, using or threatening the use of force or coercion and requiring that prostitution be performed to pay off a real or purported debt. Sex Trafficking is a Class B felony.

Labor Trafficking is defined as compelling or inducing another to engage in labor or recruiting, enticing, harboring or transporting the person where labor is being compelled or induced by use of one or more of the means contained in Penal Law 135.35 (1)-(4). The prohibited means are very similar to those set forth in Penal Law 230.34(1)-(5). Labor Trafficking is a Class D felony.

Penal Law 230.03, Patronizing a Prostitute in the fourth degree, has been repealed. Penal Law 230.04 has been amended by deleting the age requirements of the patronizer and the prostituted person. The result of these two changes is that Patronizing a Prostitute in the third degree is now the lowest level patronizing offense. This is a Class A misdemeanor.

The human trafficking law also provides law enforcement with specific responsibilities assisting victims in obtaining services and with respect to immigration status. Social Services Law 483-cc requires that as soon as practicable after a first encounter with a person who reasonably appears to be a trafficking victim the law enforcement agency or district attorney's office shall notify the Division of Criminal Justice Services (DCJS) and the Office of Temporary and Disability Assistance (OTDA). A form has been created for this purpose and a copy of it is enclosed.

Social Services Law 483-dd requires that the law enforcement agency or district attorney's office shall provide USCIS Form I-914 Supplement B at the request of a trafficking victim or their representative. A copy of this form is enclosed.

DCJS strongly recommends that law enforcement collaborate early and closely with service providers in human trafficking cases. Social service organizations can offer expert assistance in cultural and language matters. They can assist with the completion of USCIS Form I-914 Supplement B. They can help make victims feel safer thereby increasing the likelihood that they will cooperate in your investigation and prosecution.

Enclosed for posting in your agency is a list of reminders and recommendations when dealing with human trafficking cases under New York's new statute.

Also enclosed is an interim list of agencies that you can contact to obtain assistance and services for human trafficking victims.

Please be advised that if there are questions regarding any aspect of the state's new human trafficking law please call me at 518-457-8413.

In an emergency situation only, occurring outside of regular business hours, please call 1-800-346-3543 for assistance.

Enclosures