

HOUSE BILL 44

E1, E2

8lr0385

(PRE-FILED)

By: **Delegate Benson**

Requested: July 6, 2007

Introduced and read first time: January 9, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Human Trafficking – Felony – Restitution**

3 FOR the purpose of making the offense of human trafficking a felony; requiring a court
4 to order a person convicted of human trafficking to pay restitution to the victim;
5 describing certain additional damages or expenses for which a court may order
6 restitution; establishing that a certain order of restitution is enforceable even if
7 the victim leaves the jurisdiction; making a conforming change; providing for
8 the application of this Act; and generally relating to the offense of human
9 trafficking.

10 BY repealing and reenacting, with amendments,
11 Article – Courts and Judicial Proceedings
12 Section 4–301(b)(23)
13 Annotated Code of Maryland
14 (2006 Replacement Volume and 2007 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Criminal Law
17 Section 11–303
18 Annotated Code of Maryland
19 (2002 Volume and 2007 Supplement)

20 BY adding to
21 Article – Criminal Law
22 Section 11–303.1
23 Annotated Code of Maryland
24 (2002 Volume and 2007 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Courts and Judicial Proceedings

4–301.

(b) Except as provided in § 4–302 of this subtitle, the District Court also has exclusive original jurisdiction in a criminal case in which a person at least 18 years old or a corporation is charged with:

(23) Violation of [§ 11–303(b)] § **11–303** of the Criminal Law Article.

Article – Criminal Law

11–303.

(a) (1) A person may not knowingly:

(i) take or cause another to be taken to any place for prostitution;

(ii) place, cause to be placed, or harbor another in any place for prostitution;

(iii) persuade or encourage by threat or promise another to be taken to or placed in any place for prostitution;

(iv) unlawfully take or detain another with the intent to use force, threat, or persuasion to compel the other to marry the person or a third person or perform a sexual act, sexual contact, or vaginal intercourse; or

(v) receive consideration to procure for or place in a house of prostitution or elsewhere another with the intent of causing the other to engage in prostitution or assignation.

(2) A parent, guardian, or person who has permanent or temporary care or custody or responsibility for supervision of another may not consent to the taking or detention of the other for prostitution.

(b) A person may not violate subsection (a) of this section involving a victim who is a minor.

(c) (1) [(i)] Except as provided in paragraph (2) of this subsection, a person who violates subsection (a) of this section is guilty of the [misdemeanor] **FELONY** of human trafficking and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

1 [(ii) A person who violates subsection (a) of this section is subject
2 to § 5–106(b) of the Courts Article.]

3 (2) A person who violates subsection (b) of this section is guilty of the
4 felony of human trafficking and on conviction is subject to imprisonment not exceeding
5 25 years or a fine not exceeding \$15,000 or both.

6 (d) A person who violates this section may be charged, tried, and sentenced
7 in any county in or through which the person transported or attempted to transport
8 the other.

9 **11–303.1.**

10 (A) (1) **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A COURT**
11 **SHALL ORDER A PERSON CONVICTED OF A VIOLATION OF § 11–303 OF THIS**
12 **SUBTITLE TO PAY RESTITUTION TO THE VICTIM.**

13 (2) **EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,**
14 **RESTITUTION ORDERED UNDER THIS SECTION SHALL BE GOVERNED BY TITLE**
15 **11, SUBTITLE 6 OF THE CRIMINAL PROCEDURE ARTICLE.**

16 (B) **IN ADDITION TO THE RESTITUTION AUTHORIZED FOR DAMAGES OR**
17 **EXPENSES LISTED IN § 11–603 OF THE CRIMINAL PROCEDURE ARTICLE, AN**
18 **ORDER TO PAY RESTITUTION UNDER THIS SECTION MAY REQUIRE THE**
19 **DEFENDANT TO PAY TO THE VICTIM:**

20 (1) **REASONABLE COSTS OF NECESSARY TRANSPORTATION,**
21 **TEMPORARY HOUSING, OR CHILD CARE;**

22 (2) **ATTORNEY’S FEES;**

23 (3) **VICTIM’S ADVOCATES FEES;**

24 (4) **THE GROSS INCOME RECEIVED OR VALUE INCURRED BY THE**
25 **DEFENDANT FROM PROSTITUTION OF THE VICTIM;**

26 (5) **REASONABLE COMPENSATION FOR EMOTIONAL DISTRESS,**
27 **PAIN, AND SUFFERING; AND**

28 (6) **REASONABLE EXPENSES INCURRED BY AN ADULT VICTIM IN**
29 **RELOCATING AWAY FROM THE DEFENDANT IF THE RELOCATION IS VERIFIED BY**
30 **LAW ENFORCEMENT TO BE NECESSARY FOR THE PERSONAL SAFETY OF THE**
31 **VICTIM OR BY A MENTAL HEALTH TREATMENT PROVIDER TO BE NECESSARY**
32 **FOR THE EMOTIONAL WELL-BEING OF THE VICTIM, INCLUDING:**

- 1 **(I) DEPOSITS FOR UTILITIES;**
2 **(II) DEPOSITS FOR RENTAL HOUSING;**
3 **(III) TEMPORARY LODGING AND FOOD EXPENSES; AND**
4 **(IV) PURCHASE OF CLOTHING AND PERSONAL ITEMS.**

5 **(C) AN ORDER OF RESTITUTION UNDER THIS SECTION IS ENFORCEABLE**
6 **EVEN IF THE VICTIM LEAVES THE JURISDICTION.**

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
8 construed to apply only prospectively and may not be applied or interpreted to have
9 any effect on or application to any offense committed before the effective date of this
10 Act.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2008.