

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to human trafficking; amending s. 787.06,
7 F.S.; providing legislative findings and intent;
8 redefining the term "forced labor or services" to include
9 labor obtained from a person when the person's
10 identification documents are destroyed, concealed, or
11 withheld by another or obtained through fraud or coercion;
12 prohibiting knowingly benefiting financially or receiving
13 anything of value from human trafficking when the
14 trafficked person engages in forced labor or services;
15 providing criminal penalties; directing the Florida Court
16 Educational Council to establish standards for instructing
17 circuit and county court judges on matters relating to
18 victims of human trafficking; directing the council to
19 provide for periodic and timely instruction; amending s.
20 772.102, F.S.; expanding the definition of the term
21 "criminal activity" to include the offense of human
22 trafficking for purposes of seeking civil remedies for
23 criminal offenses; amending s. 772.104, F.S.; providing

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24 that persons who are victims of sex trafficking have a
 25 civil action to recover three times the profit of the sex
 26 trafficking; amending s. 895.02, F.S.; redefining the term
 27 "racketeering activity" to include the offense of human
 28 trafficking for purposes of the Florida RICO Act;
 29 reenacting ss. 16.56(1)(a), 655.50(3)(g), 896.101(2)(g),
 30 and 905.34, F.S., relating to the authority of the Office
 31 of the Statewide Prosecutor, the definition of "specified
 32 unlawful activity" in a law prohibiting money laundering
 33 in financial institutions and in the Florida Money
 34 Laundering Act, and the subject matter jurisdiction of a
 35 statewide grand jury, to incorporate the amendments made
 36 to s. 895.02, F.S., in references thereto; providing an
 37 effective date.

38
 39 Be It Enacted by the Legislature of the State of Florida:

40
 41 Section 1. Section 787.06, Florida Statutes, is amended to
 42 read:

43 787.06 Human trafficking.--

44 (1)(a) The Legislature finds that human trafficking is a
 45 form of modern-day slavery. Victims of human trafficking are
 46 young children, teenagers, and adults. Thousands of victims are
 47 trafficked annually across international borders worldwide. Many
 48 of these victims are trafficked into this state. The Legislature
 49 finds that victims of human trafficking are subjected to force,
 50 fraud, or coercion for the purpose of sexual exploitation or
 51 forced labor.

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52 (b) The Legislature finds that while many victims of human
53 trafficking are forced to work in prostitution or the sexual
54 entertainment industry, trafficking also occurs in forms of
55 labor exploitation, such as domestic servitude, restaurant work,
56 janitorial work, sweatshop factory work, and migrant
57 agricultural work.

58 (c) The Legislature finds that traffickers use various
59 techniques to instill fear in victims and to keep them enslaved.
60 Some traffickers keep their victims under lock and key. However,
61 the most frequently used practices are less obvious techniques
62 that include isolating victims from the public and family
63 members; confiscating passports, visas, or other identification
64 documents; using or threatening to use violence toward victims
65 or their families; telling victims that they will be imprisoned
66 or deported for immigration violations if they contact
67 authorities; and controlling the victims' funds by holding the
68 money for "safekeeping."

69 (d) It is the intent of the Legislature that the
70 perpetrators of human trafficking be penalized for their illegal
71 conduct and that the victims of trafficking be protected and
72 assisted by this state and its agencies. In furtherance of this
73 policy, it is the intent of the Legislature that the State
74 Supreme Court, The Florida Bar, and relevant state agencies
75 prepare and implement training programs in order that judges,
76 attorneys, law enforcement personnel, investigators, and others
77 are able to identify traffickers and victims of human
78 trafficking and direct victims to appropriate agencies for
79 assistance. It is the intent of the Legislature that the

80 Department of Children and Family Services and other state
 81 agencies cooperate with other state and federal agencies to
 82 ensure that victims of human trafficking can access social
 83 services and benefits to alleviate their plight.

84 (2)~~(1)~~ As used in this section, the term:

85 (a) "Forced labor or services" means labor or services
 86 obtained from a person by:

87 1. Using or threatening to use physical force against that
 88 person or another person; ~~or~~

89 2. Restraining, isolating, or confining or threatening to
 90 restrain, isolate, or confine that person or another person
 91 without lawful authority and against her or his will;~~or~~

92 3. Destroying, concealing, removing, confiscating,
 93 withholding, or possessing any actual or purported passport,
 94 visa, or other immigration document, or any other actual or
 95 purported government identification document, of that person or
 96 another person; or

97 4. Fraud or coercion.

98 (b) "Human trafficking" means transporting, soliciting,
 99 recruiting, harboring, providing, or obtaining another person
 100 for transport.

101 (3)~~(2)~~ Any person who knowingly engages in human
 102 trafficking with the intent that the trafficked person engage in
 103 forced labor or services or who knowingly benefits financially
 104 or receives anything of value from human trafficking when the
 105 trafficked person engages in forced labor or services commits a
 106 felony of the second degree, punishable as provided in s.
 107 775.082, s. 775.083, or s. 775.084.

108 (4) The Florida Court Educational Council shall establish
 109 standards of instruction for circuit and county court judges who
 110 hear cases involving victims of human trafficking and shall
 111 provide for periodic and timely instruction.

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

114 772.102 Definitions.--As used in this chapter, the term:

115 (1) "Criminal activity" means to commit, to attempt to
 116 commit, to conspire to commit, or to solicit, coerce, or
 117 intimidate another person to commit:

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

120 1. Section 210.18, relating to evasion of payment of
 121 cigarette taxes.

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

123 3. Section 440.105 or s. 440.106, relating to workers'
 124 compensation.

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

126 5. Chapter 517, relating to securities transactions.

127 6. Section 550.235, s. 550.3551, or s. 550.3605, relating
 128 to dogracing and horseracing.

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

130 8. Chapter 552, relating to the manufacture, distribution,
 131 and use of explosives.

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

133 10. Section 624.401, relating to transacting insurance
 134 without a certificate of authority, s. 624.437(4)(c)1., relating
 135 to operating an unauthorized multiple-employer welfare

- 136 arrangement, or s. 626.902(1)(b), relating to representing or
 137 aiding an unauthorized insurer.
- 138 11. Chapter 687, relating to interest and usurious
 139 practices.
- 140 12. Section 721.08, s. 721.09, or s. 721.13, relating to
 141 real estate timeshare plans.
- 142 13. Chapter 782, relating to homicide.
- 143 14. Chapter 784, relating to assault and battery.
- 144 15. Chapter 787, relating to kidnapping or human
 145 trafficking.
- 146 16. Chapter 790, relating to weapons and firearms.
- 147 17. Section 796.03, s. 796.04, s. 796.045, s. 796.05, or
 148 s. 796.07, relating to prostitution or sex trafficking.
- 149 18. Chapter 806, relating to arson.
- 150 19. Section 810.02(2)(c), relating to specified burglary
 151 of a dwelling or structure.
- 152 20. Chapter 812, relating to theft, robbery, and related
 153 crimes.
- 154 21. Chapter 815, relating to computer-related crimes.
- 155 22. Chapter 817, relating to fraudulent practices, false
 156 pretenses, fraud generally, and credit card crimes.
- 157 23. Section 827.071, relating to commercial sexual
 158 exploitation of children.
- 159 24. Chapter 831, relating to forgery and counterfeiting.
- 160 25. Chapter 832, relating to issuance of worthless checks
 161 and drafts.
- 162 26. Section 836.05, relating to extortion.
- 163 27. Chapter 837, relating to perjury.

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164 28. Chapter 838, relating to bribery and misuse of public
165 office.

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

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

169 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
170 849.25, relating to gambling.

171 32. Chapter 893, relating to drug abuse prevention and
172 control.

173 33. Section 914.22 or s. 914.23, relating to witnesses,
174 victims, or informants.

175 34. Section 918.12 or s. 918.13, relating to tampering
176 with jurors and evidence.

177 (b) Any conduct which is subject to indictment or
178 information as a criminal offense and listed in 18 U.S.C. s.
179 1961(1) (A), (B), (C), or (D).

180 Section 3. Section 772.104, Florida Statutes, is amended
181 to read:

182 772.104 Civil cause of action.--Any person who proves by
183 clear and convincing evidence that he or she has been injured by
184 reason of any violation of the provisions of s. 772.103 shall
185 have a cause of action for threefold the actual damages
186 sustained and, in any such action, is entitled to minimum
187 damages in the amount of \$200, and reasonable attorney's fees
188 and court costs in the trial and appellate courts. If the
189 violation is related to sex trafficking, the injured person
190 shall have a cause of action for threefold the amount of profit
191 gained from the sex trafficking. In no event shall punitive

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192 damages be awarded under this section. The defendant shall be
 193 entitled to recover reasonable attorney's fees and court costs
 194 in the trial and appellate courts upon a finding that the
 195 claimant raised a claim which was without substantial fact or
 196 legal support. In awarding attorney's fees and costs under this
 197 section, the court shall not consider the ability of the
 198 opposing party to pay such fees and costs. Nothing under this
 199 section shall be interpreted as limiting any right to recover
 200 attorney's fees or costs provided under other provisions of law.

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

204 895.02 Definitions.--As used in ss. 895.01-895.08, the
 205 term:

206 (1) "Racketeering activity" means to commit, to attempt to
 207 commit, to conspire to commit, or to solicit, coerce, or
 208 intimidate another person to commit:

209 (a) Any crime that ~~which~~ is chargeable by indictment or
 210 information under the following provisions of the Florida
 211 Statutes:

212 1. Section 210.18, relating to evasion of payment of
 213 cigarette taxes.

214 2. Section 403.727(3)(b), relating to environmental
 215 control.

216 3. Section 409.920 or s. 409.9201, relating to Medicaid
 217 fraud.

218 4. Section 414.39, relating to public assistance fraud.

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

- 246 18. Section 655.50, relating to reports of currency
247 transactions, when such violation is punishable as a felony.
- 248 19. Chapter 687, relating to interest and usurious
249 practices.
- 250 20. Section 721.08, s. 721.09, or s. 721.13, relating to
251 real estate timeshare plans.
- 252 21. Chapter 782, relating to homicide.
- 253 22. Chapter 784, relating to assault and battery.
- 254 23. Chapter 787, relating to kidnapping or human
255 trafficking.
- 256 24. Chapter 790, relating to weapons and firearms.
- 257 25. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
258 796.05, or s. 796.07, relating to prostitution and sex
259 trafficking.
- 260 26. Chapter 806, relating to arson.
- 261 27. Section 810.02(2)(c), relating to specified burglary
262 of a dwelling or structure.
- 263 28. Chapter 812, relating to theft, robbery, and related
264 crimes.
- 265 29. Chapter 815, relating to computer-related crimes.
- 266 30. Chapter 817, relating to fraudulent practices, false
267 pretenses, fraud generally, and credit card crimes.
- 268 31. Chapter 825, relating to abuse, neglect, or
269 exploitation of an elderly person or disabled adult.
- 270 32. Section 827.071, relating to commercial sexual
271 exploitation of children.
- 272 33. Chapter 831, relating to forgery and counterfeiting.

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- 273 34. Chapter 832, relating to issuance of worthless checks
274 and drafts.
- 275 35. Section 836.05, relating to extortion.
- 276 36. Chapter 837, relating to perjury.
- 277 37. Chapter 838, relating to bribery and misuse of public
278 office.
- 279 38. Chapter 843, relating to obstruction of justice.
- 280 39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
281 s. 847.07, relating to obscene literature and profanity.
- 282 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
283 849.25, relating to gambling.
- 284 41. Chapter 874, relating to criminal street gangs.
- 285 42. Chapter 893, relating to drug abuse prevention and
286 control.
- 287 43. Chapter 896, relating to offenses related to financial
288 transactions.
- 289 44. Sections 914.22 and 914.23, relating to tampering with
290 a witness, victim, or informant, and retaliation against a
291 witness, victim, or informant.
- 292 45. Sections 918.12 and 918.13, relating to tampering with
293 jurors and evidence.
- 294 (b) Any conduct defined as "racketeering activity" under
295 18 U.S.C. s. 1961(1).
- 296 Section 5. For the purpose of incorporating the amendment
297 made by this act to section 895.02, Florida Statutes, in a
298 reference thereto, paragraph (a) of subsection (1) of section
299 16.56, Florida Statutes, is reenacted to read:
300 16.56 Office of Statewide Prosecution.--

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

305 (a) Investigate and prosecute the offenses of:

306 1. Bribery, burglary, criminal usury, extortion, gambling,
 307 kidnapping, larceny, murder, prostitution, perjury, robbery,
 308 carjacking, and home-invasion robbery;

309 2. Any crime involving narcotic or other dangerous drugs;

310 3. Any violation of the provisions of the Florida RICO
 311 (Racketeer Influenced and Corrupt Organization) Act, including
 312 any offense listed in the definition of racketeering activity in
 313 s. 895.02(1)(a), providing such listed offense is investigated
 314 in connection with a violation of s. 895.03 and is charged in a
 315 separate count of an information or indictment containing a
 316 count charging a violation of s. 895.03, the prosecution of
 317 which listed offense may continue independently if the
 318 prosecution of the violation of s. 895.03 is terminated for any
 319 reason;

320 4. Any violation of the provisions of the Florida Anti-
 321 Fencing Act;

322 5. Any violation of the provisions of the Florida
 323 Antitrust Act of 1980, as amended;

324 6. Any crime involving, or resulting in, fraud or deceit
 325 upon any person;

326 7. Any violation of s. 847.0135, relating to computer
 327 pornography and child exploitation prevention, or any offense
 328 related to a violation of s. 847.0135;

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329 8. Any violation of the provisions of chapter 815;
 330 9. Any criminal violation of part I of chapter 499;
 331 10. Any violation of the provisions of the Florida Motor
 332 Fuel Tax Relief Act of 2004;
 333 11. Any criminal violation of s. 409.920 or s. 409.9201;
 334 or
 335 12. Any crime involving voter registration, voting, or
 336 candidate or issue petition activities;
 337
 338 or any attempt, solicitation, or conspiracy to commit any of the
 339 crimes specifically enumerated above. The office shall have such
 340 power only when any such offense is occurring, or has occurred,
 341 in two or more judicial circuits as part of a related
 342 transaction, or when any such offense is connected with an
 343 organized criminal conspiracy affecting two or more judicial
 344 circuits.

345 Section 6. For the purpose of incorporating the amendment
 346 made by this act to section 895.02, Florida Statutes, in a
 347 reference thereto, paragraph (g) of subsection (3) of section
 348 655.50, Florida Statutes, is reenacted to read:

349 655.50 Florida Control of Money Laundering in Financial
 350 Institutions Act; reports of transactions involving currency or
 351 monetary instruments; when required; purpose; definitions;
 352 penalties.--

353 (3) As used in this section, the term:
 354 (g) "Specified unlawful activity" means any "racketeering
 355 activity" as defined in s. 895.02.

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356 Section 7. For the purpose of incorporating the amendment
357 made by this act to section 895.02, Florida Statutes, in a
358 reference thereto, paragraph (g) of subsection (2) of section
359 896.101, Florida Statutes, is reenacted to read:

360 896.101 Florida Money Laundering Act; definitions;
361 penalties; injunctions; seizure warrants; immunity.--

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

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

365 Section 8. For the purpose of incorporating the amendment
366 made by this act to section 895.02, Florida Statutes, in a
367 reference thereto, section 905.34, Florida Statutes, is
368 reenacted to read:

369 905.34 Powers and duties; law applicable.--The
370 jurisdiction of a statewide grand jury impaneled under this
371 chapter shall extend throughout the state. The subject matter
372 jurisdiction of the statewide grand jury shall be limited to the
373 offenses of:

374 (1) Bribery, burglary, carjacking, home-invasion robbery,
375 criminal usury, extortion, gambling, kidnapping, larceny,
376 murder, prostitution, perjury, and robbery;

377 (2) Crimes involving narcotic or other dangerous drugs;

378 (3) Any violation of the provisions of the Florida RICO
379 (Racketeer Influenced and Corrupt Organization) Act, including
380 any offense listed in the definition of racketeering activity in
381 s. 895.02(1)(a), providing such listed offense is investigated
382 in connection with a violation of s. 895.03 and is charged in a
383 separate count of an information or indictment containing a

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384 count charging a violation of s. 895.03, the prosecution of
385 which listed offense may continue independently if the
386 prosecution of the violation of s. 895.03 is terminated for any
387 reason;

388 (4) Any violation of the provisions of the Florida Anti-
389 Fencing Act;

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

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

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

395 (8) Any violation of s. 847.0135, s. 847.0137, or s.
396 847.0138 relating to computer pornography and child exploitation
397 prevention, or any offense related to a violation of s.
398 847.0135, s. 847.0137, or s. 847.0138;

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

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

401

402 or any attempt, solicitation, or conspiracy to commit any
403 violation of the crimes specifically enumerated above, when any
404 such offense is occurring, or has occurred, in two or more
405 judicial circuits as part of a related transaction or when any
406 such offense is connected with an organized criminal conspiracy
407 affecting two or more judicial circuits. The statewide grand
408 jury may return indictments and presentments irrespective of the
409 county or judicial circuit where the offense is committed or
410 triable. If an indictment is returned, it shall be certified
411 and transferred for trial to the county where the offense was

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412 committed. The powers and duties of, and law applicable to,
413 county grand juries shall apply to a statewide grand jury except
414 when such powers, duties, and law are inconsistent with the
415 provisions of ss. 905.31-905.40.

416 Section 9. This act shall take effect October 1, 2006.