

THE FLORIDA SENATE
2014 SUMMARY OF LEGISLATION PASSED
Committee on Criminal Justice

CS/CS/CS/HB 989 — Human Trafficking

by Judiciary Committee; Justice Appropriations Subcommittee; Criminal Justice Subcommittee; and Rep. Trujillo and others (CS/CS/CS/SB 768 by Appropriations Committee; Judiciary Committee; Criminal Justice Committee; and Senators Braynon and Joyner)

The bill addresses human trafficking by:

- Protecting the identity of human trafficking victims in court records;
- Authorizing compensation and relocation assistance to human trafficking victims;
- Prohibiting minors from working in adult theaters;
- Facilitating prosecution and enhancing penalties for human trafficking offenses;
- Encouraging prosecution of adults who involve minors in prostitution-related behavior under laws other than ch. 796, F.S. (prostitution), such as those addressing human trafficking, sexual battery, and lewd acts;
- Enhancing penalties for deriving support from the proceeds of prostitution; and
- Authorizing human trafficking victims to seek expungement of criminal history records of arrests and charges arising out of the human trafficking.

Court Record Information

The bill provides protections for disclosure of court record information that identifies a victim of human trafficking of a minor for labor or services or human trafficking for commercial sexual activity, including the use of a pseudonym.

Compensation and Relocation Assistance

The bill provides that a victim engaged in prostitution as a result of being a victim of a human trafficking offense involving commercial sexual activity is eligible for an award under the Florida Crimes Compensation Act.

Relocation assistance currently available to sexual battery victims is also made available to victims of human trafficking involving commercial sexual activity. The bill amends current grant criteria to make those criteria applicable to the human trafficking offenses. Applicable to a sexual battery or human trafficking victim, the victim's need for assistance must be certified by a certified rape crisis center in this state or by the state attorney or statewide prosecutor having jurisdiction over the offense. However, a human trafficking victim's need for assistance may also be certified by a certified domestic violence center in this state. The certification by the rape crisis center or domestic violence center of the human trafficking victim's need for assistance must include, if applicable, approval of the state attorney or statewide prosecutor attesting that the victim is cooperating with law enforcement officials.

Minors Working in Adult Theaters

The bill prohibits a person under 18 years of age from working in an adult theater regardless of whether such person's disabilities of nonage have been removed by marriage or otherwise. An adult theater must obtain proof of the identity and age of its employees or independent contractors prior to employment or the provision of services, and maintain certain records for a specified period. The Department of Business and Professional Regulation and its agents may enter during operating hours, unannounced and without prior notice, and inspect at any time a covered place or establishment and access age verification documents kept on file by the adult theater and other records as may aid in enforcement of the described requirements.

Prosecution and Punishment of Human Trafficking

The bill provides that there is no time limitation for the criminal prosecution of a violation of s. 787.06, F.S. (human trafficking), except for an offense the prosecution of which would have been time-barred on or before October 1, 2014 (the effective date of the bill).

The bill amends s. 787.06, F.S. (human trafficking), to clarify that the statute applies to persons who engage or attempt to engage in human trafficking whether or not the activity involves a venture. The bill revises human trafficking offenses that are first degree felonies to punish human trafficking:

- For labor or services of any child under 18 years of age;
- Using coercion for labor or services of an adult;
- Using coercion for commercial sexual activity of an adult;
- For labor or services of any child under 18 years of age who is an unauthorized alien;
- Using coercion for labor or services of an adult who is an unauthorized alien;
- Using coercion for commercial activity of an adult who is an unauthorized alien;
- For labor or services by transfer or transport of any child under 18 years of age from outside this state to within the state;
- Using coercion for labor or services by transfer or transport of an adult from outside this state to within the state;
- For commercial sexual activity by transfer or transport of any child under 18 years of age from outside this state to within the state (first degree felony punishable by life); and
- Using coercion for commercial sexual activity by transfer or transport of an adult from outside this state to within the state.

The bill consolidates and modifies the offenses of human trafficking for commercial sexual activity involving any child under 18 years of age and human trafficking for commercial sexual activity involving any child under 15 years of age. The consolidated offense is human trafficking for commercial sexual activity involving any child who is under 18 years of age or person who is mentally defective or mentally incapacitated. The consolidated offense is a life felony punishable by life imprisonment (an increase from current first degree felony penalties).

The bill increases from a first degree felony punishable by life imprisonment to a life felony the offense of sale or transfer of a minor by a parent, legal guardian, or other person who has custody

or control of the minor with knowledge or reckless disregard that the minor will be subject to human trafficking.

The bill creates a new second degree felony offense for permanently branding or directing the branding of a person who is a victim of human trafficking. “Permanently branded” means a mark on the individual’s body that, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure.

Human trafficking offenses are ranked in the offense severity ranking chart of the Criminal Punishment Code. Offenses that involve a child victim are ranked one level higher than the corresponding offense in which the victim is an adult.

The bill creates a new provision that the defendant’s ignorance of the victim’s age, the victim’s misrepresentation of his or her age, or the defendant’s bona fide belief of the victim’s age cannot be raised as a defense in a prosecution for human trafficking.

The bill provides that, on or after October 1, 2014, commercial sex trafficking involving any child under 18 years of age or a person who is mentally defective or mentally incapacitated is punishable by life imprisonment.

Prosecution of Adults Who Involve Minors in Prostitution-Related Behavior

The bill provides legislative intent that adults who involve minors in behaviors prohibited under ch. 796, F.S. (prostitution), be prosecuted under other laws of the state because a minor is unable to consent to such behavior.

The bill repeals s. 796.03, F.S. (procuring a minor for prostitution), s. 796.035, F.S. (selling or buying of minors into prostitution), and s. 796.036, F.S. (reclassification of the degree of prostitution-related offenses involving a minor).

Penalties for Deriving Support from the Proceeds of Prostitution

The bill increases the felony degree of the offense of knowingly deriving support from the earnings of a prostitute, which is currently a third degree felony. The bill makes the first violation a second degree felony, elevates second or subsequent violations to first degree felonies, and provides a 10-year mandatory minimum term of imprisonment for a third or subsequent violation.

Expungement of Human Trafficking Criminal History Records by Victims

The bill allows a victim of human trafficking to petition for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed as a part of a human trafficking scheme of which the person was a victim or at

the direction of the operator of the scheme, without regard to the disposition of the arrest or of any charges.

If a person is adjudicated not guilty by reason of insanity or found to be incompetent to stand trial for any such charge, the expunction of the criminal history record may not prevent the entry of the judgment or finding in state and national databases for use in determination of eligibility to purchase or possess a firearm or carry a concealed firearm. The expunction shall not prevent any governmental agency authorized by state or federal law to determine eligibility to purchase or possess a firearm or carry a concealed firearm from accessing or using the record of the judgment or finding in the course of the agency's official duties.

If approved by the Governor, these provisions take effect October 1, 2014.

Vote: Senate 38-0; House 116-0