

By Senator Bracy

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1                   A bill to be entitled  
2       An act relating to victims of human trafficking;  
3       creating s. 509.210, F.S.; requiring the Division of  
4       Hotels and Restaurants of the Department of Business  
5       and Professional Regulation, in consultation with the  
6       Attorney General and state and national lodging  
7       associations, to adopt by rule one or more educational  
8       programs to train employees in the identification and  
9       reporting of suspected human trafficking activity;  
10      requiring that the rule require the operator of a  
11      public lodging establishment to train employees within  
12      a certain period after their hiring or by a certain  
13      date and to maintain documentation of such training;  
14      authorizing the division to impose administrative  
15      sanctions; creating s. 787.061, F.S.; providing a  
16      short title; creating s. 787.062, F.S.; defining  
17      terms; creating s. 787.063, F.S.; providing  
18      legislative findings; creating a civil cause of action  
19      for victims of human trafficking against a trafficker  
20      or facilitator; providing procedures and requirements  
21      for bringing a claim; requiring a court to impose a  
22      civil penalty against a defendant if a victim  
23      prevails; requiring a court to impose a civil penalty  
24      and award it equitably to one or more law enforcement  
25      agencies under certain circumstances; providing that  
26      such actions are not subject to a statute of  
27      limitations; providing for administration of the Trust  
28      Fund for Victims of Human Trafficking and Prevention  
29      by the Department of Legal Affairs; requiring the

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30 Department of Law Enforcement to recommend one or more  
31 educational programs designed to train employees of  
32 public lodging establishments in the identification  
33 and reporting of suspected human trafficking;  
34 providing that the owner or operator of a public  
35 lodging establishment may not be held vicariously  
36 liable if certain employees complete such educational  
37 programs in accordance with specified provisions;  
38 providing exemptions; creating s. 787.064, F.S.;

39 requiring the Department of Legal Affairs to issue an  
40 annual report to the Legislature which includes  
41 specified information, by a specified date; amending  
42 s. 960.196, F.S.; increasing the allowable time for  
43 the filing of a claim for relocation assistance by a  
44 victim of human trafficking; providing an effective  
45 date.

46  
47 Be It Enacted by the Legislature of the State of Florida:

48  
49 Section 1. Section 509.210, Florida Statutes, is created to  
50 read:

51 509.210 Training of public lodging establishment employees  
52 regarding human trafficking.—In consultation with the Attorney  
53 General and state and national lodging associations, the  
54 division shall adopt by rule one or more educational programs  
55 designed to train employees of public lodging establishments in  
56 the identification and reporting of suspected human trafficking  
57 activity. The operator of a public lodging establishment may  
58 also adopt its own educational program for this purpose, which

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59 must be submitted to the division and approved for the  
60 operator's use. The division must approve such a program for the  
61 use of the operator and its affiliated establishments if it  
62 determines that the program is at least as comprehensive and  
63 effective as programs adopted by the division by rule. The rule  
64 must require the operator of each public lodging establishment  
65 to train all employees using an approved educational program by  
66 July 1, 2019, or, for employees hired on or after that date,  
67 within 30 days after hiring, and to maintain documentation of  
68 such training for routine inspection. If the operator fails to  
69 comply with the rule, the division may impose administrative  
70 sanctions pursuant to s. 509.261.

71 Section 2. Section 787.061, Florida Statutes, is created to  
72 read:

73 787.061 Short title.—Sections 787.061-787.066 may be cited  
74 as the "Civil Action for Victims of Human Trafficking and  
75 Prevention of Human Trafficking Act."

76 Section 3. Section 787.062, Florida Statutes, is created to  
77 read:

78 787.062 Definitions for the Civil Action for Victims of  
79 Human Trafficking and Prevention of Human Trafficking Act.—As  
80 used in ss. 787.061-787.066, the term:

81 (1) "Facilitator" means a person who knowingly, or in  
82 willful blindness, assists or provides goods or services to a  
83 trafficker which assist or enable the trafficker to carry out  
84 human trafficking.

85 (2) "Human trafficking" has the same meaning as provided in  
86 s. 787.06.

87 (3) "Trafficker" means any person who knowingly engages in

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88 human trafficking, attempts to engage in human trafficking, or  
89 benefits financially by receiving anything of value from  
90 participation in a venture that has subjected a person to human  
91 trafficking.

92 (4) "Trust fund" means the Trust Fund for Victims of Human  
93 Trafficking and Prevention created in s. 787.066.

94 (5) "Venture" has the same meaning as in s. 787.06.

95 (6) "Victim of human trafficking" means a person subjected  
96 to coercion, as defined in s. 787.06, for the purpose of being  
97 used in human trafficking, a child under 18 years of age  
98 subjected to human trafficking, or a person subjected to human  
99 trafficking as defined by federal law.

100 (7) "Willful blindness" occurs when a person's suspicions  
101 are aroused by a particular fact or circumstance yet, while  
102 realizing that his or her suspicions may be correct, the person  
103 deliberately refrains from confirming or acting on his or her  
104 suspicions, preferring to remain in ignorance, when such  
105 knowledge can reasonably and fairly be imputed to that person.

106 Section 4. Section 787.063, Florida Statutes, is created to  
107 read:

108 787.063 Civil action for victims of human trafficking.—

109 (1) FINDINGS.—The Legislature finds that, to achieve the  
110 state's intent relating to human trafficking set forth in s.  
111 787.06(1)(d), it is necessary to provide a civil cause of action  
112 for the recovery of compensatory and punitive damages.

113 (2) CIVIL CAUSE OF ACTION.—

114 (a) A victim of human trafficking has a civil cause of  
115 action against the trafficker or facilitator of human  
116 trafficking who victimized him or her, and may recover damages

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117 for such victimization as provided in this section.

118 (b) The action may be brought in any court of competent  
119 jurisdiction and the standard of proof is a preponderance of the  
120 evidence.

121 (c) If the victim's parent or legal guardian knowingly, or  
122 through willful blindness, participated in the human  
123 trafficking, such person is not entitled to any award of damages  
124 or benefit therefrom.

125 (d) A victim who prevails in any such action is entitled to  
126 recover economic and noneconomic damages, penalties, punitive  
127 damages, reasonable attorney fees, reasonable investigative  
128 expenses, and costs.

129 1. The measure of economic damages for services or labor  
130 coerced from the victim of human trafficking is the greater of  
131 the fair market value of the labor or services provided or the  
132 amount realized by the trafficker. For purposes of this  
133 subparagraph, the terms "labor" and "services" have the same  
134 meanings as provided in s. 787.06.

135 2. The measure of economic damages for every day that the  
136 human trafficking was ongoing shall be calculated as a daily  
137 amount of the compensation payable to a person under s.  
138 961.06(1) (a).

139 3. Economic damages also include past and future medical  
140 and mental health expenses; repatriation expenses, when a victim  
141 elects repatriation; and all other reasonable costs and expenses  
142 incurred by the victim in the past or projected to be incurred  
143 by the victim in the future as a result of the human  
144 trafficking.

145 4. Noneconomic damages shall be calculated as in a tort

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146 action.

147 5. Reasonable attorney fees and reasonable investigative  
148 expenses, and costs related to this action, may not exceed 25  
149 percent of the total awarded in the action.

150 (e) The remedies provided in this section are in addition  
151 to and cumulative with other legal and administrative remedies  
152 available to victims of human trafficking, except that a victim  
153 may not recover under both this section and s. 772.104(2).

154 (f) If a victim prevails in an action under this section,  
155 in addition to any other award imposed, the court must impose a  
156 civil penalty of \$100,000 against the defendant. This penalty is  
157 in addition to, and not in lieu of, any other damage award. The  
158 civil penalty must be assessed by the court and may not be  
159 disclosed to the jury. Proceeds from the civil penalty must be  
160 deposited into the trust fund.

161 (g) If one or more law enforcement agencies rescued the  
162 victim or located the property upon which the abuse or  
163 exploitation of a victim or victims occurred, the court must  
164 impose a civil penalty of \$50,000 against the defendant and  
165 award the penalty to the law enforcement agencies to fund future  
166 efforts to combat human trafficking. The court must equitably  
167 distribute the civil penalty among the law enforcement agencies.

168 (h) The court may consolidate civil actions for the same  
169 trafficker or facilitator for the purpose of case resolution and  
170 aggregate jurisdiction.

171 (i) A civil action brought under this section shall be  
172 tolled during the pendency of any criminal prosecution that  
173 forms the basis for the civil action. The civil action shall be  
174 tolled until all appeals have been exhausted.

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175 (3) STATUTE OF LIMITATIONS.—There is no statute of  
176 limitations for actions brought pursuant to this section.

177 (4) TRUST FUND.—The Department of Legal Affairs shall  
178 administer the Trust Fund for Victims of Human Trafficking and  
179 Prevention as created in s. 787.066.

180 (5) EXEMPTIONS.—

181 (a) Damages are not recoverable under this section against  
182 the state or its agencies, instrumentalities, subdivisions, or  
183 municipalities.

184 (b) An employer may not be held liable under this section  
185 if the employer trains its employees in the identification and  
186 reporting of suspected human trafficking activity in compliance  
187 with s. 509.210. However, any employee engaged in criminal  
188 activity may be held personally liable under this section.

189 Section 5. Section 787.064, Florida Statutes, is created to  
190 read:

191 787.064 Annual Report on the Civil Action for Victims of  
192 Human Trafficking and Prevention of Human Trafficking Act.—The  
193 Department of Legal Affairs shall issue an annual report no  
194 later than October 1 of each year to the President of the Senate  
195 and the Speaker of the House of Representatives detailing for  
196 the prior fiscal year all of the following:

197 (1) The status of the trust fund.

198 (2) Any information that demonstrates the council's  
199 fulfillment of the purposes of the trust fund during the prior  
200 fiscal year.

201 Section 6. Paragraph (b) of subsection (2) of section  
202 960.196, Florida Statutes, is amended to read:

203 960.196 Relocation assistance for victims of human

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204 trafficking.-

205 (2) In order for an award to be granted to a victim for  
206 relocation assistance:

207 (b) The crime must be reported to the proper authorities  
208 and the claim must be filed within 2 years ~~1 year~~, or 3 ~~2~~ years  
209 with good cause, after the date of the last human trafficking  
210 offense, as described in s. 787.06(3)(b), (d), (f), or (g). In a  
211 case that exceeds the 3 ~~2~~-year requirement due to an active and  
212 ongoing investigation, a state attorney, statewide prosecutor,  
213 or federal prosecutor may certify in writing a human trafficking  
214 victim's need to relocate from an unsafe environment due to the  
215 threat of future violence which is directly related to the human  
216 trafficking offense.

217 Section 7. This act shall take effect October 1, 2018.