

2008 Executive Summary

Activities of the Commission on Prevention of Human Trafficking

Introduction

The Commission on Prevention of Human Trafficking was created by legislation passed in the 2007 session of the General Assembly and codified in Chapter 42 of Title 30 (sec. 30-278 et seq.). The Commission expires July 1, 2009. (See Attachment A.) It is the charge of the Commission to develop a state plan for prevention of human trafficking. The creation of the Commission followed two General Assembly sessions in which more than twenty bills were offered addressing the issue of human trafficking. For many reasons, none of the measures succeeded. Only one bill, House Bill 1921 (Griffith, 2007), which dealt with the discrete issue of extortion of an immigrant by holding his passport or papers, did ultimately pass.

The Commission met once in 2007 and elected Delegate Adam Ebbin, the sponsor of the authorizing legislation, as Chairman of the Commission. During that meeting, the Commission discussed the overall goals of the Commission and heard testimony from The Polaris Project, a non-governmental organization (NGO) that concerns itself with issues relating to human trafficking.

The Commission met on three occasions in 2008 and took testimony from many NGOs and parties concerned with the issue of human trafficking. Full summaries of the testimony, Commission discussion, as well as many of the materials presented by speakers to the Commission, may be found on line at <http://dls.state.va.us/GROUPS/trafficking/meetings.htm>.

2008 Meetings

September 9, 2008.

Dr. Karen Rotabi offered testimony on the Hague Convention on Intercountry Adoption, of which 70 countries are signatories, including the United States. The priorities of the convention are first to keep a family and child together, then to attempt domestic adoption and, if that is not possible, to determine if a child is appropriate for intercountry adoption.

She said the Convention is important because since 2000, more than 200,000 children have been adopted by United States citizens, with the top sending countries being China, Guatemala and Russia. The Convention helps prevent theft and trickery in sending children overseas and deters "child laundering" -- the changing of the identity of children to orphans for U.S. Visa purposes.

Dr. Louise Shelley, a professor and Director of the Terrorism, Transnational Crime and Corruption Center at the School of Public Policy at George Mason University, spoke on the issue of human trafficking in Virginia. She said that the FBI has identified the

Washington, D.C. area, including Northern Virginia, as one of the 14 major child sex trafficking centers in the U.S. Other problems are child porn on the web, labor trafficking, mail order brides and trafficking for adoption.

She observed that one of the many problems in addressing human trafficking is that migrant workers who are exploited won't cooperate with police; they don't know what, if any, rights they have. She said that there are not enough resources to combat organized trafficking at either state or federal level. She added that there are not many migrant slave labor cases in Virginia.

October 20, 2008

Dr. Mary C. Burke, with the Project to End Human Trafficking, said that according to the U.N. Protocol, the definition of human trafficking is "slavery - all acts related to the recruitment, transport, sale or purchase of individuals through force, fraud, or other coercive means for the purpose of economic exploitation."

Dr. Burke gave an overview of human trafficking. She said it is difficult to assess the actual numbers of humans trafficked, and that the range is between four million to 27 million worldwide. She said it is estimated that 14,000 to 17,000 are trafficked into U.S. each year. She added that 35 states have passed some sort of trafficking laws.

Dr. Burke made available to the Commission a copy of a notice that is required by law in Texas to be posted in certain establishments that serve alcohol and that alerts readers to the existence of a National Human Trafficking Hotline, a toll-free telephone number.

Dr. Burke suggested that Virginia might consider doing the following:

1. Require training in human trafficking awareness for emergency and law-enforcement personnel.
2. Create statewide and community coalitions.
3. Create law-enforcement and emergency task forces.
4. Raise community awareness.

Dr. Saltanat Liebert, Assistant Professor, Wilder School of Government and Public Affairs, Virginia Commonwealth University, began by stating that her expertise is in trafficking originating in Eastern Europe and the former Soviet Union.

She said that trafficking in Virginia is severely underreported and that her work focuses on two forms: domestic servitude (example: foreign diplomats who bring servants into the USA on A-3 Visas) and exploitation of migrant workers in the seafood processing, agriculture and tobacco industries.

Dr. Liebert said that Virginia is vulnerable to trafficking in those industries.

Chairman Adam Ebbin said it would be beneficial if there were some sort of notice to Virginia "authorities" when students are brought into Virginia by a recruiting agency to

work here. Dr. Liebert said that the fact that no tracking mechanism exists is a great problem. She said it is a federal student transfer program and should likely be a federal, probably a State Department, responsibility to track the students.

November 18, 2008

Nicole Wood, with World Hope International, explained the function of the Faith Alliance Against Slavery and Trafficking (FAAST) and how it works with NGOs and provides a curriculum for training for members of the community, practitioners, startup programs and Bible study groups. The training defines traffickers, explains the language used, cultural issues, and has a biblical framework. She also discussed Hands That Heal, which 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 the Division of Legislative Services, and staff to the Commission, briefly discussed a spreadsheet 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.

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.

Mr. Ingram then discussed another possible measure, requested by Delegate Ebbin, that would make human trafficking per se illegal, and that this approach would allow RICO prosecutions, forfeitures and an affirmative defense for victims of human trafficking charged with a crime. Following a discussion, the Commission, lacking a quorum, agreed in concept with the civil recovery and criminal trafficking bill.

Discussing the trafficking hotline proposal, Mr. Ingram said Texas has already enabled it and New York has a bill pending to require the posting of the hotline number. He said the hotline connects the caller with the Polaris Project, a non-governmental organization.

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

Actions of the Commission in 2008

At its final meeting of 2008, the Commission considered a number of issues for potential action that had been raised during the year. (See Attachment B for complete list.) There was no quorum; no formal votes were taken on any of the issues presented.

Primary among the discussion items were two possible legislative measures, one requested by Delegate Morgan Griffith and one by Delegate Adam Ebbin.

Delegate Ebbin requested a bill to define human trafficking and impose sanctions upon those who engage in it. (See Attachment D.) The bill had three major components: a definition of trafficking and criminal punishment for trafficking per se; punishment under the Virginia RICO statute (when RICO applies) and an affirmative defense for any victim of trafficking who is charged with a crime resulting from his being trafficked (e.g., prostitution). The Commission was in general agreement with the purpose of the bill, acknowledging, however, that the problems that had arisen in the past in the Senate and House Courts of Justice Committees with previous measures defining and punishing human trafficking were also extant in the bill. The Commission generally agreed that, given the budget constraints facing the Commonwealth, the criminal penalties could be stripped out, leaving the option of a RICO prosecution when applicable. The definition of human trafficking would still be in the Code as a reference for any other action that might be taken.

Delegate Griffith requested a measure to enable a victim of human trafficking to sue for damages in an amount equal to three times his actual damages or \$10,000, whichever is greater, resulting from his being a victim of trafficking. (See Attachment C.) The fact that a victim might choose not to sue if he were in the country illegally was seen as a possible reason the law might not be employed by a trafficking victim. The Commission generally approved the idea, however, because many immigrants are here lawfully and are nevertheless victims of trafficking, and even though an immigrant may be here unlawfully, he may be eligible for a temporary legal visa.

A third issue taken up by the Commission was the possible encouragement of the use of a toll-free telephone hotline that connects a caller (trafficking victims are the target) with the Polaris Project, to assist the caller with access to legal and social services. Texas has already passed enabling legislation and New York is poised to do so. The Commission viewed the proposal favorably but took no action to propose enabling legislation.

The Commission also discussed the possibility of public service announcements alerting citizens of the Commonwealth to the problem of human trafficking. It was agreed that not only would spokespersons be available but that free air time would likely be available.

The Commission agreed that another meeting in 2008 was not necessary, but that one may be scheduled in early 2009.