

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 469 CS Human Trafficking  
**SPONSOR(S):** Gannon and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 250

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Criminal Justice Committee</u>	<u>7 Y, 0 N, w/CS</u>	<u>Ferguson</u>	<u>Kramer</u>
2) <u>Future of Florida's Families Committee</u>	<u>8 Y, 0 N, w/CS</u>	<u>Preston</u>	<u>Collins</u>
3) <u>Criminal Justice Appropriations Committee</u>	<u>5 Y, 0 N</u>	<u>Burns</u>	<u>DeBeaugrine</u>
4) <u>Justice Council</u>	<u>10 Y, 0 N, w/CS</u>	<u>Ferguson</u>	<u>De La Paz</u>
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

Currently, section 787.06, F.S., 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.

HB 469 expands the definition of "forced labor or services" and defines other relevant terms.

HB 469 amends section 787.06 (3), F.S., by adding criminal penalties for knowingly benefiting financially or receiving anything of value from human trafficking.

HB 469 requires the Florida Court Educational Council, the Criminal Justice Standards and Training Commission, and the State Attorney to develop standards of instruction to address the offense of human trafficking.

HB 469 amends section 772.104, F.S., by providing that any person injured as a result of sex trafficking has a civil cause of action for threefold the amount of profit gained from the sex trafficking.

Currently, section 16.56, F.S., prohibits the statewide prosecutor from running for or accepting appointment to any state office for a period of 2 years following vacation of office. HB 469 removes the prohibition on being appointed to any state office for a period of 2 years following vacation of office.

HB 469 amends section 772.102, F.S., by expanding the definition of the term "criminal activity" to include the offenses of human trafficking and sex trafficking for the purpose of seeking civil remedies for criminal offenses.

HB 469 amends section 895.02, F.S., by redefining the term "racketeering activity" to include the offense of human trafficking for purposes of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill expands the scope of the offense of human trafficking.

#### 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 following<sup>1</sup>:

As the 21<sup>st</sup> 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.

On June 3, 2005, Secretary of State Condoleezza Rice released the Fifth Annual Department of State Trafficking In Persons Report<sup>2</sup>:

We estimate that up to 800,000 people are trafficked across international borders every year. And millions more are trafficked internally. Victims of trafficking, most of them women and children, are forced, defrauded or coerced into inhumane conditions. They are made to toil on farms and in work camps, in brothels and in sweatshops. Children are even forced to become soldiers. Whatever cruel form of servitude they may take, trafficking victims live in fear and misery. And wherever the trafficking trade flourishes, the rule of law erodes, corruption thrives, public health suffers and organized crime threatens the security of entire communities.

##### **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.”

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<sup>1</sup> Public Law 106-386, sec. 102.

<sup>2</sup> Trafficking in Persons Report June 2005. See <http://www.state.gov/secretary/rm/2005/47193.htm>

## Current law

On October 1, 2004, section 787.06, F.S., was enacted providing that any person who knowingly engages in human trafficking with the intent that the trafficked person engage in “forced labor or services” commits a felony of the second degree.

“Human trafficking” is defined as transporting, soliciting, recruiting, harboring, providing or obtaining another person for transport.

“Forced labor or services” is currently defined as:

- Using or threatening to use physical force against that person or another person; or
- Restraining or confining or threatening to restrain or confine that person or another person without lawful authority and against her or his will.

## Effect of bill

HB 469 amends section 787.06, F.S., providing legislative findings and intent; those findings are summarized as follows:

The Legislature finds that human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, teenagers, and adults. Thousands of victims are trafficked annually across international borders worldwide. Many of these victims are trafficked into this state. The Legislature finds that while many victims of human trafficking are forced to work in prostitution or the sexual entertainment industry, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work. The Legislature finds that traffickers use various techniques to instill fear in victims and to keep them enslaved. It is the intent of the Legislature that the perpetrators of human trafficking be penalized for their illegal conduct and that the victims of trafficking be protected and assisted by this state and its agencies.

HB 469 amends section 787.06, F.S., by expanding the definition of “forced labor or services” to include:

- Isolating a person without lawful authority and against his or her will.
- Using lending practices under which the labor or services are pledged as security for the debt but are not applied toward liquidation of the debt.
- Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of that person or another.
- Causing or threatening to cause financial harm to any person.
- Fraud or coercion.

This section also defines the terms “financial harm” and “maintain”.

HB 469 amends section 787.06 (3), F.S., by adding criminal penalties for knowingly benefiting financially or receiving anything of value from human trafficking.

HB 469 amends section 787.06, F.S., to provide:

The Florida Court Educational Council shall establish standards of instruction for circuit and county court judges who hear cases involving victims of human trafficking and shall provide for periodic and timely instruction.

The Florida Court Educational Council is statutorily created. Section 25.384, F.S., states that, “There is created a Court Education Trust Fund to be administered by the Supreme Court through the Florida Court Educational Council.” This statute provides that trust fund moneys shall be used to provide

education and training for judges and other court personnel as defined and determined by the Florida Court Education Council.<sup>3</sup>

HB 469 amends section 772.104, F.S., by providing that any injured person as a result of sex trafficking has a civil cause of action for threefold the amount of profit gained from the sex trafficking.

HB 469 requires the Criminal Justice Standards and Training Commission to establish standards for basic and advanced training programs for law enforcement officers in investigating and preventing human trafficking.

HB 469 requires the State Attorney to develop standards of instruction for prosecutors to receive training on investigating and prosecuting human trafficking offenses.

HB 469 amends section 772.102, F.S., by expanding the definition of the term “criminal activity” to include the offenses of human trafficking and sex trafficking for purposes of seeking civil remedies for criminal offenses.

HB 469 amends section 895.02, F.S., by redefining the term “racketeering activity” to include the offense of human trafficking for purposes of the Florida RICO Act.

HB 469 provides that the statewide prosecutor within the department of legal affairs is responsible for investigating and prosecuting human trafficking offenses.

Section 16.56, F.S., currently, prohibits a statewide prosecutor from running for or accepting appointment to any state office for a period of 2 years following vacation of office. HB 469 removes the prohibition of a statewide prosecutor being appointed to any state office for a period of 2 years following vacation of office.

HB 469 reenacts ss. 16.56(1) (a), 655.50(3) (g), 896.101(2) (g), and 905.34, F.S., relating to the authority of the Office of the Statewide Prosecutor, the definition of “specified unlawful activity” in a law prohibiting money laundering in financial institutions and in the Florida Money Laundering Act, and the subject matter jurisdiction of a statewide grand jury.

HB 469 provides an effective date of October 1, 2006.

#### C. SECTION DIRECTORY:

Section 1. Amends s. 787.06, F.S., providing legislative findings and intent; redefining the term “forced labor or services”; defining the terms “financial harm” and “forced labor services”; and requires the Florida Court Educational Council, Criminal Justice Standards and Training Commission, and the State Attorney to develop standards of instruction to address the offense of human trafficking.

Section 2. Amends s. 772.102, F.S., expanding the definition of the term “criminal activity”.

Section 3. Amends s. 772.104, F.S., to provide the person injured a cause of action for threefold the amount of profit gained from the sex trafficking or human trafficking.

Section 4. Amends s. 895.02, F.S., redefining the term “racketeering activity.”

Section 5. Reenacts s. 16.56 (1) (a), F.S., relating to the authority of the Office of the Statewide Prosecutor.

Section 6. Reenacts s. 655.50 (3) (g), F.S., relating to the definition of “specified unlawful activity” in a law prohibiting money laundering in financial institutions.

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<sup>3</sup> See section 25.384(2)(a), F.S.

Section 7. Reenacts s. 896.101 (2) (g), F.S., relating to the definition of "specified unlawful activity" in the Florida Money Laundering Act.

Section 8. Reenacts s. 905.34, F.S., relating to the subject matter jurisdiction of a statewide grand jury.

Section 9. Provides an effective date of October 1, 2006.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

On January 9, 2006, the Criminal Justice Estimating Conference met and determined that HB 469 would have no impact on the prison bed population for the Department of Corrections. Workload increases on the Florida Court Education Council, will be absorbed within current resources.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

### **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:

HB 469 may violate the single subject requirement. Article XI, section 3, of the Florida Constitution provides that initiatives "shall embrace but one subject and matters directly connected therewith." The single subject clause contains three requirements: (1) each law shall embrace only one subject;

(2) the law may include any matter that is properly connected with the subject; (3) the subject shall be briefly expressed in the title.<sup>4</sup>

Currently, section 16.56, F.S., provides that a statewide prosecutor is prohibited from running for or accepting appointment to any state office for a period of 2 years following vacation of office. HB 469 removes the prohibition on being appointed to any state office for a period of 2 years following vacation of office. It could be argued that the removal of this prohibition and the provision of the bill relating to the offense of human trafficking do not embrace one subject; thus, violating the single subject requirement.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

On February 8, 2006, the Criminal Justice Committee passed House Bill 469 with three amendments. The first amendment adds fraud or coercion to the term “forced labor or services.” The second amendment adds criminal penalties for knowingly benefiting financially or receiving anything of value from human trafficking. The third amendment provides that a person injured as a result of sex trafficking has a civil cause of action for threefold the amount of profit gained from the sex trafficking.

On March 8, 2006, the Future of Florida’s Families Committee adopted one amendment. The amendment defined the terms, “financial harm” and “maintain”, which are not currently used in the bill.

On April 11, 2006, the Criminal Justice Appropriations Committee adopted a strike-all amendment and favorably reported HB 469 as a committee substitute.

On April 20, 2006, the Justice Council adopted a strike-all amendment. The strike-all amendment makes the following changes:

- Defines the terms “financial harm” and “maintain”.
- Expands the acts that constitute “forced labor or services”.
- Requires the Criminal Justice Standards and Training Commission to establish standards for basic and advanced training programs for law enforcement officers in investigating and preventing human trafficking.
- Requires the State Attorney to develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking.
- Provides that the statewide prosecutor is responsible for prosecuting human trafficking offenses.
- Removes the prohibition of a statewide prosecutor from being appointed to any state office for a period of 2 years following vacation of office.

This analysis reflects the bill as amended.

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<sup>4</sup> Franklin v. State, 887 So.2d 1063 (Fla. 2004).