



THE SENATE
FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FOURTH SPECIAL SESSION, 2005

PUBLIC LAW NO. 14-88
SENATE BILL NO. 14-91

AN ACT

TO PROHIBIT INVOLUNTARY SERVITUDE, HUMAN TRAFFICKING FOR INVOLUNTARY SERVITUDE, SEXUAL SERVITUDE OF A MINOR AND TRANSPORTING A PERSON FOR PURPOSES OF PROSTITUTION; AND TO ESTABLISH CRIMINAL PENALTIES THEREFORE; AND FOR OTHER PURPOSES.

BE IT ENACTED BY THE FOURTEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:

1 **Section 1. Findings.** The Legislature finds and declares that Involuntary Servitude
2 and Human Trafficking for Involuntary Servitude—forced labor without due process of law;
3 recruiting, transporting or receiving persons for forced labor; and recruiting, transporting or
4 receiving minors, knowing they will be used in the commercial sex trade—are modern day
5 forms of slavery and are therefore irreconcilable with the fundamental right to liberty
6 possessed by each person.

7 According to estimates, approximately 800,000 to 900,000 people annually are
8 trafficked across international borders. These estimates include men, women and children
9 trafficked into forced labor and sexual exploitation. Persons from countries with chronic
10 unemployment or widespread poverty are particularly vulnerable to traffickers, who exploit
11 the victims' desire for a better life. In addition, those from areas experiencing armed conflict,
12 post-conflict civil unrest, other forms of political instability or natural disaster, are highly
13 vulnerable to exploitation and abuse by traffickers.

1 The toll that trafficking takes on the victims, their countries of origin and the
2 countries they are trafficked into is devastating. Trafficking increases the breakdown of
3 family; undermines government authority and social institutions; deprives the home countries
4 of human capital; promotes crime; and undermines public health.

5 The Legislature finds that the Commonwealth has also been touched by trafficking
6 activity. Some report the routine confiscation of their travel or identification documents by
7 their employers, for the purpose of controlling their movements. There have also been cases
8 where foreign nationals have been sued for huge sums in their home countries by persons
9 acting on behalf of their employers, simply because the foreign national dared to file a
10 legitimate grievance with the Department of Labor. Within the past few years, several
11 incidents have been reported to law enforcement agencies concerning young women—some
12 of them minors—who were recruited as waitresses or hostesses, but forced into prostitution
13 by their employers once they arrived. Prosecutions have also been commenced by federal
14 authorities against persons who have attempted to transport foreign nationals out of the
15 Commonwealth and into Guam.

16 The Legislature finds that currently, there are no laws that specifically prohibit the
17 type of conduct this Act would address. Even where existing Commonwealth law does
18 apply, those laws do not provide penalties sufficient to deter traffickers from engaging in that
19 reprehensible conduct.

20 The Legislature finds and declares that the conduct prohibited by this Act is vile,
21 repugnant to any civilized member of society, and should never occur within the
22 Commonwealth; consequently, this Act is a necessary and proper use of the Legislative
23 power.

24 **Section 2. Title.** This act shall be known as the Anti-Trafficking Act of 2005.

25 **Section 3. Amendments.** The following new Chapter 5 is added to Title 6, Division
26 1, Part 1 of the Commonwealth Code:

27 6 CMC §1501. **Definitions.** The definitions in this section apply throughout this
28 Chapter, unless otherwise specified or a different meaning is plainly required:

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- (a) "Abuse the law" or "abuse the legal process" means to file, or threaten to file, a civil action the person knows is not legally justified; or to file, threaten to file, or cause to be filed, a criminal action the person knows is not legally justified, or to testify or provide information, or withhold testimony or information, with respect to a person's legal claim or defense.
- (b) "Aggravated sexual assault or abuse" means Sexual Assault in the First Degree, as described in (a)(1) or (a)(2) of that section; Sexual Assault in the Second Degree, as described in (a)(3) of that section; Sexual Abuse of a Minor in the First Degree; Sexual Abuse of a Minor in the Second Degree, as described in (a)(1) of that section.
- (c) "Coercion" or "criminal coercion" are to be given their ordinary meaning as defined by 6 CMC § 1431.
- (d) "Commercial sex act" means any sex act or sexual conduct, including sexually explicit performances, on account of which anything of value is exchanged, given, promised to, or received by any person.
- (e) "Commonwealth" means the Commonwealth of the Northern Mariana Islands, and its surrounding territorial waters, to the extent those waters are recognized as within the boundaries of the Commonwealth's criminal jurisdiction, customs enforcement jurisdiction, fish and wildlife jurisdiction, or environmental protection jurisdiction, whichever is greater.
- (f) "Debt bondage" means to use any debt, legally owed or otherwise, to force, compel, or pressure a person into doing any act from which the person has a legal right to abstain, as a means of discharging the debt, when a reasonable person in the situation would believe he or she had no reasonable alternative means of discharging the debt..

1 (g) "Financial harm" includes extortion as defined in 6 CMC § 1604, criminal
2 violation of the usury law, as defined by 3 CMC § 5303, or employment
3 contracts that violate the statute of frauds, as defined by 5 CMC § 2201.

4 (h) "Forced Labor or Services" means labor or services that are performed or
5 provided by another person and are obtained or maintained through an
6 actor's:

7 (1) causing, attempting to cause, or threatening to cause injury to any
8 person;

9 (2) physically restraining, attempting to physically restrain, or
10 threatening to physically restrain, any person;

11 (3) abusing, attempting to abuse, or threatening to abuse the law or
12 legal process;

13 (4) engaging in conduct described in the criminal coercion statute, 6
14 CMC § 1431(a);

15 (5) knowingly destroying, concealing, removing, confiscating or
16 possessing any actual or purported passport or other immigration
17 document, or any other actual or purported government
18 identification document, of another person;

19 (6) causing, attempting to cause, or threatening to cause financial
20 harm to any person; or

21 (7) subjecting another to debt bondage.

22 (i) "Homicide" means murder in any degree or manslaughter.

23 (j) "Injury" means physical or bodily injury, or severe psychological trauma.

1 (k) "Intentionally" means that the person's conscious objective is to cause that
2 result; when intentionally causing a particular result is an element of an
3 offense, that intent need not be the person's only objective.

4 (l) "Knowingly" means that the person is aware that the conduct is of a
5 certain nature or that a circumstance exists; when knowledge of the
6 existence of a particular fact is an element of an offense, that knowledge is
7 established if a person is aware of a substantial probability of its existence,
8 unless the person actually believes it does not exist; a person who is
9 unaware of conduct or a circumstance of which the person would have
10 been aware had that person not been intoxicated acts knowingly with the
11 respect to that conduct or circumstance.

12 (m) "Labor or services" means:

13 (1) work of economic or financial value, or of other benefit to the
14 person for whom it is done; or

15 (2) a relationship between a person and the actor in which the person
16 performs activities under the supervision of or for the benefit of the
17 actor. Commercial sex acts are forms of "labor or services" under
18 this section. Nothing in this Act shall be construed to legitimize or
19 legalize prostitution.

20 (n) "Maintain" means, in relation to labor or services, to secure continued
21 performance thereof, regardless of any initial agreement on the part of the
22 victim to perform such type of service.

23 (o) "Obtain" means, in relation to labor or services, to secure performance
24 thereof.

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(p) "Physical injury" means a physical pain or an impairment of physical condition.

(q) "Physically restrain" means to exercise physical control over, or to confine for a substantial period.

(r) "Prostitution," means to offer to engage in, agree to engage in, or to actually engage in, sexual conduct, in exchange for a fee, and also includes Promoting Prostitution, as described in 6 CMC § 1344, and Permitting Prostitution, as described in 6 CMC § 1345.

(s) "Recklessly" means the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

(t) "Sexual act" or "sexual conduct" means sexual penetration or sexual contact, as defined in Public Law 12-82.

(u) "Sexually-explicit performance" means a live performance, film, audio, video, electronic or electromagnetic recording, photograph, negative, slide, book, newspaper, magazine or other material that visually or aurally depicts the following actual or simulated conduct:

- (1) any sexual act as defined by Public Law 12-82;
- (2) masturbation;
- (3) bestiality;
- (4) the lewd exhibition of a person's genitals; or
- (5) sexual masochism or sadism.

1 (v) "Transports" means to

2 (1) take or carry a person into or away from the Commonwealth;

3 (2) conspire with another to take or carry a person into or away from
4 the Commonwealth;

5 (3) attempt to take or carry a person into or away from the
6 Commonwealth; or

7 (4) knowingly assist another in transporting a person into or away from
8 the Commonwealth.

9 (w) "Victim of Trafficking" means a person subjected to the practices set
10 forth in section 6 CMC § 1502 (Involuntary Servitude), or recruited,
11 enticed, harbored, transported, provided or obtained in violation of section
12 6 CMC § 1503 (Human Trafficking for Involuntary Servitude), or
13 recruited, enticed, harbored, transported, provided, or procured in violation
14 of section 6 CMC § 1504 (Sexual Servitude of a Minor).

15 **6 CMC § 1502. Involuntary Servitude.** A person commits the crime of
16 involuntary servitude if the person recklessly, knowingly, or intentionally subjects, or
17 attempts to subject, another person to forced labor or services without due process of law.

18 **6 CMC § 1503. Human Trafficking for Involuntary Servitude.** A person
19 commits the crime of human trafficking for involuntary servitude if the person

20 (a) knowingly recruits, transports, entices, harbors, provides, or obtains by
21 any means, another person, knowing or with the intent that the person
22 will be subjected to involuntary servitude; or

23 (b) conspires with another or attempts to engage in conduct described in
24 subsection (a), supra; or

1 (c) benefits financially or receives anything of value, from knowing
2 participation in a venture which has engaged in an act described in
3 violation of subsections (a) or (b), supra.

4 **6 CMC § 1504. Sexual Servitude of a Minor.** (a) A person commits the crime of
5 sexual servitude of a minor if the person

6 (a) knowingly recruits, entices, harbors, transports, provides, or procures
7 by any means, a person under 18 years of age, with the intent of
8 inducing the person to engage in any commercial sex act, conduct
9 prohibited under the Sexual Abuse of a Minor statutes, 6 CMC §§
10 1306-1309, or conduct prohibited under the Unlawful Exploitation of a
11 Minor statute, 6 CMC § 1314;

12 (b) knowingly recruits, entices, harbors, transports, provides, or procures
13 by any means, a person under 18 years of age, knowing that another
14 will induce, or attempt to induce, the person being recruited, enticed,
15 harbored, transported, provided, or procured, to engage in any
16 commercial sex act, conduct prohibited under the Sexual Abuse of a
17 Minor statutes, 6 CMC §§ 1306-1309, or conduct prohibited under the
18 Unlawful Exploitation of a Minor statute, 6 CMC § 1314; or

19 (c) knowingly causes or attempts to cause a minor to engage in any
20 commercial sex act, conduct prohibited under the Sexual Abuse of a
21 Minor statutes, 6 CMC §§ 1306-1309, or conduct prohibited under the
22 Unlawful Exploitation of a Minor statute, 6 CMC § 1314.

23 (d) Affirmative Defense. In any prosecution under this section, it is an
24 affirmative defense that at the time of the alleged offense, the
25 defendant reasonably believed the victim to be 18 years of age or

1 older, unless the victim was under fifteen (15) years of age at the time
2 of the alleged offense.

3 **6 CMC §1505. Transporting a Person for Purposes of Prostitution.** A person
4 commits the crime of transporting a person for prostitution if that person

5 (a) knowingly recruits, transports, entices, harbors, provides, or obtains by
6 any means, another person, knowing that the person will engage in
7 prostitution; or

8 (b) conspires with another or attempts to engage in conduct described in
9 subsection (a), supra; or

10 (c) benefits financially or receives anything of value, from knowing
11 participation in a venture which has engaged in an act described in
12 violation of subsections (a) or (b), supra.

13 **6 CMC § 1506. Penalties.**

14 (a) Penalties. A person convicted of violating any section of this chapter shall be
15 sentenced as follows:

16 (1) A person convicted of Involuntary Servitude (a violation of 6 CMC §1502)
17 may be punished by imprisonment for a term not to exceed 20 years, a fine not
18 to exceed \$50,000, or both.

19 (2) A person convicted of human trafficking for involuntary servitude (a violation
20 of 6 CMC §1503) may be punished by imprisonment for a term not to exceed
21 20 years, a fine not to exceed \$50,000, or both.

22 (3) A person convicted of sexual servitude of a minor (a violation of 6 CMC
23 §1504) may be punished by imprisonment for a term not to exceed 25 years, a

1 fine not to exceed \$50,000, or both, but if such offense additionally involved
2 the use or threat of force, fraud or coercion, by imprisonment for a term not to
3 exceed 30 years, a fine not to exceed \$50,000, or both.

4 (4) A person convicted of transporting a person for the purpose of prostitution (a
5 violation of 6 CMC §1505) may be punished by imprisonment for a term not
6 to exceed 10 years, a fine not to exceed \$50,000, or both.

7 (b) For any violation of this chapter, the court shall order the defendant to pay
8 restitution. For the purposes of this chapter, "restitution" means reimbursement or
9 compensation to the victim or victims for every determined economic loss incurred as a result
10 of the defendant's criminal conduct.

11 (c) In addition to any other penalty authorized by this chapter, the court may order the
12 forfeiture of any property knowingly used in the commission of any violation of this chapter,
13 and any money or property seized in connection with a violation of this chapter that was
14 derived or obtained from such violation. When forfeiting property under this section, the
15 court may award the property to a law enforcement agency of the Commonwealth
16 government that participated in the arrest or conviction of the defendant.

17 **6 CMC § 1507. Right of Civil Action.** An individual who is a victim of a violation
18 under this chapter may bring a subsequent civil action in the Commonwealth Superior Court.
19 The court may award actual damages, punitive damages, reasonable attorney's fees, and
20 other litigation costs reasonably incurred. Nothing in this section shall prohibit the filing of a
21 civil action prior to the commencement of a criminal prosecution under a statute in this
22 Chapter.

23 **6 CMC § 1508. Immigration Status.** The Attorney General may defer any action
24 to remove or deport an individual, or his or her dependent child(ren), who may be the subject
25 of any violation under this chapter pending final resolution of the criminal case or
26 investigation.

1 **6 CMC § 1509. [Reserved].**

2 **6 CMC § 1510. Effect of Evidence of Initial Consent.** Initial consent, if any, of
3 an alleged victim to the particular labor or services in which they were alleged to have been
4 held in violation of this Chapter, does not constitute a legal defense; it shall be for the trier of
5 fact to determine whether, in light of subsequent events and actions, the victim's service was
6 thereafter maintained through coercive methods, any initial consent notwithstanding.

7 **6 CMC § 1511. Victim's Right of Privacy.** In the prosecution of persons under
8 this Chapter, the Attorney General shall take all reasonable and legal measures to ensure that
9 the identity of the victim and the victim's family be kept confidential.

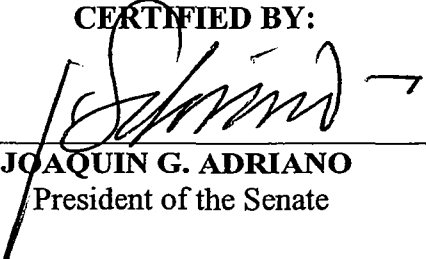
10 **6 CMC § 1512. Trafficking Victim Protection.** The Attorney General, in
11 consultation with the Office of Victim's Rights, shall, no later than one year from the
12 effective date of this statute, issue a report outlining how existing victim/witness laws and
13 regulations respond to the needs of trafficking victims, and how existing social service
14 programs respond or fail to respond to the needs of trafficking victims, and suggesting areas
15 of improvement and modification.

16 **Section 4. Severability.** If any provision of this Act or the application of any such
17 provision to any person or circumstance should be held invalid by a court of competent
18 jurisdiction, the remainder of this Act or the application of its provisions to persons or
19 circumstances other than those to which it is held invalid shall not be affected thereby.

20 **Section 5. Savings Clause.** This Act and any repealer contained herein shall not be
21 construed as affecting any existing right acquired under contract or acquired under statutes
22 repealed or under any rule, regulation or order adopted under the statutes. Repealers
23 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
24 The enactment of the Act shall not have the effect of terminating, or in any way modifying,
25 any liability, civil or criminal, which shall already be in existence on the date this Act
26 becomes effective.

27 **Section 6. Effective Date.** This Act shall take effect upon its approval by the
28 Governor or becoming law without such approval.

CERTIFIED BY:



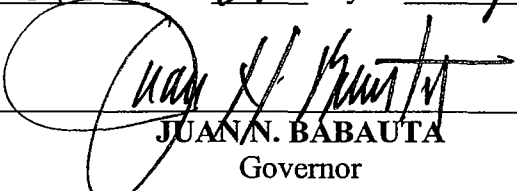
JOAQUIN G. ADRIANO
President of the Senate

ATTESTED BY:



JOSEPH M. MENDIOLA
Senate Legislative Secretary

Approved this 23rd day of September, 2005



JUANN. BABAUTA
Governor
Commonwealth of the Northern Mariana Islands