

By the Committee on Judiciary; and Senators Margolis, King,
Smith and Rich

590-1913-06

1 A bill to be entitled
2 An act relating to human trafficking; amending
3 s. 787.06, F.S.; providing legislative findings
4 and intent; redefining the term "forced labor
5 or services" to include circumstances involving
6 the use of fraud or coercion against a person,
7 the use of certain debt practices, and the
8 destruction, concealing, or withholding of a
9 person's identification documents; providing
10 for attempted human trafficking to be an equal
11 crime to human trafficking; prohibiting
12 knowingly benefiting financially or receiving
13 anything of value from human trafficking when
14 the trafficked person engages in forced labor
15 or services; providing criminal penalties;
16 directing the Florida Court Educational Council
17 to establish standards for instructing circuit
18 and county court judges on matters relating to
19 victims of human trafficking; directing the
20 council to provide for periodic and timely
21 instruction; amending s. 772.102, F.S.;
22 expanding the definition of the term "criminal
23 activity" to include the offense of human
24 trafficking for purposes of seeking civil
25 remedies for criminal offenses; amending s.
26 772.104, F.S.; revising a civil cause of action
27 relating to injuries by reason of criminal
28 activity; providing for alternative damages for
29 violations relating to sex trafficking and
30 human trafficking; amending s. 895.02, F.S.;
31 redefining the term "racketeering activity" to

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1 include the offense of human trafficking for
2 purposes of the Florida RICO Act; reenacting
3 ss. 16.56(1)(a), 655.50(3)(g), 896.101(2)(g),
4 and 905.34, F.S., relating to the authority of
5 the Office of the Statewide Prosecutor, the
6 definition of "specified unlawful activity" in
7 a law prohibiting money laundering in financial
8 institutions and in the Florida Money
9 Laundering Act, and the subject matter
10 jurisdiction of a statewide grand jury, to
11 incorporate the amendments made to s. 895.02,
12 F.S., in references thereto; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Section 787.06, Florida Statutes, is
18 amended to read:

19 787.06 Human trafficking.--

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

28 (b) The Legislature finds that while many victims of
29 human trafficking are forced to work in prostitution or the
30 sexual entertainment industry, trafficking also occurs in
31 forms of labor exploitation, such as domestic servitude,

1 restaurant work, janitorial work, sweatshop factory work, and
2 migrant agricultural work.

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

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

30 (2)(1) As used in this section, the term:
31

1 (a) "Forced labor or services" means labor or services
2 obtained from a person by:

3 1. Using or threatening to use physical force, fraud,
4 or coercion against that person or another person; ~~or~~

5 2. Restraining, isolating, or confining or threatening
6 to restrain, isolate, or confine that person or another person
7 without lawful authority and against her or his will;~~-~~

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

15 4. Destroying, concealing, removing, confiscating,
16 withholding, or possessing any actual or purported passport,
17 visa, or other immigration document, or any other actual or
18 purported government identification document, of that person
19 or another person.

20 (b) "Human trafficking" means transporting,
21 soliciting, recruiting, harboring, providing, or obtaining
22 another person for transport.

23 ~~(3)(2)~~ Any person who knowingly engages, or attempts
24 to engage, in human trafficking with the intent that the
25 trafficked person engage in forced labor or services or who
26 knowingly benefits financially or receives anything of value,
27 or attempts to benefit financially or receive anything of
28 value, from human trafficking when the trafficked person
29 engages in forced labor or services commits a felony of the
30 second degree, punishable as provided in s. 775.082, s.
31 775.083, or s. 775.084.

1 (4) The Florida Court Educational Council shall
2 establish standards of instruction for circuit and county
3 court judges who hear cases involving victims of human
4 trafficking and shall provide for periodic and timely
5 instruction.

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

8 772.102 Definitions.--As used in this chapter, the
9 term:

10 (1) "Criminal activity" means to commit, to attempt to
11 commit, to conspire to commit, or to solicit, coerce, or
12 intimidate another person to commit:

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

15 1. Section 210.18, relating to evasion of payment of
16 cigarette taxes.

17 2. Section 414.39, relating to public assistance
18 fraud.

19 3. Section 440.105 or s. 440.106, relating to workers'
20 compensation.

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

22 5. Chapter 517, relating to securities transactions.

23 6. Section 550.235, s. 550.3551, or s. 550.3605,
24 relating to dogracing and horseracing.

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

26 8. Chapter 552, relating to the manufacture,
27 distribution, and use of explosives.

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

29 10. Section 624.401, relating to transacting insurance
30 without a certificate of authority, s. 624.437(4)(c)1.,
31 relating to operating an unauthorized multiple-employer

1 welfare arrangement, or s. 626.902(1)(b), relating to
2 representing or aiding an unauthorized insurer.
3 11. Chapter 687, relating to interest and usurious
4 practices.
5 12. Section 721.08, s. 721.09, or s. 721.13, relating
6 to real estate timeshare plans.
7 13. Chapter 782, relating to homicide.
8 14. Chapter 784, relating to assault and battery.
9 15. Chapter 787, relating to kidnapping or human
10 trafficking.
11 16. Chapter 790, relating to weapons and firearms.
12 17. Section 796.03, s. 796.04, s. 796.05, or s.
13 796.07, relating to prostitution.
14 18. Chapter 806, relating to arson.
15 19. Section 810.02(2)(c), relating to specified
16 burglary of a dwelling or structure.
17 20. Chapter 812, relating to theft, robbery, and
18 related crimes.
19 21. Chapter 815, relating to computer-related crimes.
20 22. Chapter 817, relating to fraudulent practices,
21 false pretenses, fraud generally, and credit card crimes.
22 23. Section 827.071, relating to commercial sexual
23 exploitation of children.
24 24. Chapter 831, relating to forgery and
25 counterfeiting.
26 25. Chapter 832, relating to issuance of worthless
27 checks and drafts.
28 26. Section 836.05, relating to extortion.
29 27. Chapter 837, relating to perjury.
30 28. Chapter 838, relating to bribery and misuse of
31 public office.

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

2 30. Section 847.011, s. 847.012, s. 847.013, s.
3 847.06, or s. 847.07, relating to obscene literature and
4 profanity.

5 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23,
6 or s. 849.25, relating to gambling.

7 32. Chapter 893, relating to drug abuse prevention and
8 control.

9 33. Section 914.22 or s. 914.23, relating to
10 witnesses, victims, or informants.

11 34. Section 918.12 or s. 918.13, relating to tampering
12 with jurors and evidence.

13 (b) Any conduct which is subject to indictment or
14 information as a criminal offense and listed in 18 U.S.C. s.
15 1961(1) (A), (B), (C), or (D).

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

18 772.104 Civil cause of action.--

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

26 (2) As an alternative to recovery under subsection
27 (1), any person who proves by clear and convincing evidence
28 that he or she has been injured by reason of any violation
29 relating to sex trafficking or human trafficking shall have a
30 cause of action for threefold the amount of profit gained from
31 the sex trafficking or human trafficking.

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

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

15 895.02 Definitions.--As used in ss. 895.01-895.08, the
16 term:

17 (1) "Racketeering activity" means to commit, to
18 attempt to commit, to conspire to commit, or to solicit,
19 coerce, or intimidate another person to commit:

20 (a) Any crime which is chargeable by indictment or
21 information under the following provisions of the Florida
22 Statutes:

23 1. Section 210.18, relating to evasion of payment of
24 cigarette taxes.

25 2. Section 403.727(3)(b), relating to environmental
26 control.

27 3. Section 409.920 or s. 409.9201, relating to
28 Medicaid fraud.

29 4. Section 414.39, relating to public assistance
30 fraud.

31

- 1 5. Section 440.105 or s. 440.106, relating to workers'
2 compensation.
- 3 6. Section 443.071(4), relating to creation of a
4 fictitious employer scheme to commit unemployment compensation
5 fraud.
- 6 7. Section 465.0161, relating to distribution of
7 medicinal drugs without a permit as an Internet pharmacy.
- 8 8. Sections 499.0051, 499.0052, 499.00535, 499.00545,
9 and 499.0691, relating to crimes involving contraband and
10 adulterated drugs.
- 11 9. Part IV of chapter 501, relating to telemarketing.
- 12 10. Chapter 517, relating to sale of securities and
13 investor protection.
- 14 11. Section 550.235, s. 550.3551, or s. 550.3605,
15 relating to dogracing and horseracing.
- 16 12. Chapter 550, relating to jai alai frontons.
- 17 13. Section 551.109, relating to slot machine gaming.
- 18 14. Chapter 552, relating to the manufacture,
19 distribution, and use of explosives.
- 20 15. Chapter 560, relating to money transmitters, if
21 the violation is punishable as a felony.
- 22 16. Chapter 562, relating to beverage law enforcement.
- 23 17. Section 624.401, relating to transacting insurance
24 without a certificate of authority, s. 624.437(4)(c)1.,
25 relating to operating an unauthorized multiple-employer
26 welfare arrangement, or s. 626.902(1)(b), relating to
27 representing or aiding an unauthorized insurer.
- 28 18. Section 655.50, relating to reports of currency
29 transactions, when such violation is punishable as a felony.
- 30 19. Chapter 687, relating to interest and usurious
31 practices.

- 1 20. Section 721.08, s. 721.09, or s. 721.13, relating
2 to real estate timeshare plans.
- 3 21. Chapter 782, relating to homicide.
- 4 22. Chapter 784, relating to assault and battery.
- 5 23. Chapter 787, relating to kidnapping or human
6 trafficking.
- 7 24. Chapter 790, relating to weapons and firearms.
- 8 25. Section 796.03, s. 796.035, s. 796.04, s. 796.045,
9 s. 796.05, or s. 796.07, relating to prostitution and sex
10 trafficking.
- 11 26. Chapter 806, relating to arson.
- 12 27. Section 810.02(2)(c), relating to specified
13 burglary of a dwelling or structure.
- 14 28. Chapter 812, relating to theft, robbery, and
15 related crimes.
- 16 29. Chapter 815, relating to computer-related crimes.
- 17 30. Chapter 817, relating to fraudulent practices,
18 false pretenses, fraud generally, and credit card crimes.
- 19 31. Chapter 825, relating to abuse, neglect, or
20 exploitation of an elderly person or disabled adult.
- 21 32. Section 827.071, relating to commercial sexual
22 exploitation of children.
- 23 33. Chapter 831, relating to forgery and
24 counterfeiting.
- 25 34. Chapter 832, relating to issuance of worthless
26 checks and drafts.
- 27 35. Section 836.05, relating to extortion.
- 28 36. Chapter 837, relating to perjury.
- 29 37. Chapter 838, relating to bribery and misuse of
30 public office.
- 31 38. Chapter 843, relating to obstruction of justice.

1 39. Section 847.011, s. 847.012, s. 847.013, s.
2 847.06, or s. 847.07, relating to obscene literature and
3 profanity.

4 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23,
5 or s. 849.25, relating to gambling.

6 41. Chapter 874, relating to criminal street gangs.

7 42. Chapter 893, relating to drug abuse prevention and
8 control.

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

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

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

16 (b) Any conduct defined as "racketeering activity"
17 under 18 U.S.C. s. 1961(1).

18 Section 5. For the purpose of incorporating the
19 amendment made by this act to section 895.02, Florida
20 Statutes, in a reference thereto, paragraph (a) of subsection
21 (1) of section 16.56, Florida Statutes, is reenacted to read:

22 16.56 Office of Statewide Prosecution.--

23 (1) There is created in the Department of Legal
24 Affairs an Office of Statewide Prosecution. The office shall
25 be a separate "budget entity" as that term is defined in
26 chapter 216. The office may:

27 (a) Investigate and prosecute the offenses of:

28 1. Bribery, burglary, criminal usury, extortion,
29 gambling, kidnapping, larceny, murder, prostitution, perjury,
30 robbery, carjacking, and home-invasion robbery;

31

- 1 2. Any crime involving narcotic or other dangerous
2 drugs;
- 3 3. Any violation of the provisions of the Florida RICO
4 (Racketeer Influenced and Corrupt Organization) Act, including
5 any offense listed in the definition of racketeering activity
6 in s. 895.02(1)(a), providing such listed offense is
7 investigated in connection with a violation of s. 895.03 and
8 is charged in a separate count of an information or indictment
9 containing a count charging a violation of s. 895.03, the
10 prosecution of which listed offense may continue independently
11 if the prosecution of the violation of s. 895.03 is terminated
12 for any reason;
- 13 4. Any violation of the provisions of the Florida
14 Anti-Fencing Act;
- 15 5. Any violation of the provisions of the Florida
16 Antitrust Act of 1980, as amended;
- 17 6. Any crime involving, or resulting in, fraud or
18 deceit upon any person;
- 19 7. Any violation of s. 847.0135, relating to computer
20 pornography and child exploitation prevention, or any offense
21 related to a violation of s. 847.0135;
- 22 8. Any violation of the provisions of chapter 815;
- 23 9. Any criminal violation of part I of chapter 499;
- 24 10. Any violation of the provisions of the Florida
25 Motor Fuel Tax Relief Act of 2004;
- 26 11. Any criminal violation of s. 409.920 or s.
27 409.9201; or
- 28 12. Any crime involving voter registration, voting, or
29 candidate or issue petition activities;
- 30
- 31

1 or any attempt, solicitation, or conspiracy to commit any of
2 the crimes specifically enumerated above. The office shall
3 have such power only when any such offense is occurring, or
4 has occurred, in two or more judicial circuits as part of a
5 related transaction, or when any such offense is connected
6 with an organized criminal conspiracy affecting two or more
7 judicial circuits.

8 Section 6. For the purpose of incorporating the
9 amendment made by this act to section 895.02, Florida
10 Statutes, in a reference thereto, paragraph (g) of subsection
11 (3) of section 655.50, Florida Statutes, is reenacted to read:

12 655.50 Florida Control of Money Laundering in
13 Financial Institutions Act; reports of transactions involving
14 currency or monetary instruments; when required; purpose;
15 definitions; penalties.--

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

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

19 Section 7. For the purpose of incorporating the
20 amendment made by this act to section 895.02, Florida
21 Statutes, in a reference thereto, paragraph (g) of subsection
22 (2) of section 896.101, Florida Statutes, is reenacted to
23 read:

24 896.101 Florida Money Laundering Act; definitions;
25 penalties; injunctions; seizure warrants; immunity.--

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

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

29 Section 8. For the purpose of incorporating the
30 amendment made by this act to section 895.02, Florida
31

1 Statutes, in a reference thereto, section 905.34, Florida
2 Statutes, is reenacted to read:

3 905.34 Powers and duties; law applicable.--The
4 jurisdiction of a statewide grand jury impaneled under this
5 chapter shall extend throughout the state. The subject matter
6 jurisdiction of the statewide grand jury shall be limited to
7 the offenses of:

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

11 (2) Crimes involving narcotic or other dangerous
12 drugs;

13 (3) Any violation of the provisions of the Florida
14 RICO (Racketeer Influenced and Corrupt Organization) Act,
15 including any offense listed in the definition of racketeering
16 activity in s. 895.02(1)(a), providing such listed offense is
17 investigated in connection with a violation of s. 895.03 and
18 is charged in a separate count of an information or indictment
19 containing a count charging a violation of s. 895.03, the
20 prosecution of which listed offense may continue independently
21 if the prosecution of the violation of s. 895.03 is terminated
22 for any reason;

23 (4) Any violation of the provisions of the Florida
24 Anti-Fencing Act;

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

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

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

30 (8) Any violation of s. 847.0135, s. 847.0137, or s.
31 847.0138 relating to computer pornography and child

1 exploitation prevention, or any offense related to a violation
2 of s. 847.0135, s. 847.0137, or s. 847.0138;

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

5 (10) Any criminal violation of s. 409.920 or s.
6 409.9201;

7
8 or any attempt, solicitation, or conspiracy to commit any
9 violation of the crimes specifically enumerated above, when
10 any such offense is occurring, or has occurred, in two or more
11 judicial circuits as part of a related transaction or when any
12 such offense is connected with an organized criminal
13 conspiracy affecting two or more judicial circuits. The
14 statewide grand jury may return indictments and presentments
15 irrespective of the county or judicial circuit where the
16 offense is committed or triable. If an indictment is
17 returned, it shall be certified and transferred for trial to
18 the county where the offense was committed. The powers and
19 duties of, and law applicable to, county grand juries shall
20 apply to a statewide grand jury except when such powers,
21 duties, and law are inconsistent with the provisions of ss.
22 905.31-905.40.

23 Section 9. This act shall take effect October 1, 2006.
24
25
26
27
28
29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 250

The committee substitute differs from the underlying bill by:

- Including fraud, coercion, and certain lending methods within the definition of "forced labor or services" for purposes of prescribing human trafficking;
- Making attempt to engage in human trafficking a felony of the second degree;
- Making it a felony of the second degree to knowingly benefit financially or receive anything of value through such forced labor or services; and
- Providing persons who are victimized through sex trafficking or human trafficking with a cause of action for threefold the amount of profit gain from the criminal activity.