

Committee Substitute for
Committee Substitute for Senate Bill No. 250

An act relating to human trafficking; amending s. 787.06, F.S.; providing legislative findings and intent; defining the term “financial harm”; redefining the term “forced labor or services” to include circumstances involving the use of fraud or coercion against a person, the use of certain debt practices, and the destruction, concealing, or withholding of a person’s identification documents; providing for attempted human trafficking to be an equal crime to human trafficking; prohibiting knowingly benefiting financially or receiving anything of value from human trafficking when the trafficked person engages in forced labor or services; providing criminal penalties; requiring the Criminal Justice Standards and Training Commission to establish specified standards concerning human trafficking programs; requiring certain law enforcement officer basic skills courses to include training on human trafficking crime prevention and investigation; requiring state attorneys to develop standards of instruction for prosecutors concerning human trafficking crimes; amending s. 772.102, F.S.; expanding the definition of the term “criminal activity” to include the offense of human trafficking and the offense of sex trafficking for purposes of seeking civil remedies for criminal offenses; amending s. 772.104, F.S.; revising a civil cause of action relating to injuries by reason of criminal activity; providing for alternative damages for violations relating to sex trafficking and human trafficking; amending s. 895.02, F.S.; redefining the term “racketeering activity” to include the offense of human trafficking for purposes of the Florida RICO Act; reenacting ss. 655.50(3)(g), 896.101(2)(g), and 905.34, F.S., relating to the definition of “specified unlawful activity” in a law prohibiting money laundering in financial institutions and in the Florida Money Laundering Act and to the subject matter jurisdiction of a statewide grand jury, to incorporate the amendments made to s. 895.02, F.S., in references thereto; providing an effective date.

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

Section 1. Section 787.06, Florida Statutes, is amended to read:

787.06 Human trafficking.—

(1)(a) The Legislature finds that human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, teenagers, and adults. Thousands of victims are trafficked annually across international borders worldwide. Many of these victims are trafficked into this state. The Legislature finds that victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.

(b) The Legislature finds that while many victims of human trafficking are forced to work in prostitution or the sexual entertainment industry, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.

(c) The Legislature finds that traffickers use various techniques to instill fear in victims and to keep them enslaved. Some traffickers keep their victims under lock and key. However, the most frequently used practices are less obvious techniques that include isolating victims from the public and family members; confiscating passports, visas, or other identification documents; using or threatening to use violence toward victims or their families; telling victims that they will be imprisoned or deported for immigration violations if they contact authorities; and controlling the victims' funds by holding the money ostensibly for safekeeping.

(d) It is the intent of the Legislature that the perpetrators of human trafficking be penalized for their illegal conduct and that the victims of trafficking be protected and assisted by this state and its agencies. In furtherance of this policy, it is the intent of the Legislature that the state Supreme Court, The Florida Bar, and relevant state agencies prepare and implement training programs in order that judges, attorneys, law enforcement personnel, investigators, and others are able to identify traffickers and victims of human trafficking and direct victims to appropriate agencies for assistance. It is the intent of the Legislature that the Department of Children and Family Services and other state agencies cooperate with other state and federal agencies to ensure that victims of human trafficking can access social services and benefits to alleviate their plight.

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

(a) "Financial harm" includes extortionate extension of credit, loan sharking as defined in s. 687.071, or employment contracts that violate the statute of frauds as provided in s. 725.01.

(b) "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, isolating, or confining or threatening to restrain, isolate, or confine that person or another person without lawful authority and against her or his will;

3. Using lending or other credit methods to establish a debt by that person or another person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor, or services are not respectively limited and defined;

4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration docu-

ment, or any other actual or purported government identification document, of that person or another person;

5. Causing or threatening to cause financial harm to any person; or

6. Fraud or coercion.

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

(d) “Maintain,” when used in relation to labor services, means to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service.

~~(3)~~(2) Any person who knowingly:

(a) Engages, or attempts to engage, in human trafficking with the intent or knowledge that the trafficked person will be subjected to engage in forced labor or services; or

(b) Benefits financially by receiving anything of value from participation in a venture that has subjected a person to 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.

(4) The Criminal Justice Standards and Training Commission shall establish standards for basic and advanced training programs for law enforcement officers in the subjects of investigating and preventing human trafficking crimes. After January 1, 2007, every basic skills course required for law enforcement officers to obtain initial certification must include training on human trafficking crime prevention and investigation.

(5) Each state attorney shall develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and shall provide for periodic and timely instruction.

Section 2. Subsection (1) of section 772.102, Florida Statutes, is amended to read:

772.102 Definitions.—As used in this chapter, the term:

(1) “Criminal 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 ~~that which~~ is chargeable by indictment or information under the following provisions:

1. Section 210.18, relating to evasion of payment of cigarette taxes.
2. Section 414.39, relating to public assistance fraud.
3. Section 440.105 or s. 440.106, relating to workers’ compensation.

4. Part IV of chapter 501, relating to telemarketing.
5. Chapter 517, relating to securities transactions.
6. Section 550.235, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.
7. Chapter 550, relating to jai alai frontons.
8. Chapter 552, relating to the manufacture, distribution, and use of explosives.
9. Chapter 562, relating to beverage law enforcement.
10. 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.
11. Chapter 687, relating to interest and usurious practices.
12. Section 721.08, s. 721.09, or s. 721.13, relating to real estate time-share plans.
13. Chapter 782, relating to homicide.
14. Chapter 784, relating to assault and battery.
15. Chapter 787, relating to kidnapping or human trafficking.
16. Chapter 790, relating to weapons and firearms.
17. Section 796.03, s. 796.04, s. 796.045, s. 796.05, or s. 796.07, relating to prostitution.
18. Chapter 806, relating to arson.
19. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.
20. Chapter 812, relating to theft, robbery, and related crimes.
21. Chapter 815, relating to computer-related crimes.
22. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.
23. Section 827.071, relating to commercial sexual exploitation of children.
24. Chapter 831, relating to forgery and counterfeiting.
25. Chapter 832, relating to issuance of worthless checks and drafts.
26. Section 836.05, relating to extortion.

27. Chapter 837, relating to perjury.
 28. Chapter 838, relating to bribery and misuse of public office.
 29. Chapter 843, relating to obstruction of justice.
 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.
 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.
 32. Chapter 893, relating to drug abuse prevention and control.
 33. Section 914.22 or s. 914.23, relating to witnesses, victims, or informants.
 34. Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.
- (b) Any conduct which is subject to indictment or information as a criminal offense and listed in 18 U.S.C. s. 1961(1) (A), (B), (C), or (D).

Section 3. Section 772.104, Florida Statutes, is amended to read:

772.104 Civil cause of action.—

(1) Any person who proves by clear and convincing evidence that he or she has been injured by reason of any violation of the provisions of s. 772.103 shall have a cause of action for threefold the actual damages sustained and, in any such action, is entitled to minimum damages in the amount of \$200, and reasonable attorney's fees and court costs in the trial and appellate courts.

(2) As an alternative to recovery under subsection (1), any person who proves by clear and convincing evidence that he or she has been injured by reason of any violation of the provisions of s. 772.103 due to sex trafficking or human trafficking shall have a cause of action for threefold the amount gained from the sex trafficking or human trafficking and in any such action is entitled to minimum damages in the amount of \$200 and reasonable attorney's fees and court costs in the trial and appellate courts.

(3) In no event shall punitive damages be awarded under this section. The defendant shall be entitled to recover reasonable attorney's fees and court costs in the trial and appellate courts upon a finding that the claimant raised a claim which was without substantial fact or legal support. In awarding attorney's fees and costs under this section, the court shall not consider the ability of the opposing party to pay such fees and costs. Nothing under this section shall be interpreted as limiting any right to recover attorney's fees or costs provided under other provisions of law.

Section 4. Subsection (1) of section 895.02, Florida Statutes, as amended by section 3 of chapter 2005-362, Laws of Florida, 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 ~~that 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 409.920 or s. 409.9201, relating to Medicaid fraud.
4. Section 414.39, relating to public assistance fraud.
5. Section 440.105 or s. 440.106, relating to workers’ compensation.
6. Section 443.071(4), relating to creation of a fictitious employer scheme to commit unemployment compensation fraud.
7. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.
8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and 499.0691, relating to crimes involving contraband and adulterated drugs.
9. Part IV of chapter 501, relating to telemarketing.
10. Chapter 517, relating to sale of securities and investor protection.
11. Section 550.235, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.
12. Chapter 550, relating to jai alai frontons.
13. Section 551.109, relating to slot machine gaming.
14. Chapter 552, relating to the manufacture, distribution, and use of explosives.
15. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.
16. Chapter 562, relating to beverage law enforcement.
17. 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.
18. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

19. Chapter 687, relating to interest and usurious practices.
20. Section 721.08, s. 721.09, or s. 721.13, relating to real estate time-share plans.
21. Chapter 782, relating to homicide.
22. Chapter 784, relating to assault and battery.
23. Chapter 787, relating to kidnapping or human trafficking.
24. Chapter 790, relating to weapons and firearms.
25. 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.
26. Chapter 806, relating to arson.
27. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.
28. Chapter 812, relating to theft, robbery, and related crimes.
29. Chapter 815, relating to computer-related crimes.
30. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.
31. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.
32. Section 827.071, relating to commercial sexual exploitation of children.
33. Chapter 831, relating to forgery and counterfeiting.
34. Chapter 832, relating to issuance of worthless checks and drafts.
35. Section 836.05, relating to extortion.
36. Chapter 837, relating to perjury.
37. Chapter 838, relating to bribery and misuse of public office.
38. Chapter 843, relating to obstruction of justice.
39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.
40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.
41. Chapter 874, relating to criminal street gangs.
42. Chapter 893, relating to drug abuse prevention and control.

43. Chapter 896, relating to offenses related to financial transactions.

44. Sections 914.22 and 914.23, relating to tampering with a witness, victim, or informant, and retaliation against a witness, victim, or informant.

45. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

(b) Any conduct defined as “racketeering activity” under 18 U.S.C. s. 1961(1).

Section 5. For the purpose of incorporating the amendment made by this act 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 6. For the purpose of incorporating the amendment made by this act 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 7. For the purpose of incorporating the amendment made by this act to section 895.02, Florida Statutes, in a reference thereto, 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:

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

(2) Crimes 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 violation of the provisions of chapter 815;
- (7) Any crime involving, or resulting in, fraud or deceit upon any person;
- (8) Any violation of s. 847.0135, s. 847.0137, or s. 847.0138 relating to computer pornography and child exploitation prevention, or any offense related to a violation of s. 847.0135, s. 847.0137, or s. 847.0138;
- (9) Any criminal violation of part I of chapter 499; or
- (10) Any criminal violation of s. 409.920 or s. 409.9201;

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 8. This act shall take effect October 1, 2006.

Approved by the Governor June 12, 2006.

Filed in Office Secretary of State June 12, 2006.