

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1977 (PCB PS 04-35) Human Trafficking
SPONSOR(S): Committee on Public Safety & Crime Prevention
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Safety & Crime Prevention</u>	<u>16 Y, 0 N</u>	<u>Kramer</u>	<u>De La Paz</u>
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1977 creates section 787.05, F.S. which makes it a second degree felony for any person to knowingly obtain 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 the person’s governmental records, identifying information or other personal property.

The bill also creates section 787.06, F.S. which makes it a second degree felony to knowingly engage in human trafficking with the intent that the trafficked person engage in forced labor or services. The term “human trafficking” is defined to mean transporting, soliciting, recruiting, harboring, providing or obtaining another person for transport. The term forced labor or services is defined to mean 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.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1977.ps.doc
DATE: April 21, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Human Trafficking: In 2000, Congress passed the “Victims of Trafficking and Violence Protection Act of 2000” and published findings including the following¹:

As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.

Many of these persons are trafficked into the international sex trade, often by force, fraud or coercion. The sex industry has rapidly expanded over the past several decades. It involves sexual exploitation of persons, predominately women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services. The low status of women in many parts of the world has contributed to a burgeoning of the trafficking industry.

Trafficking in persons is not limited to the sex industry. This growing transnational crime also includes forced labor and involves significant violations of labor, public health, and human trafficking rights standards worldwide.

In June of 2003, the Department of State issued a report which estimated that approximately 800,000 - 900,000 people are trafficked annually across international borders and approximately 20,000 of these people are trafficked into the United States.² The report indicated that this number does not include people who are trafficked within the country.³

Kidnapping: Section 787.01 prohibits the offense of kidnapping, a first degree felony, which is defined as follows:

The term kidnapping means forcibly, secretly or by threat confining, abducting or imprisoning another person against her or his will and without lawful authority, with intent to:

1. Hold for ransom or reward or as a shield or hostage.

¹ Public Law 106-386, sec. 102.

² <http://www.state.gov/documents/organization/21555.pdf>

³ : The Center for the Advancement of Human Rights at Florida State University recently released a report entitled *Florida Responds to Human Trafficking* <http://www.cahr.fsu.edu/the%20report.pdf>

2. Commit or facilitate the commission of a felony.
3. Inflict bodily harm upon or terrorize the victim or another person [or]
4. Interfere with the performance of any governmental or political function.

Confinement of a child under the age of 13 is against her or his will within the meaning of this subsection if such confinement is without the consent of her or his parent or legal guardian.

The section also provides that the offense of kidnapping is a life felony when the victim is under the age of 13 and when in the course of committing the kidnapping, the offender commits one or more of the following offenses:

1. Aggravated child abuse, as defined in s. 827.03.
2. Sexual battery, as defined in chapter 794, against the child.
3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. 800.04.
4. A violation of s. 796.03 or 796.04, relating to prostitution.
5. Exploitation of the child or allowing the child to be exploited in violation of s. 450.151.

Federal legislation: As part of the Victims of Trafficking and Violence Protection Act, Congress created 18 U.S.C. 1591 which prohibits sex trafficking. The section makes it a felony to recruit, entice, harbor, transport or provide another person knowing that force, fraud or coercion will be used to cause the person to engage in a "commercial sex act".

The bill creates section 787.05, F.S. which provides that it is a second degree felony for any person to knowingly obtain 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 the person's governmental records, identifying information or other personal property.

The bill also creates section 787.06, F.S. which makes it a second degree felony to knowingly engage in human trafficking with the intent that the trafficked person engage in forced labor or services. The term "human trafficking" is defined to mean transporting, soliciting, recruiting, harboring, providing or obtaining another person for transport. The term forced labor or services means obtaining the labor or services of 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.

C. SECTION DIRECTORY:

Section 1. Creates s. 787.05, F.S., relating to unlawfully obtaining labor or services.

Section 2. Creates s. 787.06, F.S.; relating to human trafficking.

Section 3. Provides effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Impact Conference has not considered the prison bed impact of this bill on the Department of Corrections. The bill creates two second degree felony offenses which are not ranked in the offense severity ranking chart of the Criminal Punishment Code. As a result, the lowest permissible sentence for the offenses will be any non-state prison sanction (including probation or county jail). Therefore, it is not expected that the provisions of this bill will have a significant prison bed impact on the Department of Corrections.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

This bill began as a proposed committee bill of the Committee on Public Safety & Crime Prevention.