

Memorandum

TO: Committee of the Whole / Nashville ULC Conference

FROM: Drafting Committee on Prevention of and Remedies for Human Trafficking (Steve Wilborn and Anita Ramasastry, Chairs)

DATE: June 2012

Human Trafficking is one of the most lucrative forms of organized crime, generating \$32 billion annually in illicit profits while exploiting 2.4 million people at any given time -- historically 2/3 of those trafficked will be women; 100,000 children are trafficked into the commercial sex industry within the US each year. Human trafficking, includes both labor and sex trafficking . With human trafficking becoming such a significant and growing crime in the US and elsewhere, government leaders and NGOs representing local, state, federal and international communities are working independently and in conjunction to bring focus and coordinated solutions to the problem. Both the **American Bar Association** and the **National Association of Attorneys General** have established prioritized programs to both educate their members and promote increased efforts to combat human trafficking. It was the ABA Center for Human Rights with LexisNexis who first proposed the ULC undertake this project.

Drafting of this *Act on Prevention of and Remedies for Human Trafficking* was undertaken with an appreciation of the significant work already undertaken in the various states; yet much is left to be done. While most states have laws criminalizing at least some forms of human trafficking, few states have comprehensive laws which deal not only with criminal sanctions, but also with human trafficking prevention, victim protection, victim civil recovery mechanisms, and public information and education. We believe a uniform act which addresses these issues in a coordinated manner will provide a major vehicle for significant overall improvement in harmonizing state efforts to combat human trafficking.

We seek specific guidance from the Committee of the Whole on three issues: (1) in **Section 7. Patronizing Victim of Sexual Servitude**, whether to increase the levels of criminal liability in subsections (b) and (d) in order to further discourage demand; (2) in **Section 10. Business Liability**, whether to adopt **Alternative A**, under which a defendant can establish an affirmative defense to criminal liability under (b) (2) if the defendant proves by a preponderance of the evidence that it had “*in place adequate procedures*” [designed to prevent the conduct], or **Alternative B** which would make the absence of “*adequate procedures*” [designed to prevent the conduct] an element of the offense, and thus something the prosecution would have to prove beyond a reasonable doubt; and, (3) in **Section 25. Victim Eligibility for Services**, whether to adopt **Alternative A** which makes victims eligible for state services “regardless of immigration status, or **Alternative B** which precludes a victim being denied a state service if their status as a victim is a consequence of human trafficking.

During this initial reading the Drafting Committee would also welcome your general input. Are there sections you feel will not work as drafted? If so, tell us why and suggest how we can make it work. If you believe we tried to do something we shouldn't -- help us understand why. If you have suggestions as alternative provisions or formulations, please share them with us.