

Summary
Meeting of the
Commission on the Prevention of
Human Trafficking
Tuesday, November 18, 2008

Members present:

Delegate Adam P. Ebbin, Chairman
Delegate Thomas Rust
Senator Kenneth Cuccinelli
Senator Chap Petersen
James R. Bryant, Virginia Association of Chiefs of Police
Rob Bryden, Attorney General's Office
Dr. Karen L. Remley, Department of Health
Lynette Isabelle (representing Anthony Conyers, Jr., Department of Social Services)
C. Ray Davenport, Department of Labor and Industry)
Lt. Col. H. C. Davis (representing W. Steven Flaherty, Virginia State Police)
Marilyn Harris (representing John W. Marshall, Secretary of Public Safety)

Staff present:

D. Robie Ingram
Jessica D. French
Lori L. Roper

Chairman Adam Ebbin made introductory remarks.

Nicole Wood, with World Hope International, gave the first presentation.

World Hope International addresses these major issues:

1. World Hope International Programs

In USA - Hands That Heal Program works with the Human Trafficking Caucus of the U.S. House of Representatives. The program also does education and training in Liberia, Sierra Leone, Hong Kong, and Cambodia.

2. Faith Alliance Against Slavery and Trafficking (FAAST) works with numbers of Non-governmental organizations (NGOs) and provides a curriculum for training.

3. Hands that Heal curriculum is an academic, community based curriculum in both written form and on a CD-ROM. It has three perspectives. It is internationally

written, focuses on sex trafficking, and has a biblical perspective (but does not proselytize). The curriculum is being translated into nine languages. The training is done for the community, practitioners, startup programs and Bible study groups. The training defines traffickers, explains the language used, cultural issues, and has a biblical framework. Hands That Heal provides a holistic approach to aftercare: physical, social, psychological, and spiritual. The program has done training in ten cities in USA so far, more than a dozen upcoming, ten or more in the world outside the USA.

Robie Ingram, staff attorney with Legislative Services, and staff to the Commission, was the next speaker.

He briefly discussed a spread sheet describing other state trafficking laws. There are 35 states that have passed laws on forced labor, involuntary servitude, etc. He reminded the members that Virginia passed a law two years ago to create a Class 5 felony to extort labor from immigrants by withholding passports, documents, etc.

He said that Minnesota and two other states add an affirmative defense for victims of human trafficking who are charged with a crime related to being a victim of human trafficking.

Mr. Ingram explained a bill draft requested by Delegate Griffith that specifically provides for civil recovery of damages by a victim of human trafficking from the trafficker.

Senator Petersen asked whether someone illegally present in the country could maintain such an action in a Virginia court.

Mr. Ingram responded that the bill contemplates such an action by, among others, a person who may be here legally or, if not, may be eligible for a visa that allows him to remain here if he is a victim of trafficking.

Senator Petersen stated that unless a person is here legally it is unlikely that he would file a civil action.

Mr. Ingram then discussed another possible measure, one that would make human trafficking per se illegal and explained the rationale for it. He explained that this bill sums up in concise terms what the other bills previously before the General Assembly had attempted, but without attempting to accommodate federally proposed model legislation. This approach would allow RICO prosecutions, forfeitures and an affirmative defense for victims of human trafficking charged with a crime.

Mr. Ingram stated that many of the trafficking bills introduced several years ago criminalized activity that was already punishable under the Virginia Code.

Mr. Ingram said that the human trafficking criminal bill may have a fiscal impact but that the civil recovery bill does not and that since we don't know the extent of the criminal activity it will punish, the bill will probably have a fiscal impact of "cannot be determined." He said, however, that if trafficking is merely defined and does not include a criminal penalty, forfeiture and a possible RICO prosecution would still be available.

Delegate Ebbin noted that the Commission was one short of a quorum, but that he would like to get the Commission's observations regarding the issues being discussed.

Following a discussion the Commission agreed in concept with the criminal trafficking bill. Senator Petersen raised a concern that the Courts of Justice Committees may have questions about the definition but felt it was fine to go ahead with it as is. Senator Cuccinelli asked what is covered by the definition that we don't already have. Mr. Ingram replied that, among other things, a trafficking telephone hotline notice, as well as a possible RICO prosecution for trafficking, would require a definition of human trafficking in the Code. Senator Cuccinelli said that Commonwealth's attorneys are not really equipped to do a RICO prosecution on this type of case and said he would like to be convinced that enabling a RICO prosecution would be useful.

Senator Petersen said he would support the civil recovery measure if there were a way to protect the victim; for instance, the action could be brought on behalf of the victim rather than by the victim. Delegate Rust asked why Virginia has not passed a statute if 35 other states have human trafficking definitions. Mr. Ingram explained that most draft bills from past sessions included criminal offenses that were already Virginia crimes and that the federal model didn't fit in Virginia. He said that the problem now is providing services to human trafficking victims and a definition could help with that.

Discussing the civil recovery bill, Senator Cuccinelli said he is amenable to it but shares Senator Petersen's concerns about how and by whom the suit would be brought.

Discussing the trafficking hotline proposal, Mr. Ingram said Texas has already enabled it and New York has a bill pending to enable the posting of the hotline number. He said the hotline connects the caller with the Polaris Project, a non-governmental organization. Mr. Ingram said that he had called the number earlier in the day and that the woman who answered said that the number is posted on billboards, buses, etc. across the country.

Senator Petersen suggested the possibility of a joint resolution asking for public service announcements about human trafficking. He said Virginia could probably get free time on radio and television.

The Commission agreed that a meeting in December was not desirable and that one might be scheduled in early 2009.