

- (c) cannabis as defined in *The Cannabis Control (Saskatchewan) Act*; or
- (d) beverage alcohol as defined in *The Alcohol and Gaming Regulation Act, 1997*;

“court” means the Court of Queen’s Bench;

“driver’s licence” means driver’s licence as defined in *The Traffic Safety Act*;

“human trafficking” means the recruitment, transportation, transfer, holding, concealing, harbouring or receipt of a person by any of the following means:

- (a) by the threat or use of force or other form of coercion, abduction, fraud or deception;
- (b) by the repeated provision of a controlled substance;
- (c) by the abuse of power or the abuse of a position of vulnerability;
- (d) by the giving or receiving of payments or benefits to achieve the consent of a person who has control over another person;

for the purpose of exploiting that person through:

- (e) sexual exploitation, which may occur in person or through electronic and digital means, including the non-consensual recording and distribution of intimate images or audio;
- (f) forced labour or services, including slavery or practices similar to slavery; or
- (g) the removal of a human organ or tissue;

“internet intermediary” means a person or organization that hosts or indexes third party content through an online platform;

“minister” means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

“peace officer” means:

- (a) a member of the Royal Canadian Mounted Police; or
- (b) a member of a police service as defined in *The Police Act, 1990*;

“prescribed” means prescribed in the regulations;

“protection order” means a protection order issued pursuant to section 4;

“respondent” means the person or persons against whom a protection order is sought;

“vehicle” means vehicle as defined in *The Traffic Safety Act*;

“victim” means an individual who has been subjected to human trafficking or to the threat of human trafficking;

“visual recording” includes a photographic, film or video recording made by any means.

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- (2) For the purposes of the definition of “human trafficking” in subsection (1):
- (a) the consent of the victim to the intended exploitation is irrelevant to a determination of human trafficking; and
 - (b) in the case of a child, the recruitment, transportation, transfer, holding, concealing, harbouring or receipt of a child for the purpose of exploitation constitutes human trafficking even if it does not involve any of the means mentioned in clauses (a) to (d) of the definition.

PART 2

Protection Orders

Application for protection order

3 Any of the following persons may apply to the court for a protection order against a respondent:

- (a) a victim;
- (b) any of the following persons on behalf of a victim, with the victim’s consent:
 - (i) a person approved by the person’s employer to make an application pursuant to this Act and who is employed:
 - (A) by an agency or organization to assist persons for whom the agency or organization provides accommodation in an emergency or transitional shelter because of homelessness or abuse; or
 - (B) to provide support for victims of interpersonal violence;
 - (ii) a lawyer;
 - (iii) a peace officer;
 - (iv) a duly qualified medical practitioner;
 - (v) a member, as defined in *The Social Workers Act*, of the Saskatchewan Association of Social Workers;
 - (vi) a member, as defined in *The Psychologists Act, 1997*, of the Saskatchewan College of Psychologists;
 - (vii) a practising member, as defined in *The Registered Nurses Act, 1988*, of the Saskatchewan Registered Nurses’ Association;
 - (viii) a practising member, as defined in *The Registered Psychiatric Nurses Act*, of the Registered Psychiatric Nurses Association of Saskatchewan;
- (c) if the victim is a child:
 - (i) a person who has lawful decision-making responsibility with respect to the child; or
 - (ii) a director appointed pursuant to *The Child and Family Services Act*;
- (d) any other prescribed person or member of a prescribed class of persons.

Protection order

4(1) On an application pursuant to section 3, the court may issue a protection order against the respondent if the court determines, on a balance of probabilities, that the respondent has engaged or may engage in the human trafficking of the victim.

(2) A protection order may contain any term or condition that the court considers necessary or advisable for the protection of the victim, including:

- (a) prohibiting the respondent from, directly or indirectly, communicating with or contacting the victim or any specified person;
- (b) prohibiting the respondent from following the victim or a specified person from place to place;
- (c) prohibiting the respondent from attending at or within a specified distance from any place that the victim or a specified person attends regularly, which may include a school, shelter, youth facility, place of residence, place of worship, place of employment or any other place where the victim or specified person is reasonably known by the respondent to be;
- (d) requiring the respondent to return to the victim a pet in the care of the victim, or specified personal effects or documents belonging to the victim, such as a passport, driver's licence, health card or other form of identification, in the manner specified in the order;
- (e) requiring the respondent to return to the victim the original and any copies of any visual recording of the victim;
- (f) prohibiting the respondent from possessing, making, transmitting, making available, selling, advertising or distributing any visual recording of the victim;
- (g) declaring to be unlawful the distribution of all visual recordings of the victim that the respondent has made of the victim, or has caused to be made of the victim, as a result of human trafficking;
- (h) requiring the respondent to make every reasonable effort to make all visual recordings of the victim that the respondent has made of the victim, or has caused to be made of the victim, as a result of human trafficking unavailable to others, including by:
 - (i) destroying all copies of the visual recordings in the respondent's possession or control;
 - (ii) having the visual recordings removed from any platform operated by an internet intermediary; and
 - (iii) having the visual recordings de-indexed from any internet search engine;
- (i) requiring any internet intermediary or other person or organization to make every reasonable effort to remove or de-index all visual recordings of the victim;
- (j) as an exception to a prohibition imposed pursuant to clause (a) or (c), permitting the respondent to attend, where the victim is present, any court proceeding in which the respondent is a party or an accused person;
- (k) if the respondent is a member of a gang as defined in *The Safer Communities and Neighbourhoods Act*, or criminal organization as defined in the *Criminal Code*, prohibiting all or any members of the gang or criminal organization from contacting the victim or any specified person.

(3) In determining whether to issue a protection order, the court shall consider the ongoing safety of the victim, and may consider the following factors:

- (a) the respective ages of the victim and the respondent;
- (b) the victim's immigration status;
- (c) whether the victim has a physical or intellectual disability;
- (d) the nature of the relationship between the victim and the respondent;
- (e) whether the respondent is in a position of trust, power or authority in relation to the victim;
- (f) the use of threats or other forms of intimidation by the respondent against the victim or against a person or a pet known to the victim;
- (g) the use of force by the respondent against:
 - (i) the victim;
 - (ii) a person or a pet known to the victim; or
 - (iii) another person or another pet in the victim's presence;
- (h) the use of deception, fraud or other forms of coercion by the respondent in relation to the victim;
- (i) the provision to the victim of a controlled substance, by the respondent, in order to cause or compel the victim to provide labour or services, to engage in sexual conduct or to allow an organ or tissue to be removed;
- (j) the respondent's control, including withholding, or threatened control of the victim's access to a controlled substance;
- (k) the respondent's control, including withholding, or threatened control of the victim's money and finances;
- (l) the respondent's control, including withholding, destruction, concealment or removal, or threatened control of any of the victim's personal effects, property including pets, documents, such as a passport, driver's licence, health card or other form of identification, bank cards, vehicles or keys;
- (m) the possession, making, transmission, making available, selling, advertising or distribution, by the respondent, of any visual recording of the victim in which the victim is nude, is exposing the victim's genital organs, anal region or breasts, or is engaged in or depicted as being engaged in explicit sexual activity;
- (n) any other factor that the court considers relevant;
- (o) any other prescribed factor.

(4) A protection order is not effective against the respondent until the respondent is served with the order, including by substituted service, in accordance with *The Queen's Bench Rules*.

(5) If, in granting a protection order, the court determines that it is appropriate for the protection of the victim to prohibit the respondent from holding a valid driver's licence, the court may order the suspension of the respondent's driver's licence for the period specified by the court.

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- (6) If the court suspends a respondent's driver's licence pursuant to subsection (5):
- (a) the court shall provide a copy of the protection order to the minister;
 - (b) the minister shall provide a copy of the protection order to the administrator under *The Traffic Safety Act*; and
 - (c) the administrator under *The Traffic Safety Act* shall immediately suspend the respondent's driver's licence, and the respondent's ability to secure a driver's licence, for the period specified in the protection order.
- (7) If, in granting a protection order, the court determines that it is appropriate to do so for the protection of the victim, the court may order the respondent to surrender to the court, or to a person specified by the court, the respondent's passport and any other travel documents that the court may specify for the period specified by the court.

Expiry and extension

- 5(1) In granting a protection order, the court shall specify the date on which the order ceases to have effect, which shall be not later than the third anniversary after the date on which the order is made.
- (2) On an application made before the expiry of a protection order, the court may extend the expiry date of the protection order for a period of up to 3 years if the court determines that there is a continuing need for the protection order.
- (3) For the purposes of subsection (2), the respondent's compliance with the protection order does not in itself mean that there is not a continuing need for the order.
- (4) The expiry date of a protection order may be extended pursuant to subsection (2) more than once.
- (5) If an application is made pursuant to subsection (2) and the protection order is set to expire before the application is determined, the expiry date of the protection order is deemed to be extended until the determination of the application, unless the court orders otherwise.

Application without notice if immediate or imminent danger

- 6(1) The court may issue a protection order on an application made without notice if the court determines that:
- (a) the circumstances set out in subsections 4(1) and (3) apply; and
 - (b) the victim is in immediate or imminent danger from the respondent.
- (2) A protection order that is issued on an application made without notice is not effective against the respondent until the respondent is served with the order, including by substituted service, in accordance with *The Queen's Bench Rules*.
- (3) If a protection order is issued on an application made without notice, any party who was not given notice of the application may apply to the court to have the protection order varied or set aside.
- (4) On an application pursuant to subsection (3) to vary or set aside a protection order:
- (a) the onus is on the person who applied to vary or set aside the protection order to prove that the order should be varied or set aside; and
 - (b) the court may consider any evidence that was submitted in support of the application for the protection order.

(5) On hearing an application pursuant to subsection (3), the court may confirm, vary or set aside the protection order.

(6) An application pursuant subsection (3) does not operate as a stay of the protection order unless the court orders otherwise.

Review of order

7(1) At any time after a respondent has been served with a protection order, the court, on application by a victim or respondent named in the order, may:

- (a) make changes to, additions to or deletions from the provisions contained in the order;
- (b) decrease or extend the period for which any provision of the order is to remain in force;
- (c) terminate any provision of the order; or
- (d) revoke the order.

(2) On an application pursuant to subsection (1), the evidence before the court on previous applications pursuant to this Part shall be considered as evidence.

(3) The variation of one or more provisions of a protection order does not affect the other provisions of the order.

(4) Notwithstanding any other provision of this Part, a protection order continues in effect and is not stayed by an application pursuant to subsection (1).

(5) Any provision of a protection order is subject to and is varied by any subsequent order made pursuant to any other Act or any Act of the Parliament of Canada.

Warrant permitting entry

8(1) In this section:

“justice of the peace” means a justice of the peace as defined in *The Justices of the Peace Act, 1988*;

“telecommunication” includes the use of a telephone, email, fax or other electronic means of transmission.

(2) Subject to subsection (3), a judge of the court or a justice of the peace may issue a warrant on an application made without notice to the respondent by:

- (a) a peace officer or other prescribed person or member of a prescribed class of persons; or
- (b) a peace officer through telecommunication.

(3) Before issuing a warrant pursuant to subsection (2), the judge or justice of the peace, as the case may be, must be satisfied by information on oath that there are reasonable grounds to believe that:

- (a) a person has been a victim;
- (b) the applicant has been refused access to the victim; and
- (c) the victim will be found at the place to be searched.

(4) A warrant issued pursuant to subsection (2) authorizes the person named in the warrant:

- (a) to enter the place named in the warrant and any other structure or building used in connection with the place;
- (b) to search for, assist or examine the victim;
- (c) with the victim's consent, to remove the victim from the premises for safety reasons or for the purpose of assisting or examining the victim;
- (d) if the victim is a child, to remove the child from the premises for safety reasons or for the purpose of assisting or examining the child; and
- (e) to seize anything that may be evidence of human trafficking.

Search of vehicle

9(1) If a peace officer has reasonable grounds to believe that there is evidence in a vehicle of human trafficking, the peace officer may:

- (a) request or signal to the person in charge of or operating the vehicle to stop the vehicle;
- (b) search the vehicle for evidence of human trafficking; and
- (c) seize anything that may be evidence of human trafficking.

(2) If, due to the circumstances, time or location, there could reasonably be expected to be a high incidence of human trafficking in any area, a peace officer may:

- (a) request or signal to the person in charge of or operating a vehicle in the area to stop the vehicle;
- (b) search the vehicle for evidence of human trafficking; and
- (c) seize anything that may be evidence of human trafficking.

(3) The person in charge of or operating a vehicle shall, when requested or signalled by a peace officer pursuant to subsection (1) or (2):

- (a) immediately bring the vehicle to a safe stop; and
- (b) permit the peace officer to search the vehicle.

Evidence of witnesses

10(1) Subject to subsection (2) and section 12 of *The Evidence Act*, the evidence of witnesses on any application pursuant to this Part must be taken on oath or affirmation.

(2) The court may admit evidence by affidavit or any other means authorized by *The Queen's Bench Rules* for the taking of evidence.

(3) The court may admit hearsay evidence if, in the court's opinion:

- (a) the evidence is credible and trustworthy; and
- (b) it would not be in the best interests of the victim for the victim to testify.

If party is a child

11(1) If an application pursuant to this Part is commenced, continued or responded to by a party who is a child without any legal representation or litigation guardian:

- (a) the child is deemed to have capacity to retain and instruct counsel; and
- (b) the court, at the first reasonable opportunity after the commencement of the application, shall determine whether legal representation is desirable to protect the child's interests, and may make such a determination at any later stage.

(2) If a child who is a victim is not the applicant on an application made pursuant to section 3, and if the court is of the opinion that there is a difference of views between the child and the applicant, legal representation of the child is deemed to be desirable to protect the child's interests unless the court is satisfied that, having taken into account the child's views and preferences to the extent the court considers appropriate having regard to the age and maturity of the child, the child's interests are otherwise adequately protected.

(3) If the court determines that legal representation is desirable to protect the child's interests, the court may direct any person prescribed for the purposes of this section to arrange for legal representation to be provided for the child.

Confidential information, private hearings and publication

12(1) The local registrar of the court shall keep the victim's address confidential at the request of the victim or a person acting on behalf of the victim.

(2) The court may order that the hearing of an application or any part of a hearing be held in private.

(3) On the request of the victim, the court may make an order prohibiting the publication of a report of a hearing or any part of a hearing if the court believes that the publication of the report:

- (a) would not be in the best interests of the victim or any child of the victim or any child who is in the care and custody of the victim; or
- (b) would be likely to identify, have an adverse effect on or cause hardship to the victim or any child of the victim or any child who is in the care and custody of the victim.

Appeal

13 With leave of a judge of the Court of Appeal, an appeal from any order made pursuant to this Part may be made to the Court of Appeal on a question of law.

Offences and penalties

14(1) A person who contravenes an order issued pursuant to this Part is guilty of an offence and is liable on summary conviction to:

- (a) a fine of not more than \$50,000;
- (b) suspension of the person's driver's licence for a period of not more than 3 months;
- (c) imprisonment for a term of not more than 2 years; or
- (d) any combination of clauses (a), (b) and (c).

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- (2) If a person's driver's licence is suspended pursuant to subsection (1):
- (a) the convicting court shall provide a copy of the order to the minister;
 - (b) the minister shall provide a copy of the order to the administrator under *The Traffic Safety Act*; and
 - (c) the administrator under *The Traffic Safety Act* shall immediately suspend the person's driver's licence and the person's ability to secure a driver's licence for the period specified by the convicting court.

Arrest without warrant

15 A peace officer may arrest without warrant any person who the peace officer believes on reasonable grounds has committed an offence pursuant to this Part.

Immunity

16 No action or proceeding lies or shall be commenced against the minister, the Government of Saskatchewan, a police service, an agent, employee or member of a police service, an agent or employee of the Government of Saskatchewan, a local registrar or any other person for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any of them:

- (a) pursuant to or in the exercise or supposed exercise of any power conferred by this Part or the regulations made for the purposes of this Part; or
- (b) in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or the regulations or any duty imposed by this Part or the regulations made for the purposes of this Part.

PART 3**Tort of Human Trafficking****Action**

- 17(1)** It is a tort for a person to engage in human trafficking.
- (2) An action for human trafficking may be commenced in court without proof of damage.
- (3) In an action for human trafficking, it is no defence that the plaintiff consented to any of the conduct in question.

Remedies

- 18(1)** In an action for human trafficking, the court may:
- (a) award damages to the plaintiff, including general, special, aggravated and punitive damages;
 - (b) with respect to any profits that have accrued to the defendant as a result of human trafficking:
 - (i) order the defendant to account to the plaintiff for those profits; and
 - (ii) make an order in favour of the plaintiff with respect to the recovery of those profits from the defendant;

(c) with respect to all or any visual recordings that the defendant has made of the plaintiff, or has caused to be made of the plaintiff, as a result of human trafficking:

- (i) declare the distribution of the visual recordings to be unlawful;
- (ii) order the defendant to make every reasonable effort to make the visual recordings unavailable to others, including by:
 - (A) destroying all copies of the visual recordings in the defendant's possession or control;
 - (B) having the visual recordings removed from any platform operated by an internet intermediary; and
 - (C) having the visual recordings de-indexed from any internet search engine;
- (iii) order any internet intermediary or other person or organization to make every reasonable effort to remove or de-index all visual recordings of the plaintiff;
- (d) issue an injunction on any terms and with any conditions that the court determines to be appropriate to prevent exploitation of the plaintiff;
- (e) make any other order that the court considers just and reasonable in the circumstances.

(2) In awarding damages in an action for human trafficking, the court must not have regard to any order made pursuant to clause (1)(b).

Publication ban

19 In an action for human trafficking, the court may make an order prohibiting the publication of the name of any party to the action or any information likely to identify a party if the court considers the making of the order to be in the interests of justice.

PART 4

Regulations

Regulations

- 20** The Lieutenant Governor in Council may make regulations:
- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
 - (b) for the purposes of clause 3(d), prescribing persons or classes of persons who may bring an application for a protection order;
 - (c) for the purposes of clause 4(3)(o), prescribing other factors that the court may consider in determining whether to issue a protection order;
 - (d) for the purposes of clause 8(2)(a), prescribing persons or classes of persons who may bring an application, without notice to the respondent, for the issuance of a warrant permitting entry;

- (e) for the purposes of subsection 11(3), prescribing persons who may arrange for legal representation for a child who is a party to an application pursuant to this Act;
- (f) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (g) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

PART 5

Consequential Amendment

SS 1994, c V-6.02, section 2 amended

21 Clause 2(e.1) of *The Victims of Interpersonal Violence Act* is amended:

- (a) by striking out “or” after subclause (v);
- (b) by adding “or” after subclause (vi); and
- (c) by adding the following subclause after subclause (vi):
“(vii) human trafficking as defined in *The Protection From Human Trafficking Act*”.

PART 6

Coming into Force

Coming into force

- 22** This Act comes into force by order of the Lieutenant Governor in Council.

FIRST SESSION
Twenty-ninth Legislature
SASKATCHEWAN

B I L L

No. 14

An Act respecting Protection Orders and other Remedies for Human Trafficking and making a consequential amendment to another Act

Received and read the

First time

Second time

Third time

And passed

Honourable Gordon Wyant
