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Mitchell, Ramone, Michael Smith, Smyk; Sens. Ennis,
Gay, Hansen, Lopez, Mantzavinos, Pettyjohn, Sokola,
Sturgeon, Walsh

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 398

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO THE HUMAN TRAFFICKING
INTERAGENCY COORDINATING COUNCIL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 787, Title 11 of the Delaware Code by making deletions as shown by strike through and
insertions as shown by underline as follows and by redesignating Delaware Code provisions accordingly:

§ 787. Trafficking an individual, forced labor and sexual servitude; class D felony; class C felony; class B felony;
class A felony.

(k) ~~(1) The Human Trafficking Coordinating Council is hereby dissolved and reestablished as the Human
Trafficking Interagency Coordinating Council to assume the functions of the Human Trafficking Coordinating Council and
to~~ The Human Trafficking Interagency Coordinating Council is renamed as the Delaware Anti-Trafficking Action Council
(Council). The Council shall administer and implement this ~~chapter, subsection, and to~~ perform such other responsibilities
as may be entrusted to it by law.

~~(4) (2) The Human Trafficking Interagency Coordinating Council shall consist of~~ The Council consists of the
following 24 members:

j. ~~The representative appointed to the Council by the Secretary of the Department of Health and Social
Services shall serve as the temporary Chair of the Council to guide the initial organization of the council by setting
a date, time, and place for the initial organizational meeting, and by supervising the preparation and distribution of
the notice and agenda for the initial organizational meeting of the council. Members of the Council shall elect a
Chair and a Vice Chair from among the members of the Council at the initial organizational meeting. Thereafter,
the Chair and Vice Chair shall be elected annually from among the members. [Repealed.]~~

r. ~~The Council may include a~~ A resident of any county who has prior experience in working with victims
of human trafficking in a legal or advocacy ~~capacity. capacity to be appointed by the Chair of the Council with
approval of a quorum of all members of the Council.~~

(2)- (3) The Council shall do all of the following:

a. Develop a comprehensive plan to provide victims of human trafficking with ~~services;~~ services.

b. Effectuate coordination between agencies, ~~departments~~ departments, and the courts with victims of human ~~trafficking;~~ trafficking.

c. Collect and evaluate data on human trafficking in this ~~State;~~ State.

d. Promote public awareness about human trafficking, victim remedies and services, and trafficking ~~prevention;~~ prevention.

e. Create a public-awareness sign that contains ~~the state and National Human Trafficking Resource Center hotline information;~~ centralized human trafficking hotline information.

f. Coordinate training on human trafficking prevention and victim services ~~for state and local employees who for individuals who~~ may have recurring contact with victims or ~~perpetrators; and perpetrators,~~ including government employees, health-care workers, business owners, potential victims of human trafficking, and private sector employees.

g. Pursue funding opportunities, including federal grants, through the Criminal Justice Council.

~~g.~~ h. Conduct other appropriate activities.

(3) (4) Meetings; quorum; officers; committees; procedure.

a. The Council shall meet at least 4 times per year. Thirteen members ~~shall~~ constitute a quorum.

b. A Chair and Vice Chair must be elected annually from among the members of the Council.

~~b. The Chairperson shall have the duty to~~ c. The Chair shall convene and preside over meetings of the Council and prepare an agenda for meetings. ~~The Department of Health and Social Services shall provide the administrative support for the Council.~~

~~e. d.~~ The Vice Chair's duty shall be to Vice Chair shall act as Chair in the absence of the Chair.

~~d. e.~~ The Council shall establish committees composed of Council members and other knowledgeable individuals, as it deems advisable, to assist in planning, policy, goal and priority ~~recommendations~~ recommendations, and developing implementation plans to ~~achieve the purposes of the Council.~~ carry out the statutory duties of the Council.

~~e. f. 1.~~ The Council shall submit a an annual written report of its activities and recommendations to the Governor, General ~~Assembly and~~ Assembly, the Chief Justice of the Supreme ~~Court~~ Court, and the Executive Director of the Criminal Justice Council ~~at least once every year~~ on or before September 15.

2. For purposes of submitting the report to the General Assembly, the Council shall submit the report to the Secretary of the Senate, Chief Clerk of the House, the Chair of the Joint Finance Committee, and the Vice Chair of the Joint Finance Committee, who shall distribute the report to the General Assembly and the Joint Finance Committee.

3. The Council shall include in the annual report that it submits under paragraph (k)(4)f.1. of this section how the Council spent any State funds received for the previous fiscal year.

4. At each full council meeting, the Council shall provide a report to meeting attendees on how it has, since the previous full council meeting, spent any State funding received.

(5) a. The Council shall employ an Executive Director to be appointed by the Chair with approval of a quorum of the Council. The Executive Director will serve at the pleasure of a quorum of the Council.

b. The Executive Director of the Council shall support the Council in carrying out its duties under this subsection.

c. Subject to the approval of a quorum of the Council and within the limits of any appropriation made by the General Assembly or available funding from another funding source, the Executive Director of the Council shall employ staff and contract for services as necessary to carry out the functions of the Council.

d. The Executive Director of the Council shall report to the Council. For matters involving anything that may affect the Criminal Justice Council's budget, the Executive Director of the Council shall also report to the Executive Director of the Criminal Justice Council. The Executive Director of the Criminal Justice Council has final approval over matters involving anything that may affect the Criminal Justice Council's budget.

(I) Display of public awareness sign; penalty for failure to display. (1) The Delaware Department of Transportation shall display a public-awareness sign required by this section in every transportation station, rest area, and welcome center in the State which is open to the public.

(2) A public awareness sign created under paragraph ~~(k)(2)e.~~ (k)(3)e. of this section shall be displayed at locations designated by the Council in a place that is clearly conspicuous and visible to employees. These locations ~~shall~~ must include adult entertainment facilities, entities found to be maintaining a criminal nuisance involving prostitution under § 7104 of Title 10, job recruitment centers, hospitals, and emergency care providers. The Council shall approve a list of locations on an annual basis.

(3) The Delaware Department of Labor shall impose a fine of \$300 per violation on an employer that knowingly fails to comply with paragraph ~~(k)(2)e.~~ (k)(3)e. of this section. The fine is the exclusive remedy for failure to comply.

(m) Eligibility for services. (1) A victim of human trafficking is eligible for a benefit or service, which is available through the State and identified in the plan developed under paragraph ~~(k)(2)a.~~ (k)(3)a. of this section, including compensation under § 9009 of this title, regardless of immigration status.

(2) A minor engaged in commercial sexual activity is eligible for a benefit or service, which is available through the State and identified in the plan developed under paragraph ~~(k)(2)a.~~ (k)(3)a. of this section, regardless of immigration status.

(3) As soon as practicable after a first encounter with an individual who reasonably appears to a police officer to be a victim or a minor engaged in commercial sexual activity, the police officer shall notify the appropriate state or local agency, as identified in the plan developed under paragraph ~~(k)(2)a.~~ (k)(3)a. of this section, that the individual may be eligible for a benefit or service under this section.

Section 2. Amend § 8704, Title 11 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 8704. Powers and duties.

The Council shall:

(11) Oversee the Delaware Anti-Trafficking Action Council, established under § 787(k) of this title. The Criminal Justice Council shall have the duties and authorities with respect to the Delaware Anti-Trafficking Action Council that are necessary to carry out this paragraph (11).

Section 3. The Council wishes to name this Act for and honor the late Ms. February O'Donnell and the late Ms. Amy Day. This Act shall be known as the February O'Donnell and Amy Day Act.

SYNOPSIS

This Act renames the Human Trafficking Interagency Coordinating Council as the Delaware Anti-Trafficking Action Council (Council) for the purpose of providing a clearer description of the work that the Council performs. This Act also transfers the Council from under the authority of the Department of Health and Social Services (DHSS) to the Criminal Justice Council. DHSS's clerical staffing duty is removed.

This Act requires the Council to appoint an Executive Director, who will serve at the Council's pleasure. The Executive Director shall support the Council in carrying out its statutory duties. Subject to the approval of a quorum of the Council and within the limits of any appropriation made by the General Assembly or available funding from another funding source, the Executive Director shall also employ staff and contract for services as necessary to assist the Council with performing its duties. By providing the Council with staff, the Council will be better able to comply with its statutory mandates under Delaware's Human Trafficking law. It will also be able to pursue grant funding opportunities that it previously did not have the infrastructure to support.

Additionally, this Act broadens several existing statutory duties of the Council to ensure the Council has the flexibility necessary to perform its work and allows it to pursue work that may broaden opportunity to obtain grant funding. This Act also clarifies that one member of the Council must be an individual with prior experience in working with victims of human trafficking in a legal or advocacy capacity and that this individual may reside in any county. This Act also clarifies how this member must be appointed.

This Act adds additional reporting requirements, clarifies that the report is intended to be an annual report, and adds that the report must also be submitted to the Executive Director of the Criminal Justice Council.

This Act removes language related to the initial startup of the Council because this language is no longer relevant. This Act also repeals § 787(k)(2)j. of this Title because the paragraph contains language that is no longer relevant. Procedural requirements for Council business are located in § 787(k)(4), so the procedural requirements in § 787(k)(2)j. were moved to § 787(k)(4)b.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual, including corresponding corrections to internal references in § 787(l) and § 787(m) since paragraphs within § 787(k) have been renumbered.

The Council wishes to name this Act for and honor the late Ms. February O'Donnell and the late Ms. Amy Day. Ms. O'Donnell, a human trafficking survivor, and Ms. Day, a victims' services volunteer who started the nonprofit, Meet Me At The Well, were remarkable women who helped lead the way in Delaware's fight against human trafficking.