

Senate Bill No. 1962

An act relating to human trafficking; creating s. 787.05, F.S.; specifying elements of the offense of unlawfully obtaining labor or services; providing criminal penalties; creating s. 787.06, F.S.; providing definitions; specifying elements of the offense of human trafficking; providing criminal penalties; providing applicability; creating s. 796.035, F.S.; providing that it is a felony of the first degree for a parent, legal guardian, or other person having custody or control of a minor to offer to, or to actually, sell or otherwise transfer custody or control of such minor, with knowledge that such sale or transfer will result in force, fraud, or coercion being used to cause the minor to engage in prostitution or otherwise participate in the trade of sex trafficking; providing criminal penalties; creating s. 796.045, F.S.; providing for the offense of sex trafficking; providing that it is a felony of the second degree to knowingly recruit, entice, harbor, transport, provide, or obtain a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution; providing that it is a felony of the first degree if sex trafficking involves a person under the age of 14 or results in death; providing criminal penalties; amending s. 895.02, F.S.; expanding the definition of racketeering activity to include the offenses created herein; reenacting ss. 16.56(1)(a), 27.34(1), 655.50(3)(g), 896.101(2)(g), and 905.34(3), F.S., which relate to the authority of the Office of Statewide Prosecution to investigate and prosecute certain offenses, the contribution of funds by counties and municipalities towards salaries of assistant state attorneys, the Florida Control of Money Laundering in Financial Institutions Act, the Florida Money Laundering Act, and the subject matter jurisdiction of the statewide grand jury, respectively, to incorporate the amendment to s. 895.02, F.S., in references thereto; providing applicability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 787.05, Florida Statutes, is created to read:

787.05 Unlawfully obtaining labor or services.—Any person who knowingly obtains the labor or services of a person by:

(1) Causing or threatening to cause bodily injury to that person or another person;

(2) Restraining or threatening to restrain that person or another person without lawful authority and against her or his will; or

(3) Withholding that person's governmental records, identifying information, or other personal property,

commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Section 787.06, Florida Statutes, is created to read:

787.06 Human trafficking.—

(1) As used in this section, the term:

(a) “Forced labor or services” means labor or services obtained from a person by:

1. Using or threatening to use physical force against that person or another person; or

2. Restraining or confining or threatening to restrain or confine that person or another person without lawful authority and against her or his will.

(b) “Human trafficking” means transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport.

(2) Any person who knowingly engages in human trafficking with the intent that the trafficked person engage in forced labor or services commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Section 796.035, Florida Statutes, is created to read:

796.035 Selling or buying of minors into sex trafficking or prostitution; penalties.—Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, with knowledge that, as a consequence of the sale or transfer, force, fraud, or coercion will be used to cause the minor to engage in prostitution or otherwise participate in the trade of sex trafficking, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Section 796.045, Florida Statutes, is created to read:

796.045 Sex trafficking; penalties.—Any person who knowingly recruits, entices, harbors, transports, provides, or obtains by any means a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution, commits the offense of sex trafficking, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offense of sex trafficking is committed against a person who is under the age of 14 or if such offense results in death.

Section 5. Paragraph (a) of subsection (1) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(1) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime which is chargeable by indictment or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.
2. Section 403.727(3)(b), relating to environmental control.
3. Section 414.39, relating to public assistance fraud.
4. Section 409.920, relating to Medicaid provider fraud.
5. Section 440.105 or s. 440.106, relating to workers' compensation.
6. Sections 499.0051, 499.0052, 499.0053, 499.0054, and 499.0691, relating to crimes involving contraband and adulterated drugs.
7. Part IV of chapter 501, relating to telemarketing.
8. Chapter 517, relating to sale of securities and investor protection.
9. Section 550.235, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.
10. Chapter 550, relating to jai alai frontons.
11. Chapter 552, relating to the manufacture, distribution, and use of explosives.
12. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.
13. Chapter 562, relating to beverage law enforcement.
14. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.
15. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.
16. Chapter 687, relating to interest and usurious practices.
17. Section 721.08, s. 721.09, or s. 721.13, relating to real estate time-share plans.
18. Chapter 782, relating to homicide.
19. Chapter 784, relating to assault and battery.
20. Chapter 787, relating to kidnapping.

21. Chapter 790, relating to weapons and firearms.
22. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s. 796.05, or s. 796.07, relating to prostitution and sex trafficking.
23. Chapter 806, relating to arson.
24. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.
25. Chapter 812, relating to theft, robbery, and related crimes.
26. Chapter 815, relating to computer-related crimes.
27. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.
28. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.
29. Section 827.071, relating to commercial sexual exploitation of children.
30. Chapter 831, relating to forgery and counterfeiting.
31. Chapter 832, relating to issuance of worthless checks and drafts.
32. Section 836.05, relating to extortion.
33. Chapter 837, relating to perjury.
34. Chapter 838, relating to bribery and misuse of public office.
35. Chapter 843, relating to obstruction of justice.
36. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.
37. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.
38. Chapter 874, relating to criminal street gangs.
39. Chapter 893, relating to drug abuse prevention and control.
40. Chapter 896, relating to offenses related to financial transactions.
41. Sections 914.22 and 914.23, relating to tampering with a witness, victim, or informant, and retaliation against a witness, victim, or informant.
42. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

Section 6. For the purpose of incorporating the amendment to section 895.02, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 16.56, Florida Statutes, is reenacted to read:

16.56 Office of Statewide Prosecution.—

(1) There is created in the Department of Legal Affairs an Office of Statewide Prosecution. The office shall be a separate “budget entity” as that term is defined in chapter 216. The office may:

(a) Investigate and prosecute the offenses of:

1. Bribery, burglary, criminal usury, extortion, gambling, kidnapping, larceny, murder, prostitution, perjury, robbery, carjacking, and home-invasion robbery;

2. Any crime involving narcotic or other dangerous drugs;

3. Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

4. Any violation of the provisions of the Florida Anti-Fencing Act;

5. Any violation of the provisions of the Florida Antitrust Act of 1980, as amended;

6. Any crime involving, or resulting in, fraud or deceit upon any person;

7. Any violation of s. 847.0135, relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135;

8. Any violation of the provisions of chapter 815; or

9. Any criminal violation of part I of chapter 499;

or any attempt, solicitation, or conspiracy to commit any of the crimes specifically enumerated above. The office shall have such power only when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits.

Section 7. For the purpose of incorporating the amendment to section 895.02, Florida Statutes, in a reference thereto, subsection (1) of section 27.34, Florida Statutes, is reenacted to read:

27.34 Salaries and other related costs of state attorneys' offices; limitations.—

(1) No county or municipality shall appropriate or contribute funds to the operation of the various state attorneys, except that a county or municipality may appropriate or contribute funds to pay the salary of one assistant state

attorney whose sole function shall be to prosecute violations of special laws or ordinances of the county or municipality and may provide persons employed by the county or municipality to the state attorney to serve as special investigators pursuant to the provisions of s. 27.251. However, any county or municipality may contract with the state attorney of the judicial circuit in which such county or municipality is located for the prosecution of violations of county or municipal ordinances. In addition, a county or municipality may appropriate or contribute funds to pay the salary of one or more assistant state attorneys who are trained in the use of the civil and criminal provisions of the Florida RICO Act, chapter 895, and whose sole function is to investigate and prosecute civil and criminal RICO actions when one or more offenses identified in s. 895.02(1)(a) occur within the boundaries of the municipality or county.

Section 8. For the purpose of incorporating the amendment to section 895.02, Florida Statutes, in a reference thereto, paragraph (g) of subsection (3) of section 655.50, Florida Statutes, is reenacted to read:

655.50 Florida Control of Money Laundering in Financial Institutions Act; reports of transactions involving currency or monetary instruments; when required; purpose; definitions; penalties.—

(3) As used in this section, the term:

(g) “Specified unlawful activity” means any “racketeering activity” as defined in s. 895.02.

Section 9. For the purpose of incorporating the amendment to section 895.02, Florida Statutes, in a reference thereto, paragraph (g) of subsection (2) of section 896.101, Florida Statutes, is reenacted to read:

896.101 Florida Money Laundering Act; definitions; penalties; injunctions; seizure warrants; immunity.—

(2) As used in this section, the term:

(g) “Specified unlawful activity” means any “racketeering activity” as defined in s. 895.02.

Section 10. For the purpose of incorporating the amendment to section 895.02, Florida Statutes, in a reference thereto, subsection (3) of section 905.34, Florida Statutes, is reenacted to read:

905.34 Powers and duties; law applicable.—The jurisdiction of a statewide grand jury impaneled under this chapter shall extend throughout the state. The subject matter jurisdiction of the statewide grand jury shall be limited to the offenses of:

(3) Any violation of the provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, including any offense listed in the definition of racketeering activity in s. 895.02(1)(a), providing such listed offense is investigated in connection with a violation of s. 895.03 and is charged in a separate count of an information or indictment containing a

count charging a violation of s. 895.03, the prosecution of which listed offense may continue independently if the prosecution of the violation of s. 895.03 is terminated for any reason;

or any attempt, solicitation, or conspiracy to commit any violation of the crimes specifically enumerated above, when any such offense is occurring, or has occurred, in two or more judicial circuits as part of a related transaction or when any such offense is connected with an organized criminal conspiracy affecting two or more judicial circuits. The statewide grand jury may return indictments and presentments irrespective of the county or judicial circuit where the offense is committed or triable. If an indictment is returned, it shall be certified and transferred for trial to the county where the offense was committed. The powers and duties of, and law applicable to, county grand juries shall apply to a statewide grand jury except when such powers, duties, and law are inconsistent with the provisions of ss. 905.31-905.40.

Section 11. This act shall take effect October 1, 2004, and shall apply to offenses committed on or after that date.

Approved by the Governor July 16, 2004.

Filed in Office Secretary of State July 16, 2004.