

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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.

1 Representative Gannon offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

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

7 787.06 Human trafficking.--

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

16 (b) The Legislature finds that while many victims of human  
17 trafficking are forced to work in prostitution or the sexual

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18 entertainment industry, trafficking also occurs in forms of  
19 labor exploitation, such as domestic servitude, restaurant work,  
20 janitorial work, sweatshop factory work, and migrant  
21 agricultural work.

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

33 (d) It is the intent of the Legislature that the  
34 perpetrators of human trafficking be penalized for their illegal  
35 conduct and that the victims of trafficking be protected and  
36 assisted by this state and its agencies. In furtherance of this  
37 policy, it is the intent of the Legislature that the state  
38 Supreme Court, The Florida Bar, and relevant state agencies  
39 prepare and implement training programs in order that judges,  
40 attorneys, law enforcement personnel, investigators, and others  
41 are able to identify traffickers and victims of human  
42 trafficking and direct victims to appropriate agencies for  
43 assistance. It is the intent of the Legislature that the  
44 Department of Children and Family Services and other state  
45 agencies cooperate with other state and federal agencies to

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46 ensure that victims of human trafficking can access social  
47 services and benefits to alleviate their plight.

48 (2)-(1) As used in this section, the term:

49 (a) "Financial harm" includes extortionate extension of  
50 credit, loan sharking as defined in s. 687.071, or employment  
51 contracts that violate the statute of frauds as provided in s.  
52 725.01.

53 (b) "Forced labor or services" means labor or services  
54 obtained from a person by:

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

57 2. Restraining, isolating, or confining or threatening to  
58 restrain, isolate, or confine that person or another person  
59 without lawful authority and against her or his will;

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

66 4. Destroying, concealing, removing, confiscating,  
67 withholding, or possessing any actual or purported passport,  
68 visa, or other immigration document, or any other actual or  
69 purported government identification document, of that person or  
70 another person;

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

73 6. Fraud or coercion.

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74        ~~(c)~~ ~~(b)~~ "Human trafficking" means transporting, soliciting,  
75 recruiting, harboring, providing, or obtaining another person  
76 for transport.

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

81        ~~(3)~~ ~~(2)~~ Any person who knowingly:

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

85        (b) Benefits financially by receiving anything of value  
86 from participation in a venture that has subjected a person to  
87 forced labor or services;

88  
89 commits a felony of the second degree, punishable as provided in  
90 s. 775.082, s. 775.083, or s. 775.084.

91        (4) The Florida Court Educational Council shall establish  
92 standards of instruction for circuit court judges and county  
93 court judges who hear cases involving victims of human  
94 trafficking and shall provide for periodic and timely  
95 instruction.

96        (5) The Criminal Justice Standards and Training Commission  
97 shall establish standards for basic and advanced training  
98 programs for law enforcement officers in the subjects of  
99 investigating and preventing human trafficking crimes. After  
100 January 1, 2007, every basic skills course required for law  
101 enforcement officers to obtain initial certification must

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102 include training on human trafficking crime prevention and  
103 investigation.

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

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

110 772.102 Definitions.--As used in this chapter, the term:

111 (1) "Criminal activity" means to commit, to attempt to  
112 commit, to conspire to commit, or to solicit, coerce, or  
113 intimidate another person to commit:

114 (a) Any crime that ~~which~~ is chargeable by indictment or  
115 information under the following provisions:

116 1. Section 210.18, relating to evasion of payment of  
117 cigarette taxes.

118 2. Section 414.39, relating to public assistance fraud.

119 3. Section 440.105 or s. 440.106, relating to workers'  
120 compensation.

121 4. Part IV of chapter 501, relating to telemarketing.

122 5. Chapter 517, relating to securities transactions.

123 6. Section 550.235, s. 550.3551, or s. 550.3605, relating  
124 to dogracing and horseracing.

125 7. Chapter 550, relating to jai alai frontons.

126 8. Chapter 552, relating to the manufacture, distribution,  
127 and use of explosives.

128 9. Chapter 562, relating to beverage law enforcement.

129 10. Section 624.401, relating to transacting insurance  
130 without a certificate of authority, s. 624.437(4)(c)1., relating  
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131 to operating an unauthorized multiple-employer welfare  
132 arrangement, or s. 626.902(1)(b), relating to representing or  
133 aiding an unauthorized insurer.

134 11. Chapter 687, relating to interest and usurious  
135 practices.

136 12. Section 721.08, s. 721.09, or s. 721.13, relating to  
137 real estate timeshare plans.

138 13. Chapter 782, relating to homicide.

139 14. Chapter 784, relating to assault and battery.

140 15. Chapter 787, relating to kidnapping or human  
141 trafficking.

142 16. Chapter 790, relating to weapons and firearms.

143 17. Section 796.03, s. 796.04, s. 796.045, s. 796.05, or  
144 s. 796.07, relating to prostitution.

145 18. Chapter 806, relating to arson.

146 19. Section 810.02(2)(c), relating to specified burglary  
147 of a dwelling or structure.

148 20. Chapter 812, relating to theft, robbery, and related  
149 crimes.

150 21. Chapter 815, relating to computer-related crimes.

151 22. Chapter 817, relating to fraudulent practices, false  
152 pretenses, fraud generally, and credit card crimes.

153 23. Section 827.071, relating to commercial sexual  
154 exploitation of children.

155 24. Chapter 831, relating to forgery and counterfeiting.

156 25. Chapter 832, relating to issuance of worthless checks  
157 and drafts.

158 26. Section 836.05, relating to extortion.

159 27. Chapter 837, relating to perjury.

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160 28. Chapter 838, relating to bribery and misuse of public  
161 office.

162 29. Chapter 843, relating to obstruction of justice.

163 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
164 s. 847.07, relating to obscene literature and profanity.

165 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.  
166 849.25, relating to gambling.

167 32. Chapter 893, relating to drug abuse prevention and  
168 control.

169 33. Section 914.22 or s. 914.23, relating to witnesses,  
170 victims, or informants.

171 34. Section 918.12 or s. 918.13, relating to tampering  
172 with jurors and evidence.

173 (b) Any conduct which is subject to indictment or  
174 information as a criminal offense and listed in 18 U.S.C. s.  
175 1961(1) (A), (B), (C), or (D).

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

178 772.104 Civil cause of action.--

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

186 (2) As an alternative to recovery under subsection (1),  
187 any person who proves by clear and convincing evidence that he  
188 or she has been injured by reason of any violation of the

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189 provisions of s. 772.103 due to sex trafficking or human  
190 trafficking shall have a cause of action for threefold the  
191 amount gained from the sex trafficking or human trafficking and  
192 in any such action is entitled to minimum damages in the amount  
193 of \$200 and reasonable attorney's fees and court costs in the  
194 trial and appellate courts.

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

205 Section 4. Subsection (1) of section 895.02, Florida  
206 Statutes, as amended by section 3 of chapter 2005-362, Laws of  
207 Florida, is amended to read:

208 895.02 Definitions.--As used in ss. 895.01-895.08, the  
209 term:

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

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

216 1. Section 210.18, relating to evasion of payment of  
217 cigarette taxes.

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- 218           2. Section 403.727(3)(b), relating to environmental  
219 control.
- 220           3. Section 409.920 or s. 409.9201, relating to Medicaid  
221 fraud.
- 222           4. Section 414.39, relating to public assistance fraud.
- 223           5. Section 440.105 or s. 440.106, relating to workers'  
224 compensation.
- 225           6. Section 443.071(4), relating to creation of a  
226 fictitious employer scheme to commit unemployment compensation  
227 fraud.
- 228           7. Section 465.0161, relating to distribution of medicinal  
229 drugs without a permit as an Internet pharmacy.
- 230           8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and  
231 499.0691, relating to crimes involving contraband and  
232 adulterated drugs.
- 233           9. Part IV of chapter 501, relating to telemarketing.
- 234           10. Chapter 517, relating to sale of securities and  
235 investor protection.
- 236           11. Section 550.235, s. 550.3551, or s. 550.3605, relating  
237 to dogracing and horseracing.
- 238           12. Chapter 550, relating to jai alai frontons.
- 239           13. Section 551.109, relating to slot machine gaming.
- 240           14. Chapter 552, relating to the manufacture,  
241 distribution, and use of explosives.
- 242           15. Chapter 560, relating to money transmitters, if the  
243 violation is punishable as a felony.
- 244           16. Chapter 562, relating to beverage law enforcement.
- 245           17. Section 624.401, relating to transacting insurance  
246 without a certificate of authority, s. 624.437(4)(c)1., relating  
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247 | to operating an unauthorized multiple-employer welfare  
248 | arrangement, or s. 626.902(1)(b), relating to representing or  
249 | aiding an unauthorized insurer.

250 |       18. Section 655.50, relating to reports of currency  
251 | transactions, when such violation is punishable as a felony.

252 |       19. Chapter 687, relating to interest and usurious  
253 | practices.

254 |       20. Section 721.08, s. 721.09, or s. 721.13, relating to  
255 | real estate timeshare plans.

256 |       21. Chapter 782, relating to homicide.

257 |       22. Chapter 784, relating to assault and battery.

258 |       23. Chapter 787, relating to kidnapping or human  
259 | trafficking.

260 |       24. Chapter 790, relating to weapons and firearms.

261 |       25. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.  
262 | 796.05, or s. 796.07, relating to prostitution and sex  
263 | trafficking.

264 |       26. Chapter 806, relating to arson.

265 |       27. Section 810.02(2)(c), relating to specified burglary  
266 | of a dwelling or structure.

267 |       28. Chapter 812, relating to theft, robbery, and related  
268 | crimes.

269 |       29. Chapter 815, relating to computer-related crimes.

270 |       30. Chapter 817, relating to fraudulent practices, false  
271 | pretenses, fraud generally, and credit card crimes.

272 |       31. Chapter 825, relating to abuse, neglect, or  
273 | exploitation of an elderly person or disabled adult.

274 |       32. Section 827.071, relating to commercial sexual  
275 | exploitation of children.

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- 276 | 33. Chapter 831, relating to forgery and counterfeiting.  
277 | 34. Chapter 832, relating to issuance of worthless checks  
278 | and drafts.  
279 | 35. Section 836.05, relating to extortion.  
280 | 36. Chapter 837, relating to perjury.  
281 | 37. Chapter 838, relating to bribery and misuse of public  
282 | office.  
283 | 38. Chapter 843, relating to obstruction of justice.  
284 | 39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
285 | s. 847.07, relating to obscene literature and profanity.  
286 | 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.  
287 | 849.25, relating to gambling.  
288 | 41. Chapter 874, relating to criminal street gangs.  
289 | 42. Chapter 893, relating to drug abuse prevention and  
290 | control.  
291 | 43. Chapter 896, relating to offenses related to financial  
292 | transactions.  
293 | 44. Sections 914.22 and 914.23, relating to tampering with  
294 | a witness, victim, or informant, and retaliation against a  
295 | witness, victim, or informant.  
296 | 45. Sections 918.12 and 918.13, relating to tampering with  
297 | jurors and evidence.  
298 | (b) Any conduct defined as "racketeering activity" under  
299 | 18 U.S.C. s. 1961(1).  
300 | Section 5. For the purpose of incorporating the amendment  
301 | made by this act to section 895.02, Florida Statutes, in a  
302 | reference thereto, paragraph (g) of subsection (3) of section  
303 | 655.50, Florida Statutes, is reenacted to read:

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304 655.50 Florida Control of Money Laundering in Financial  
305 Institutions Act; reports of transactions involving currency or  
306 monetary instruments; when required; purpose; definitions;  
307 penalties.--

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

309 (g) "Specified unlawful activity" means any "racketeering  
310 activity" as defined in s. 895.02.

311 Section 6. For the purpose of incorporating the amendment  
312 made by this act to section 895.02, Florida Statutes, in a  
313 reference thereto, paragraph (g) of subsection (2) of section  
314 896.101, Florida Statutes, is reenacted to read:

315 896.101 Florida Money Laundering Act; definitions;  
316 penalties; injunctions; seizure warrants; immunity.--

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

318 (g) "Specified unlawful activity" means any "racketeering  
319 activity" as defined in s. 895.02.

320 Section 7. For the purpose of incorporating the amendment  
321 made by this act to section 895.02, Florida Statutes, in a  
322 reference thereto, section 905.34, Florida Statutes, is  
323 reenacted to read:

324 905.34 Powers and duties; law applicable.--The  
325 jurisdiction of a statewide grand jury impaneled under this  
326 chapter shall extend throughout the state. The subject matter  
327 jurisdiction of the statewide grand jury shall be limited to the  
328 offenses of:

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

332 (2) Crimes involving narcotic or other dangerous drugs;  
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333 (3) Any violation of the provisions of the Florida RICO  
334 (Racketeer Influenced and Corrupt Organization) Act, including  
335 any offense listed in the definition of racketeering activity in  
336 s. 895.02(1)(a), providing such listed offense is investigated  
337 in connection with a violation of s. 895.03 and is charged in a  
338 separate count of an information or indictment containing a  
339 count charging a violation of s. 895.03, the prosecution of  
340 which listed offense may continue independently if the  
341 prosecution of the violation of s. 895.03 is terminated for any  
342 reason;

343 (4) Any violation of the provisions of the Florida Anti-  
344 Fencing Act;

345 (5) Any violation of the provisions of the Florida  
346 Antitrust Act of 1980, as amended;

347 (6) Any violation of the provisions of chapter 815;

348 (7) Any crime involving, or resulting in, fraud or deceit  
349 upon any person;

350 (8) Any violation of s. 847.0135, s. 847.0137, or s.  
351 847.0138 relating to computer pornography and child exploitation  
352 prevention, or any offense related to a violation of s.  
353 847.0135, s. 847.0137, or s. 847.0138;

354 (9) Any criminal violation of part I of chapter 499; or

355 (10) Any criminal violation of s. 409.920 or s. 409.9201;

356  
357 or any attempt, solicitation, or conspiracy to commit any  
358 violation of the crimes specifically enumerated above, when any  
359 such offense is occurring, or has occurred, in two or more  
360 judicial circuits as part of a related transaction or when any  
361 such offense is connected with an organized criminal conspiracy  
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362 affecting two or more judicial circuits. The statewide grand  
 363 jury may return indictments and presentments irrespective of the  
 364 county or judicial circuit where the offense is committed or  
 365 triable. If an indictment is returned, it shall be certified and  
 366 transferred for trial to the county where the offense was  
 367 committed. The powers and duties of, and law applicable to,  
 368 county grand juries shall apply to a statewide grand jury except  
 369 when such powers, duties, and law are inconsistent with the  
 370 provisions of ss. 905.31-905.40.

371 Section 8. This act shall take effect October 1, 2006.  
 372

373 ===== T I T L E A M E N D M E N T =====

374 Remove the entire title and insert:

375 A bill to be entitled

376 An act relating to human trafficking; amending s. 787.06,  
 377 F.S.; providing legislative findings and intent; defining  
 378 the term "financial harm"; redefining the term "forced  
 379 labor or services" to include circumstances involving the  
 380 use of fraud or coercion against a person, the use of  
 381 certain debt practices, and the destruction, concealing,  
 382 or withholding of a person's identification documents;  
 383 providing for attempted human trafficking to be an equal  
 384 crime to human trafficking; prohibiting knowingly  
 385 benefiting financially or receiving anything of value from  
 386 human trafficking when the trafficked person engages in  
 387 forced labor or services; providing criminal penalties;  
 388 requiring the Florida Court Educational Council to develop  
 389 specified instructional standards for certain judges  
 390 concerning human trafficking; requiring the Criminal

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391 Justice Standards and Training Commission to establish  
392 specified standards concerning human trafficking;  
393 requiring basic skills courses for law enforcement  
394 officers to include training on human trafficking  
395 prevention and investigation; requiring state attorneys to  
396 develop standards of instruction for prosecutors  
397 concerning human trafficking crimes; amending s. 772.102,  
398 F.S.; expanding the definition of the term "criminal  
399 activity" to include the offense of human trafficking and  
400 the offense of sex trafficking for purposes of seeking  
401 civil remedies for criminal offenses; amending s. 772.104,  
402 F.S.; revising a civil cause of action relating to  
403 injuries by reason of criminal activity; providing for  
404 alternative damages for violations relating to sex  
405 trafficking and human trafficking; amending s. 895.02,  
406 F.S.; redefining the term "racketeering activity" to  
407 include the offense of human trafficking for purposes of  
408 the Florida RICO Act; reenacting ss. 655.50(3)(g),  
409 896.101(2)(g), and 905.34, F.S., relating to the  
410 definition of "specified unlawful activity" in a law  
411 prohibiting money laundering in financial institutions and  
412 in the Florida Money Laundering Act and to the subject  
413 matter jurisdiction of a statewide grand jury, to  
414 incorporate the amendments made to s. 895.02, F.S., in  
415 references thereto; providing an effective date.