

Model State Anti-Trafficking Criminal Statute

According to the U.S. Department of Justice, the centerpiece of U.S. government efforts to stop human trafficking is the Trafficking Victims Protection Act of 2000 (TVPA), Pub. L. 106-386, signed into law on October 28, 2000. It enhanced three aspects of federal government activity to combat trafficking in persons (TIP): protection, prosecution, and prevention. The TVPA provided for a range of new protections and assistance for victims of trafficking in persons; it expanded the crimes and enhanced the penalties available to federal investigators and prosecutors pursuing traffickers; and it expanded U.S. activities internationally to prevent victims from being trafficked.

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA), Pub. L. 108-193, signed into law on December 19, 2003, reauthorized the TVPA and added responsibilities to the U.S. government's anti-trafficking portfolio. In particular, the TVPRA mandated new information campaigns to combat sex tourism, added some refinements to the federal criminal law, and created a new civil action that allows trafficking victims to sue their traffickers in federal district court.

The Civil Rights Division and the Office of Legal Policy wrote the 2004 Model State Anti-Trafficking Statute based on the TVPA and federal experience prosecuting trafficking cases, in order to provide a model for state governments to follow the lead of the federal government in combating trafficking. The U.S. Senate subsequently passed a resolution endorsing the statute and encouraging states to adopt it, and DOJ officials used the statute to urge states to join the fight against trafficking. The model statute seeks to expand anti-trafficking authority to the states in order to harness the almost one million state and local law enforcement officers who might come into contact with trafficking victims. Once states have adopted the statute, or at least their own versions of anti-trafficking laws, the total number of prosecutions nationwide will likely increase.

This model Act directs that whoever knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services; or benefits, financially or by receiving anything of value, from participating in human trafficking can be imprisoned for up to 15 years.

Additional Explanatory Notes, U.S. Department of Justice

This Model Law is offered to help criminal law policymakers at the state level address the phenomenon of modern-day slavery, often termed "trafficking in persons." In the course of researching this proposal, it became clear that many states already have laws on their books that directly address this crime problem. For instance, many trafficking-like crimes may be codified in seemingly-unrelated parts of a state code, such as the kidnapping or prostitution sections. Unfortunately, by being codified in disparate parts of the criminal code, it may unclear to prosecutors that the behaviors are trafficking in persons crimes and may be charged as such. Research into these existing state statutes revealed that they are often archaic, little-known, or underutilized, and do not necessarily reflect the current understanding of slavery and trafficking in persons.

The Thirteenth Amendment to the U.S. Constitution mandates that:

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction...."

Under the Trafficking Victims Protection Act of 2000, Pub. L. 106-386 (“TVPA”), a “severe form of trafficking in persons” is defined as:

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

In the international arena, the United Nations Convention Against Transnational Organized Crime, supplemental Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children defines trafficking in persons as:

“The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

Federal criminal provisions specific to trafficking in persons are codified at Title 18, United States Code, Chapter 77, Peonage, Slavery, and Trafficking in Persons. Some of these statutes are newly-enacted provisions of the TVPA; some of these statutes date from the Civil War era. All of these federal criminal civil rights statutes are rooted in the 13th Amendment’s guarantee of freedom. The other federal criminal civil rights statutes, such as 42 U.S.C. § 3631 (Interference with Housing Rights) and 18 U.S.C. § 242 (Deprivation of Rights Under Color of Law), have corresponding state statutes, e.g., Indiana Code, § 22-9.5-10-1 (criminalizing interference with another’s rights) and Texas Penal Code § 39.03 (criminalizing official oppression). Such federal/state overlap allows for more prosecutions to be brought and allows local prosecutors to respond most appropriately to crime problems in their own jurisdictions. State prosecutors’ increased prosecution of racial violence cases in the last 20 years can serve as a model for increased enforcement of the U.S. Constitution’s guarantee of freedom from involuntary servitude.

Many state constitutions mirror the federal constitutional prohibition against involuntary servitude, see, e.g., Arkansas Const. Art. 2, § 27, and some states have involuntary servitude statutes on their books. See, e.g., Cal. Penal Code § 181 (Slavery, infringement of personal liberty; purchase of custody). Other states have similar statutes. North Carolina adopted a state involuntary servitude statute in the wake of several high-profile federal migrant labor prosecutions. See N.C.G.S.A. § 14-43.2. Arizona’s criminal code, for example, includes kidnaping for involuntary servitude in its kidnaping statute, A.R.S. §13-1304, and a crime of taking a child for prostitution in its prostitution statutes. A.R.S. §13-3206. It is unclear whether such statutes are well-known by police and prosecutors, and to what extent they are being used to combat trafficking in persons.

The Model Penal Code recommends creation of an involuntary servitude crime as part of its overall kidnaping chapter, MPC 212.3(b), Felonious Restraint (third degree felony for holding a person in involuntary servitude). While the U.S. Department of Justice has not surveyed the field to determine how many states adopted this proposal, Nebraska is an example of one state that has this Model Penal Code provision on the books. See Neb.Rev.St. §28-314.

Certainly, experience at the federal level indicates that more comprehensive trafficking in persons statutes are needed to address the wide range of coercive tactics that traffickers use to obtain and maintain the labor and services of their victims. The proposed Model Law seeks to provide a tool for drafting modern anti-trafficking crimes, based on the Justice Department’s

experience in investigating and litigating these cases. Additionally, there is a strong need for uniformity in definitions and concepts across state lines to minimize confusion as trafficking victims in state prosecutions begin to seek the victim protections available through the federal Departments of Health and Human Services and of Homeland Security.

States and territories interested in adopting anti-trafficking legislation should survey their existing criminal codes to determine whether they include prohibitions on involuntary servitude, kidnapping, or false imprisonment, which have simply not been brought to bear against trafficking in persons. Such a survey will assist in incorporating relevant portions of a modern anti-trafficking statute into existing law, and could result in increased use of such statutes. Bundling of appropriate statutes into a Slavery/Trafficking chapter, as in the federal criminal code, will make it more likely that such crimes are recognized and charged.

Definitions

The heart of the concept of “trafficking in persons” is the denial of the liberty of another. Accordingly, the transportation of a person is a secondary inquiry, the apparent meaning of “trafficking” aside. Thus, the definitions section and the criminal provisions focus on the coercive nature of the service, rather than the movement of the victim or the type of underlying service.

The Act defines the following terms:

“Blackmail” is defined in a manner identical to the Model Penal Code’s Criminal Coercion statute, Section 212.5(1)(c).

“Commercial sexual activity,” tracks the definition of commercial sexual activity in the TVPA.

“Financial harm” reflects the TVPA and the UN Protocol’s inclusion of “debt bondage” as a form of trafficking in persons. In order to differentiate a debt that has the effect of coercion, as opposed to simply a bad bargain, the proposal adopts the usury laws of the relevant jurisdiction to illustrate debts that contravene public policy and may thus appropriately be considered to be coercive. On the federal level, an example of this type of law can be found at 18 U.S.C. § 892 (Making Extortionate Extension of Credit).

“Forced labor or services” is defined as those obtained or maintained through coercion, and lists the forms of coercion that would, if used to compel forced labor or services, justify a finding that the labor or service was involuntary.

“Labor” covers work activities which would, but for the coercion, be otherwise legitimate and legal. The legitimacy or legality of the work is to be determined by focusing on the job, rather than on the legal status or work authorization status of the worker.

“Maintain” builds upon the Model Penal Code’s definition of “obtain” and incorporates the principle in federal anti-slavery caselaw that a person’s initial agreement to perform a particular activity or type of service is not a waiver of any coercion aimed at keeping that person from leaving the service.

“Obtain” tracks the definition set forth at Model Penal Code’s Theft statute, Section 223.0(5)(b).

“Services,” incorporates activities that are akin to an employment relationship but are in market sectors that are not legitimate forms of “labor.” Notable in this area is commercial sexual activity, which is criminalized in almost every jurisdiction in the United States. Differentiation between “labor” and “services” makes it clear that this Model Law does not legitimize or legalize prostitution.

The notion that commercial sexual activity or concubinage can be “service” for the purposes of involuntary servitude statutes is reflected in case law. See, e.g. *Pierce v. United*

States, 146 F.2d 84, 85-86 (5th Cir. 1944) (upholding conviction for forcing women to commit "immoral acts" at roadhouse to pay off debts); *Bernal v. United States*, 241 F. 339, 341 (5th Cir. 1917) (outlining as a crime when a woman was lured to house of prostitution under false pretenses and required to serve as prostitute or maid to pay debt); and the recent prosecutions, *U.S. v. Cadena* (SD FL 1998); *U.S. v. Kwon* (D. CNMI 1999); *U.S. v. Pipkins* (ND GA 2000); and *U.S. v. Soto* (SD TX 2003). See also Neal Kumar Katyal, *Men Who Own Women: A Thirteenth Amendment Critique of Forced Prostitution*, 103 *YALE L.J.* 791 (1993). Non-sexual forms of "service" might include rings that hold children for street begging or petty theft.

Regarding "sexually-explicit performance," a number of recent federal cases have involved persons being held in servitude for purposes of sexually-explicit performances such as "exotic dancing." Unlike prostitution, which is typically illegal and involves commercial sexual activity, sexually-explicit performance may be legal, absent any coercion. Inclusion of sexually-explicit performance in this Model Law recognizes that such activity can have an impact on victims similar to sexual abuse, and reflects federal experience in which international traffickers are increasingly placing their victims into strip clubs rather than prostitution. The proposed criminal statutes provide expanded coverage for minors who are held in sexual performance as opposed to prostitution.

The Act addresses "trafficking victim," not for the purposes of the criminal statutes so much as to provide a working definition for state and local agencies who subsequently establish or modify programs to serve victims of these crimes.

Trafficking/Servitude Chapter

The Slavery/Trafficking crimes in the Act are arranged in a particular order that reflects the Department of Justice's experiences and understanding of the interplay between slavery/involuntary servitude and the transportation of persons for illicit purposes.

First, Involuntary Servitude, which focuses on the denial of a victim's liberty, applies to all persons held in compelled service, regardless of age, type of service, and whether they are transported or not. This approach de-links the crime from the nationality of the victim or the underlying morality of the service. All adults in coerced service are protected by this Section.

Second, a provision specific to minors in sexually-related activities sets forth a lesser standard of coercion – recognizing that sexual activities are conceptually different when minors are involved – by casting as Sexual Servitude those activities which involve minors but are not the result of coercion. This Section is the equivalent of Statutory Rape laws, which obviate the need to prove coercion when a victim is under the age of legal consent. This Section would allow for trafficking prosecutions in cases in which minors are kept in prostitution because of their circumstances but overt force is not used, such as is common in cases involving runaway U.S. citizen youth. As noted above, this provision extends the concept of proving sexual exploitation without a concomitant need to find coercion to include sexually-explicit performance and child pornography, as well as sexual acts.

Finally, Trafficking of Persons for Forced Labor or Services punishes the trade in coerced labor or services, but focuses on the recruiting, moving, and harboring for these practices. Conceptually, these actions are illegal if done for the purpose of the exploitation captured by the servitude offenses previously set forth.

(Involuntary Servitude) provides a baseline offense that is graded according to the severity of the coercion used against the victim. Rather than the federal approach, in which there are separate crimes based on the level of coercion (a function of the development of the federal anti-slavery laws over the course of almost 200 years), the proposed offense – the obtaining or maintaining another person in service through coercion – outlines different statutory maximums

for cases involving force, threats, document confiscation, blackmail, etc. For drafting purposes, jurisdictions that prefer to codify each crime separately could easily do so by referring to Appendix A, Optional Servitude Offenses, which sets the proposed crimes out in a different manner. States with guidelines sentencing may want to adopt a simple involuntary servitude statute with a 20-year statutory maximum and then incorporate gradations by level of coercion within their guidelines instead of adopting a multi-part statute or multiple servitude statutes. Such a statute is set forth in Appendix B, Alternative Servitude Offense.

Statutory maximums are provided as an illustration of a graduated approach based on the type and level of coercion used against the victim. Many jurisdictions simply designate particular levels of a crime as a Class A, B, or C Felony or as a First, Second, or Third Degree Felony, rather than assigning a specific statutory maximum within the actual offense. Statutory maximums are provided in this Model Law as an example of relative culpability. The statutory maximums should be reviewed and incorporated in keeping with the sentencing structure of the criminal code of the particular state or territory.

Each of the crimes punishes attempts as well as completed offenses. Criminalizing attempts allows prosecutors to focus on a defendant's objectively observable intent to use coercion for compulsory service rather than on a victim's subjective response to the coercion. For instance, a victim flees after a beating intended to hold her, rather than staying and submitting to the "master"; in this instance, the enslavement is attempted but not completed.

Nonetheless, by criminalizing the attempt, a prosecutor may charge the defendant with his intended enslavement instead of having to wait for the victim actually to be enslaved (or to feel coerced). Such an approach has obvious benefits from the perspective of public safety: no victim should have to remain in a dangerous situation in order for the wrong done to him or her to be prosecutable. Note that the particular attempt language in the Model Law should be reviewed to ensure that it reflects an individual state's approach to attempts.

Penalties

The proposal's sentencing section sets forth two main concepts. First, the proposal reflects the notion that statutory maximum sentences should be increased in particularly violent instances of trafficking in persons, especially where the crime involves sexual abuse. Second, the actual sentences should reflect the time the victim was held and the various levels of injury suffered by a victim, as well as the number of victims harmed in a particular case. Additionally, gradation in sentences is appropriate among situations involving minors, especially those involving minors under the age of consent.

In the federal system these offense characteristics are incorporated into the U.S. Sentencing Guidelines, see U.S.S.G. §2H4.1, and have different effects depending on the other adjustments that are applied. Thus, the Model Law sets out offense characteristics which should be considered, but does not assign them values.

All of the offense characteristics offered for particular consideration should be reviewed and incorporated in keeping with the sentencing structure of the criminal code of a particular state or territory.

Restitution

The proposed measure of restitution tracks the federal restitution provision of the TVPA, codified at 18 U.S.C. §1594. Mandatory restitution allows prosecutors to recover money that the victims can use to assist them in their recovery. Unlike theft cases, there is typically little identifiable out-of-pocket loss in a trafficking case – the victims themselves are the objects that

are stolen. Accordingly, this provision fixes the actual loss to the victim as either 1) the value of their services to the trafficker, or 2) the minimum wage for hours worked. The first measure of restitution, the value to the trafficker of the victim's labor or services, not only prevents the traffickers from profiting from their crime, but also avoids the unpalatable situation of assigning a wage valuation to instances of forced prostitution. The second measure of loss, the minimum wage calculation, is a handy tool in cases where victims did not receive any pay for their work, or sub-minimum wage, or in certain sex trafficking cases where the defendants hold their victims in concubinage rather than selling them as prostitutes (in which there is therefore no other identifiable measure of the value of the sexual services to the traffickers).

Trafficking Victim Protection

Federal experience has shown that prosecution without victim protection is unworkable. At the federal level, there are a variety of benefits and services available to trafficking victims. Accordingly, this Model Law provides a mechanism through which a state could determine how well current state programs serve the needs of trafficking victims. In addition, a state may want to consider optional Model Law language regarding the incorporation of federal non-immigrant status as a basis through which certain state benefits, programs, and licenses could be accessed by alien trafficking victims.

Submitted as: U.S. Department of Justice Model State Statute

Status: The Department of Justice, Civil Rights Division, reports that as of December 2005, 13 states had enacted anti-human trafficking laws and all 13 had adopted part of this model state law.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act may be cited as “An Act Relating to Criminal
2 Consequences of Conduct that Involves Certain Trafficking of Persons and Involuntary
3 Servitude.”

4
5 Section 2. [*Definitions.*] As used in this Act:

6 (1) “Blackmail” is to be given its ordinary meaning as defined by [state blackmail statute,
7 if any] and includes but is not limited to a threat to expose any secret tending to subject any
8 person to hatred, contempt, or ridicule.

9 (2) “Commercial sexual activity” means any sex act on account of which anything of
10 value is given, promised to, or received by any person.

11 (3) “Financial harm” includes credit extortion as defined by [state extortion statute, if
12 any] , criminal violation of the usury laws as defined by [state statutes defining usury], or
13 employment contracts that violate the Statute of Frauds as defined by [state statute of frauds].

14 (4) "Forced labor or services" means labor, as defined in paragraph (5), infra, or services,
15 as defined in paragraph (8), infra, that are performed or provided by another person and are
16 obtained or maintained through an actor's:

17 (A) causing or threatening to cause serious harm to any person;

18 (B) physically restraining or threatening to physically restrain another person;

19 (C) abusing or threatening to abuse the law or legal process;

20 (D) knowingly destroying, concealing, removing, confiscating or possessing any
21 actual or purported passport or other immigration document, or any other actual or purported
22 government identification document, of another person;

23 (E) blackmail; or

24 (F) causing or threatening to cause financial harm to [using financial control over]
25 any person.

26 (5) "Labor" means work of economic or financial value.

27 (6) "Maintain" means, in relation to labor or services, to secure continued performance
28 thereof, regardless of any initial agreement on the part of the victim to perform such type of
29 service.

30 (7) "Obtain" means, in relation to labor or services, to secure performance thereof.

31 (8) "Services" means an ongoing relationship between a person and the actor in which the
32 person performs activities under the supervision of or for the benefit of the actor. Commercial
33 sexual activity and sexually-explicit performances are forms of "services" under this Section.
34 Nothing in this provision should be construed to legitimize or legalize prostitution.

35 (9) "Sexually-explicit performance" means a live or public act or show intended to arouse
36 or satisfy the sexual desires or appeal to the prurient interests of patrons.

37 (10) "Trafficking victim" means a person subjected to the practices set forth in Sections
38 3(1) (involuntary servitude) or 3 (2) (sexual servitude of a minor), or transported in violation of
39 Section 3 (3) (trafficking of persons for forced labor or services).

40
41 Section 3. [*Criminal Provisions.*]

42 (1) Involuntary Servitude. Whoever knowingly subjects, or attempts to subject, another
43 person to forced labor or services shall be punished by imprisonment as follows, subject to
44 Section (4), infra:

45 (A) by causing or threatening to cause physical harm to any person, not more than
46 20 years;

47 (B) by physically restraining or threatening to physically restrain another person,
48 not more than 15 years;

49 (C) by abusing or threatening to abuse the law or legal process, not more than 10
50 years;

51 (D) by knowingly destroying, concealing, removing, confiscating or possessing
52 any actual or purported passport or other immigration document, or any other actual or purported
53 government identification document, of another person, not more than 5 years,

54 (E) by using blackmail, or using or threatening to cause financial harm to [using
55 financial control over] any person, not more than 3 years.

56 (2) Sexual Servitude of a Minor. Whoever knowingly recruits, entices, harbors,
57 transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, provide, or
58 obtain by any means, another person under 18 years of age, knowing that the minor will engage
59 in commercial sexual activity, sexually-explicit performance, or the production of pornography
60 (see [relevant state statute] (defining pornography)), or causes or attempts to cause a minor to
61 engage in commercial sexual activity, sexually-explicit performance, or the production of
62 pornography, shall be punished by imprisonment as follows, subject to the provisions of Section
63 (4), infra:

64 (A) in cases involving a minor between the ages of [age of consent] and 18 years,
65 not involving overt force or threat, for not more than 15 years;

66 (B) in cases in which the minor had not attained the age of [age of consent] years,
67 not involving overt force or threat, for not more than 20 years;

68 (C) in cases in which the violation involved overt force or threat, for not more
69 than 25 years.

70 (3) Trafficking of Persons for Forced Labor or Services. Whoever knowingly (a) recruits,
71 entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice,
72 harbor, transport, provide, or obtain by any means, another person, intending or knowing that the
73 person will be subjected to forced labor or services; or (b) benefits, financially or by receiving
74 anything of value, from participation in a venture which has engaged in an act described in
75 violation of Sections 3 (1) or (2) of this Act, shall, subject to the provisions of Section (4) infra,
76 be imprisoned for not more than 15 years.

77 (4) Sentencing Enhancements.

78 (A) Statutory Maximum - Rape, Extreme Violence, and Death. If the violation of
79 this Act involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to
80 commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any
81 term of years or life, or if death results, may be sentenced to any term of years or life [or death].

82 (B) Sentencing Considerations Within Statutory Maximums.

83 (1) *Bodily Injury*. If, pursuant to a violation of this Act, a victim suffered
84 bodily injury, the sentence may be enhanced as follows: (1) Bodily injury, an additional ____
85 years of imprisonment; (2) Serious Bodily Injury, an additional ____ years of imprisonment; (3)
86 Permanent or Life-Threatening Bodily Injury, an additional ____ years of imprisonment; or (4) If
87 death results, defendant shall be sentenced in accordance with Homicide statute for relevant level
88 of criminal intent).

89 (2) *Time in Servitude*. In determining sentences within statutory
90 maximums, the sentencing court should take into account the time in which the victim was held
91 in servitude, with increased penalties for cases in which the victim was held for between 180
92 days and one year, and increased penalties for cases in which the victim was held for more than
93 one year.

94 (3) *Number of Victims*. In determining sentences within statutory
95 maximums, the sentencing court should take into account the number of victims, and may
96 provide for substantially-increased sentences in cases involving more than 10 victims.

97 (5) Restitution. Restitution is mandatory under this Act. In addition to any other amount
98 of loss identified, the court shall order restitution including the greater of 1) the gross income or
99 value to the defendant of the victim's labor or services or 2) the value of the victim's labor as
100 guaranteed under the minimum wage and overtime provisions of the Fair Labor Standards Act
101 (FLSA) and [corresponding state statutes if any].

102
103 Section 4. [*Trafficking Victim Protection*.]

104 (1) Assessment of Victim Protection Needs.

105 (A) The Attorney General, in consultation with the [Department of Health and
106 Social Services] shall, no later than one year from the effective date of this statute, issue a report
107 outlining how existing victim/witness laws and regulations respond to the needs of trafficking
108 victims, as defined in XXX.01(8) of the Criminal Code, and suggesting areas of improvement
109 and modification.

110 (B) The [Department of Health and Social Services], in consultation with the
111 Attorney General, shall, no later than one year from the effective date of this statute, issue a
112 report outlining how existing social service programs respond or fail to respond to the needs of
113 trafficking victims, as defined in XXX.01(8) of the Criminal Code, and the interplay of such
114 existing programs with federally-funded victim service programs, and suggesting areas of
115 improvement and modification. [Such inquiry shall include, but not be limited to, the ability of
116 state programs and licensing bodies to recognize federal T non-immigrant status for the purposes

APPENDIX A

Optional Servitude Offenses – [This formulation would also obviate the need for Section (4)(A), statutory maximum sentences.]

Section 3. Criminal Provisions.

(1) Involuntary Servitude Offenses.

(A) Involuntary Servitude. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by causing or threatening to cause physical harm to any person shall be punished by imprisonment for not more than 20 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life [or death].

(B) Unlawful Restraint for Forced Labor. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by physically restraining or threatening to physically restrain another person, shall be punished by imprisonment for not more than 15 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

(C) Legal Coercion for Forced Labor. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by abusing or threatening to abuse the law or legal process shall be punished by imprisonment for not more than 10 years; but if the violation involves kidnaping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

(D) Document Servitude. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by knowingly destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person, shall be punished by imprisonment for not more than 5 years; but if the violation involves kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

(E) Debt Bondage. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services by blackmail, or by using or threatening to cause financial harm to [using financial control over] any person, shall be punished by imprisonment for not more than 3 years; but if the violation involves kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].

APPENDIX B

Alternative Servitude Offense - [Use sentencing guidelines to differentiate among levels of coercion and other aggravating factors.]

Section 3. Criminal Provisions.

(1) Involuntary Servitude. Whoever knowingly subjects, or attempts to subject, another person to forced labor or services shall be punished by imprisonment for not more than 20 years; but if the violation involves kidnapping or an attempt to kidnap, aggravated sexual abuse or the attempt to commit aggravated sexual abuse, or an attempt to kill, the defendant shall be imprisoned for any term of years or life, or if death results, may be sentenced to any term of years or life, [or death].