

March 30, 2012

MEMORANDUM

TO: Drafting Committee on Prevention of and Remedies for Human Trafficking,
Advisor and Observers

FROM: Steve Wilborn
Anita Ramasastry
Sue Ross
John Sebert

SUBJECT: Conference Calls

We have conference calls scheduled for:

Thursday, April 5, 3:30 – 5:00 pm EDT

Thursday, April 12, 12:00 – 1:30 pm EDT

Notices for the call have gone out. With this email you will receive two versions of the draft. One is a track-changes showing implementation of decisions made in San Antonio and the suggestions of the Style Committee. The other is a clean version of the current draft. Discussion on the conference call will focus on the clean version

Attached with this memo is a draft for discussion on the two calls. Our object is to agree on a well-crafted draft that will be ready for a first reading this July. On the first call, we will seek to discuss the draft through Section 20. The second call will consider the remainder of the draft, including any of the first 20 sections that we were not able to get to on the first call.

Since the calls are limited to 90 minutes each, discussion on the calls should be limited to substantial substantive and policy issues. If you have editorial or drafting suggestions, please send them in an email to the four of us. But please also remember that we are operating on a tight timetable: Sue has to send the draft to Jim Concannon, the committee's style liaison, by early in the week of April 16 so that Jim can provide his styling of the act for review when the Style Committee meets April 26 – 29.

We have identified the following substantive or policy issues that we believe the committee should discuss on the first call:

Section 2 (11): committee to choose between alternatives A and B

Sections 3 – 10: These provisions have been revised in format to more clearly provide for different penalties depending on the level of mens rea, as agreed in San Antonio. For comparison purposes, the track-changes version also shows the versions of these sections that were before the committee in San Antonio. The committee should confirm that it wants to use this approach and that it agrees with the levels of penalty proposed for various offenses and levels of mens rea.

In sections 8, 9 and 10, the level of penalty is presently blank. The committee should decide which levels of penalty to propose for the various offenses.

Section 11 (Business Liability): Committee to choose between Alts. A and B

Section 17 (Sentence Enhancements or, alternatively, Aggravating Circumstances): Committee to choose between the alternatives. The “Aggravating Circumstances” version is intended to provide for a jury finding as to the circumstances; the “Sentence Enhancements” version leaves the enhancements to the discretion of the sentencing judge.

Note that some of the sentence enhancement or aggravating circumstances events are criminal offenses punishable under other state law, such as assault, battery, rape, sexual assault, homicide, etc. If those crimes are included in this section, it would seem that someone who committed one of these crimes while violating a substantive provision of this act could be exposed to three separate penalties: the basic penalty under sections 3 – 10, an enhancement under section 17, and the penalty for the offense provided in other state law. A question has been raised as to whether this type of “triple penalty” is appropriate.

Section 20 (Civil Action): Does the committee want to retain all of: punitive damages, treble damages and attorney fees?

Section 21 (Task Force): This reinserts subsection (b) from the long version.

Section 22 (Task Force Duties): Some questions include:

2(5): Does the committee want to include “including in schools”?

2(6) (website): Is the specificity of this section likely to attract a substantial fiscal note? Might the subsection just say “create a website”, leaving the rest to the discretion of the operating agency?

Section 23 (Training): Did the committee agree in San Antonio to omit this section and just list training as one of the TF duties in Section 22?

Section 24 (hotline): The draft includes three versions: A- a shortened version of the long version of the act that the committee saw in San Antonio; B-a shorter version

provided by Mary Ellison; and C – a comprehensive version recommended by Polaris and provided by Mary Ellison. The committee should choose between the versions and make whatever further changes it wishes.

Section 25 (Victim Services): Subsection (c) has been revised in an attempt to minimize any fiscal note.

Section 26 (Victim Eligibility for Services): The committee should choose among the three alternatives.

Section 27 (State Law Enforcement Agency Protocol): A shortened version is presented.

Section 28 (State Grants to Service Providers): Subsection (a) has been revised in an attempt to minimize any fiscal note. Is this section worth retaining?