

CHAMBER ACTION

1 The Criminal Justice Appropriations Committee recommends the
2 following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to human trafficking; amending s. 787.06,
8 F.S.; providing legislative findings and intent; defining
9 the term "financial harm"; redefining the term "forced
10 labor or services" to include circumstances involving the
11 use of fraud or coercion against a person, the use of
12 certain debt practices, and the destruction, concealing,
13 or withholding of a person's identification documents;
14 providing for attempted human trafficking to be an equal
15 crime to human trafficking; prohibiting knowingly
16 benefiting financially or receiving anything of value from
17 human trafficking when the trafficked person engages in
18 forced labor or services; providing criminal penalties;
19 amending s. 772.102, F.S.; expanding the definition of the
20 term "criminal activity" to include the offense of human
21 trafficking and the offense of sex trafficking for
22 purposes of seeking civil remedies for criminal offenses;
23 amending s. 772.104, F.S.; revising a civil cause of

HB 469 CS

2006
CS

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

39 |
 40 | Be It Enacted by the Legislature of the State of Florida:

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

44 | 787.06 Human trafficking.--

45 | (1)(a) The Legislature finds that human trafficking is a
 46 | form of modern-day slavery. Victims of human trafficking are
 47 | young children, teenagers, and adults. Thousands of victims are
 48 | trafficked annually across international borders worldwide. Many
 49 | of these victims are trafficked into this state. The Legislature
 50 | finds that victims of human trafficking are subjected to force,

51 fraud, or coercion for the purpose of sexual exploitation or
52 forced labor.

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

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

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

79 | trafficking and direct victims to appropriate agencies for
 80 | assistance. It is the intent of the Legislature that the
 81 | Department of Children and Family Services and other state
 82 | agencies cooperate with other state and federal agencies to
 83 | ensure that victims of human trafficking can access social
 84 | services and benefits to alleviate their plight.

85 | (2)~~(1)~~ As used in this section, the term:

86 | (a) "Financial harm" includes extortionate extension of
 87 | credit, loan sharking as defined in s. 687.071, or employment
 88 | contracts that violate the statute of frauds as provided in s.
 89 | 725.01.

90 | (b) "Forced labor or services" means labor or services
 91 | obtained from a person by:

92 | 1. Using or threatening to use physical force against that
 93 | person or another person; ~~or~~

94 | 2. Restraining, isolating, or confining or threatening to
 95 | restrain, isolate, or confine that person or another person
 96 | without lawful authority and against her or his will;

97 | 3. Using lending or other credit methods to establish a
 98 | debt by that person or another person when the labor or services
 99 | are pledged as a security for the debt, if the value of the
 100 | labor or services as reasonably assessed is not applied toward
 101 | the liquidation of the debt or the length and nature of the
 102 | labor or services are not respectively limited and defined;

103 | 4. Destroying, concealing, removing, confiscating,
 104 | withholding, or possessing any actual or purported passport,
 105 | visa, or other immigration document, or any other actual or

HB 469 CS

2006
CS

106 | purported government identification document, of that person or
107 | another person; or

108 | 5. Causing or threatening to cause financial harm to any
109 | person.

110 | (c) ~~(b)~~ "Human trafficking" means transporting, soliciting,
111 | recruiting, harboring, providing, or obtaining another person
112 | for transport.

113 | (3) ~~(2)~~ Any person who knowingly engages or attempts to
114 | engage in human trafficking with the intent that the trafficked
115 | person engage in forced labor or services or who knowingly
116 | benefits financially or knowingly receives anything of value
117 | from human trafficking when the trafficked person engages in
118 | forced labor or services commits a felony of the second degree,
119 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

120 | Section 2. Subsection (1) of section 772.102, Florida
121 | Statutes, is amended to read:

122 | 772.102 Definitions.--As used in this chapter, the term:

123 | (1) "Criminal activity" means to commit, to attempt to
124 | commit, to conspire to commit, or to solicit, coerce, or
125 | intimidate another person to commit:

126 | (a) Any crime that ~~which~~ is chargeable by indictment or
127 | information under the following provisions:

128 | 1. Section 210.18, relating to evasion of payment of
129 | cigarette taxes.

130 | 2. Section 414.39, relating to public assistance fraud.

131 | 3. Section 440.105 or s. 440.106, relating to workers'
132 | compensation.

133 | 4. Part IV of chapter 501, relating to telemarketing.

HB 469 CS

2006
CS

- 134 5. Chapter 517, relating to securities transactions.
- 135 6. Section 550.235, s. 550.3551, or s. 550.3605, relating
- 136 to dogracing and horseracing.
- 137 7. Chapter 550, relating to jai alai frontons.
- 138 8. Chapter 552, relating to the manufacture, distribution,
- 139 and use of explosives.
- 140 9. Chapter 562, relating to beverage law enforcement.
- 141 10. Section 624.401, relating to transacting insurance
- 142 without a certificate of authority, s. 624.437(4)(c)1., relating
- 143 to operating an unauthorized multiple-employer welfare
- 144 arrangement, or s. 626.902(1)(b), relating to representing or
- 145 aiding an unauthorized insurer.
- 146 11. Chapter 687, relating to interest and usurious
- 147 practices.
- 148 12. Section 721.08, s. 721.09, or s. 721.13, relating to
- 149 real estate timeshare plans.
- 150 13. Chapter 782, relating to homicide.
- 151 14. Chapter 784, relating to assault and battery.
- 152 15. Chapter 787, relating to kidnapping or human
- 153 trafficking.
- 154 16. Chapter 790, relating to weapons and firearms.
- 155 17. Section 796.03, s. 796.04, s. 796.045, s. 796.05, or
- 156 s. 796.07, relating to prostitution.
- 157 18. Chapter 806, relating to arson.
- 158 19. Section 810.02(2)(c), relating to specified burglary
- 159 of a dwelling or structure.
- 160 20. Chapter 812, relating to theft, robbery, and related
- 161 crimes.

HB 469 CS

2006
CS

- 162 21. Chapter 815, relating to computer-related crimes.
- 163 22. Chapter 817, relating to fraudulent practices, false
164 pretenses, fraud generally, and credit card crimes.
- 165 23. Section 827.071, relating to commercial sexual
166 exploitation of children.
- 167 24. Chapter 831, relating to forgery and counterfeiting.
- 168 25. Chapter 832, relating to issuance of worthless checks
169 and drafts.
- 170 26. Section 836.05, relating to extortion.
- 171 27. Chapter 837, relating to perjury.
- 172 28. Chapter 838, relating to bribery and misuse of public
173 office.
- 174 29. Chapter 843, relating to obstruction of justice.
- 175 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
176 s. 847.07, relating to obscene literature and profanity.
- 177 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
178 849.25, relating to gambling.
- 179 32. Chapter 893, relating to drug abuse prevention and
180 control.
- 181 33. Section 914.22 or s. 914.23, relating to witnesses,
182 victims, or informants.
- 183 34. Section 918.12 or s. 918.13, relating to tampering
184 with jurors and evidence.
- 185 (b) Any conduct which is subject to indictment or
186 information as a criminal offense and listed in 18 U.S.C. s.
187 1961(1) (A), (B), (C), or (D).
- 188 Section 3. Section 772.104, Florida Statutes, is amended
189 to read:

HB 469 CS

2006
CS

190 772.104 Civil cause of action.--

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

198 (2) As an alternative to recovery under subsection (1),
 199 any person who proves by clear and convincing evidence that he
 200 or she has been injured by reason of any violation of the
 201 provisions of s. 772.103 due to sex trafficking or human
 202 trafficking shall have a cause of action for threefold the
 203 amount gained from the sex trafficking or human trafficking and,
 204 in any such action, is entitled to minimum damages in the amount
 205 of \$200 and reasonable attorney's fees and court costs in the
 206 trial and appellate courts.

207 (3) In no event shall punitive damages be awarded under
 208 this section. The defendant shall be entitled to recover
 209 reasonable attorney's fees and court costs in the trial and
 210 appellate courts upon a finding that the claimant raised a claim
 211 which was without substantial fact or legal support. In awarding
 212 attorney's fees and costs under this section, the court shall
 213 not consider the ability of the opposing party to pay such fees
 214 and costs. Nothing under this section shall be interpreted as
 215 limiting any right to recover attorney's fees or costs provided
 216 under other provisions of law.

HB 469 CS

2006
CS

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

220 895.02 Definitions.--As used in ss. 895.01-895.08, the
221 term:

222 (1) "Racketeering activity" means to commit, to attempt to
223 commit, to conspire to commit, or to solicit, coerce, or
224 intimidate another person to commit:

225 (a) Any crime that ~~which~~ is chargeable by indictment or
226 information under the following provisions of the Florida
227 Statutes:

228 1. Section 210.18, relating to evasion of payment of
229 cigarette taxes.

230 2. Section 403.727(3)(b), relating to environmental
231 control.

232 3. Section 409.920 or s. 409.9201, relating to Medicaid
233 fraud.

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

235 5. Section 440.105 or s. 440.106, relating to workers'
236 compensation.

237 6. Section 443.071(4), relating to creation of a
238 fictitious employer scheme to commit unemployment compensation
239 fraud.

240 7. Section 465.0161, relating to distribution of medicinal
241 drugs without a permit as an Internet pharmacy.

242 8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and
243 499.0691, relating to crimes involving contraband and
244 adulterated drugs.

HB 469 CS

2006
CS

- 245 | 9. Part IV of chapter 501, relating to telemarketing.
- 246 | 10. Chapter 517, relating to sale of securities and
- 247 | investor protection.
- 248 | 11. Section 550.235, s. 550.3551, or s. 550.3605, relating
- 249 | to dogracing and horseracing.
- 250 | 12. Chapter 550, relating to jai alai frontons.
- 251 | 13. Section 551.109, relating to slot machine gaming.
- 252 | 14. Chapter 552, relating to the manufacture,
- 253 | distribution, and use of explosives.
- 254 | 15. Chapter 560, relating to money transmitters, if the
- 255 | violation is punishable as a felony.
- 256 | 16. Chapter 562, relating to beverage law enforcement.
- 257 | 17. Section 624.401, relating to transacting insurance
- 258 | without a certificate of authority, s. 624.437(4)(c)1., relating
- 259 | to operating an unauthorized multiple-employer welfare
- 260 | arrangement, or s. 626.902(1)(b), relating to representing or
- 261 | aiding an unauthorized insurer.
- 262 | 18. Section 655.50, relating to reports of currency
- 263 | transactions, when such violation is punishable as a felony.
- 264 | 19. Chapter 687, relating to interest and usurious
- 265 | practices.
- 266 | 20. Section 721.08, s. 721.09, or s. 721.13, relating to
- 267 | real estate timeshare plans.
- 268 | 21. Chapter 782, relating to homicide.
- 269 | 22. Chapter 784, relating to assault and battery.
- 270 | 23. Chapter 787, relating to kidnapping or human
- 271 | trafficking.
- 272 | 24. Chapter 790, relating to weapons and firearms.

HB 469 CS

2006
CS

- 273 25. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
274 796.05, or s. 796.07, relating to prostitution and sex
275 trafficking.
- 276 26. Chapter 806, relating to arson.
- 277 27. Section 810.02(2)(c), relating to specified burglary
278 of a dwelling or structure.
- 279 28. Chapter 812, relating to theft, robbery, and related
280 crimes.
- 281 29. Chapter 815, relating to computer-related crimes.
- 282 30. Chapter 817, relating to fraudulent practices, false
283 pretenses, fraud generally, and credit card crimes.
- 284 31. Chapter 825, relating to abuse, neglect, or
285 exploitation of an elderly person or disabled adult.
- 286 32. Section 827.071, relating to commercial sexual
287 exploitation of children.
- 288 33. Chapter 831, relating to forgery and counterfeiting.
- 289 34. Chapter 832, relating to issuance of worthless checks
290 and drafts.
- 291 35. Section 836.05, relating to extortion.
- 292 36. Chapter 837, relating to perjury.
- 293 37. Chapter 838, relating to bribery and misuse of public
294 office.
- 295 38. Chapter 843, relating to obstruction of justice.
- 296 39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
297 s. 847.07, relating to obscene literature and profanity.
- 298 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
299 849.25, relating to gambling.
- 300 41. Chapter 874, relating to criminal street gangs.

HB 469 CS

2006
CS

301 42. Chapter 893, relating to drug abuse prevention and
302 control.

303 43. Chapter 896, relating to offenses related to financial
304 transactions.

305 44. Sections 914.22 and 914.23, relating to tampering with
306 a witness, victim, or informant, and retaliation against a
307 witness, victim, or informant.

308 45. Sections 918.12 and 918.13, relating to tampering with
309 jurors and evidence.

310 (b) Any conduct defined as "racketeering activity" under
311 18 U.S.C. s. 1961(1).

312 Section 5. For the purpose of incorporating the amendment
313 made by this act to section 895.02, Florida Statutes, in a
314 reference thereto, paragraph (a) of subsection (1) of section
315 16.56, Florida Statutes, is reenacted to read:

316 16.56 Office of Statewide Prosecution.--

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

321 (a) Investigate and prosecute the offenses of:

322 1. Bribery, burglary, criminal usury, extortion, gambling,
323 kidnapping, larceny, murder, prostitution, perjury, robbery,
324 carjacking, and home-invasion robbery;

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

326 3. Any violation of the provisions of the Florida RICO
327 (Racketeer Influenced and Corrupt Organization) Act, including
328 any offense listed in the definition of racketeering activity in

HB 469 CS

2006
CS

329 s. 895.02(1)(a), providing such listed offense is investigated
330 in connection with a violation of s. 895.03 and is charged in a
331 separate count of an information or indictment containing a
332 count charging a violation of s. 895.03, the prosecution of
333 which listed offense may continue independently if the
334 prosecution of the violation of s. 895.03 is terminated for any
335 reason;

336 4. Any violation of the provisions of the Florida Anti-
337 Fencing Act;

338 5. Any violation of the provisions of the Florida
339 Antitrust Act of 1980, as amended;

340 6. Any crime involving, or resulting in, fraud or deceit
341 upon any person;

342 7. Any violation of s. 847.0135, relating to computer
343 pornography and child exploitation prevention, or any offense
344 related to a violation of s. 847.0135;

345 8. Any violation of the provisions of chapter 815;

346 9. Any criminal violation of part I of chapter 499;

347 10. Any violation of the provisions of the Florida Motor
348 Fuel Tax Relief Act of 2004;

349 11. Any criminal violation of s. 409.920 or s. 409.9201;
350 or

351 12. Any crime involving voter registration, voting, or
352 candidate or issue petition activities;

353
354 or any attempt, solicitation, or conspiracy to commit any of the
355 crimes specifically enumerated above. The office shall have such
356 power only when any such offense is occurring, or has occurred,

HB 469 CS

2006
CS

357 | in two or more judicial circuits as part of a related
 358 | transaction, or when any such offense is connected with an
 359 | organized criminal conspiracy affecting two or more judicial
 360 | circuits.

361 | Section 6. For the purpose of incorporating the amendment
 362 | made by this act to section 895.02, Florida Statutes, in a
 363 | reference thereto, paragraph (g) of subsection (3) of section
 364 | 655.50, Florida Statutes, is reenacted to read:

365 | 655.50 Florida Control of Money Laundering in Financial
 366 | Institutions Act; reports of transactions involving currency or
 367 | monetary instruments; when required; purpose; definitions;
 368 | penalties.--

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

370 | (g) "Specified unlawful activity" means any "racketeering
 371 | activity" as defined in s. 895.02.

372 | Section 7. For the purpose of incorporating the amendment
 373 | made by this act to section 895.02, Florida Statutes, in a
 374 | reference thereto, paragraph (g) of subsection (2) of section
 375 | 896.101, Florida Statutes, is reenacted to read:

376 | 896.101 Florida Money Laundering Act; definitions;
 377 | penalties; injunctions; seizure warrants; immunity.--

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

379 | (g) "Specified unlawful activity" means any "racketeering
 380 | activity" as defined in s. 895.02.

381 | Section 8. For the purpose of incorporating the amendment
 382 | made by this act to section 895.02, Florida Statutes, in a
 383 | reference thereto, section 905.34, Florida Statutes, is
 384 | reenacted to read:

HB 469 CS

2006
CS

385 | 905.34 Powers and duties; law applicable.--The
386 | jurisdiction of a statewide grand jury impaneled under this
387 | chapter shall extend throughout the state. The subject matter
388 | jurisdiction of the statewide grand jury shall be limited to the
389 | offenses of:

390 | (1) Bribery, burglary, carjacking, home-invasion robbery,
391 | criminal usury, extortion, gambling, kidnapping, larceny,
392 | murder, prostitution, perjury, and robbery;

393 | (2) Crimes involving narcotic or other dangerous drugs;

394 | (3) Any violation of the provisions of the Florida RICO
395 | (Racketeer Influenced and Corrupt Organization) Act, including
396 | any offense listed in the definition of racketeering activity in
397 | s. 895.02(1)(a), providing such listed offense is investigated
398 | in connection with a violation of s. 895.03 and is charged in a
399 | separate count of an information or indictment containing a
400 | count charging a violation of s. 895.03, the prosecution of
401 | which listed offense may continue independently if the
402 | prosecution of the violation of s. 895.03 is terminated for any
403 | reason;

404 | (4) Any violation of the provisions of the Florida Anti-
405 | Fencing Act;

406 | (5) Any violation of the provisions of the Florida
407 | Antitrust Act of 1980, as amended;

408 | (6) Any violation of the provisions of chapter 815;

409 | (7) Any crime involving, or resulting in, fraud or deceit
410 | upon any person;

411 | (8) Any violation of s. 847.0135, s. 847.0137, or s.
412 | 847.0138 relating to computer pornography and child exploitation

HB 469 CS

2006
CS

413 prevention, or any offense related to a violation of s.
414 847.0135, s. 847.0137, or s. 847.0138;
415 (9) Any criminal violation of part I of chapter 499; or
416 (10) Any criminal violation of s. 409.920 or s. 409.9201;
417
418 or any attempt, solicitation, or conspiracy to commit any
419 violation of the crimes specifically enumerated above, when any
420 such offense is occurring, or has occurred, in two or more
421 judicial circuits as part of a related transaction or when any
422 such offense is connected with an organized criminal conspiracy
423 affecting two or more judicial circuits. The statewide grand
424 jury may return indictments and presentments irrespective of the
425 county or judicial circuit where the offense is committed or
426 triable. If an indictment is returned, it shall be certified and
427 transferred for trial to the county where the offense was
428 committed. The powers and duties of, and law applicable to,
429 county grand juries shall apply to a statewide grand jury except
430 when such powers, duties, and law are inconsistent with the
431 provisions of ss. 905.31-905.40.
432 Section 9. This act shall take effect October 1, 2006.