

CHAMBER ACTION

1 The Justice Council 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 prosecution of human trafficking;
7 amending s. 787.06, F.S.; providing legislative findings
8 and intent; defining the term "financial harm"; redefining
9 the term "forced labor or services" to include
10 circumstances involving the use of fraud or coercion
11 against a person, the use of certain debt practices, and
12 the destruction, concealing, or withholding of a person's
13 identification documents; providing for attempted human
14 trafficking to be an equal crime to human trafficking;
15 prohibiting knowingly benefiting financially or receiving
16 anything of value from human trafficking when the
17 trafficked person engages in forced labor or services;
18 providing criminal penalties; requiring the Florida Court
19 Educational Council to develop specified instructional
20 standards for certain judges concerning human trafficking;
21 requiring the Criminal Justice Standards and Training
22 Commission to establish specified standards concerning
23 human trafficking; requiring basic skills courses for law

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24 enforcement officers to include training on human
25 trafficking prevention and investigation; requiring state
26 attorneys to develop standards of instruction for
27 prosecutors concerning human trafficking crimes; amending
28 s. 772.102, F.S.; expanding the definition of the term
29 "criminal activity" to include the offense of human
30 trafficking and the offense of sex trafficking for
31 purposes of seeking civil remedies for criminal offenses;
32 amending s. 772.104, F.S.; revising a civil cause of
33 action relating to injuries by reason of criminal
34 activity; providing for alternative damages for violations
35 relating to sex trafficking and human trafficking;
36 amending s. 895.02, F.S.; redefining the term
37 "racketeering activity" to include the offense of human
38 trafficking for purposes of the Florida RICO Act; amending
39 s. 16.56, F.S.; adding prosecution of human trafficking
40 and related crimes to subject matter jurisdiction of a
41 statewide prosecutor; reenacting ss. 16.56(1)(a),
42 655.50(3)(g), 896.101(2)(g), and 905.34, F.S., relating to
43 the authority of the Office of the Statewide Prosecutor,
44 the definition of "specified unlawful activity" in a law
45 prohibiting money laundering in financial institutions and
46 in the Florida Money Laundering Act, and the subject
47 matter jurisdiction of a statewide grand jury, to
48 incorporate the amendments made to s. 895.02, F.S., in
49 references thereto; providing an effective date.

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51 Be It Enacted by the Legislature of the State of Florida:

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

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

787.06 Human trafficking.--

(1) (a) 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 victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.

(b) 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.

(c) The Legislature finds that traffickers use various techniques to instill fear in victims and to keep them enslaved. Some traffickers keep their victims under lock and key. However, the most frequently used practices are less obvious techniques that include isolating victims from the public and family members; confiscating passports, visas, or other identification documents; using or threatening to use violence toward victims or their families; telling victims that they will be imprisoned or deported for immigration violations if they contact

79 | authorities; and controlling the victims' funds by holding the
80 | money ostensibly for safekeeping.

81 | (d) It is the intent of the Legislature that the
82 | perpetrators of human trafficking be penalized for their illegal
83 | conduct and that the victims of trafficking be protected and
84 | assisted by this state and its agencies. In furtherance of this
85 | policy, it is the intent of the Legislature that the state
86 | Supreme Court, The Florida Bar, and relevant state agencies
87 | prepare and implement training programs in order that judges,
88 | attorneys, law enforcement personnel, investigators, and others
89 | are able to identify traffickers and victims of human
90 | trafficking and direct victims to appropriate agencies for
91 | assistance. It is the intent of the Legislature that the
92 | Department of Children and Family Services and other state
93 | agencies cooperate with other state and federal agencies to
94 | ensure that victims of human trafficking can access social
95 | services and benefits to alleviate their plight.

96 | (2)(1) As used in this section, the term:

97 | (a) "Financial harm" includes extortionate extension of
98 | credit, loan sharking as defined in s. 687.071, or employment
99 | contracts that violate the statute of frauds as provided in s.
100 | 725.01.

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

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

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

108 3. Using lending or other credit methods to establish a
 109 debt by that person or another person when labor or services are
 110 pledged as a security for the debt, if the value of the labor or
 111 services as reasonably assessed is not applied toward the
 112 liquidation of the debt or the length and nature of the labor or
 113 the services are not respectively limited and defined;

114 4. Destroying, concealing, removing, confiscating,
 115 withholding, or possessing any actual or purported passport,
 116 visa, or other immigration document, or any other actual or
 117 purported government identification document, of that person or
 118 another person;

119 5. Causing or threatening to cause financial harm to any
 120 person; or

121 6. Fraud or coercion.

122 (c)~~(b)~~ "Human trafficking" means transporting, soliciting,
 123 recruiting, harboring, providing, or obtaining another person
 124 for transport.

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

129 (3)~~(2)~~ Any person who knowingly:

130 (a) Engages, or attempts to engage, in human trafficking
 131 with the intent or knowledge that the trafficked person will be
 132 subjected to engage~~in~~ forced labor or services; or

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

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137 commits a felony of the second degree, punishable as provided in
138 s. 775.082, s. 775.083, or s. 775.084.

139 (4) The Florida Court Educational Council shall establish
140 standards of instruction for circuit court judges and county
141 court judges who hear cases involving victims of human
142 trafficking and shall provide for periodic and timely
143 instruction.

144 (5) The Criminal Justice Standards and Training Commission
145 shall establish standards for basic and advanced training
146 programs for law enforcement officers in the subjects of
147 investigating and preventing human trafficking crimes. After
148 January 1, 2007, every basic skills course required for law
149 enforcement officers to obtain initial certification must
150 include training on human trafficking crime prevention and
151 investigation.

152 (6) Each state attorney shall develop standards of
153 instruction for prosecutors to receive training on the
154 investigation and prosecution of human trafficking crimes and
155 shall provide for periodic and timely instruction.

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

158 772.102 Definitions.--As used in this chapter, the term:

- 159 (1) "Criminal activity" means to commit, to attempt to
 160 commit, to conspire to commit, or to solicit, coerce, or
 161 intimidate another person to commit:
- 162 (a) Any crime that ~~which~~ is chargeable by indictment or
 163 information under the following provisions:
- 164 1. Section 210.18, relating to evasion of payment of
 165 cigarette taxes.
 - 166 2. Section 414.39, relating to public assistance fraud.
 - 167 3. Section 440.105 or s. 440.106, relating to workers'
 168 compensation.
 - 169 4. Part IV of chapter 501, relating to telemarketing.
 - 170 5. Chapter 517, relating to securities transactions.
 - 171 6. Section 550.235, s. 550.3551, or s. 550.3605, relating
 172 to dogracing and horseracing.
 - 173 7. Chapter 550, relating to jai alai frontons.
 - 174 8. Chapter 552, relating to the manufacture, distribution,
 175 and use of explosives.
 - 176 9. Chapter 562, relating to beverage law enforcement.
 - 177 10. Section 624.401, relating to transacting insurance
 178 without a certificate of authority, s. 624.437(4)(c)1., relating
 179 to operating an unauthorized multiple-employer welfare
 180 arrangement, or s. 626.902(1)(b), relating to representing or
 181 aiding an unauthorized insurer.
 - 182 11. Chapter 687, relating to interest and usurious
 183 practices.
 - 184 12. Section 721.08, s. 721.09, or s. 721.13, relating to
 185 real estate timeshare plans.
 - 186 13. Chapter 782, relating to homicide.

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- 187 | 14. Chapter 784, relating to assault and battery.
- 188 | 15. Chapter 787, relating to kidnapping or human
- 189 | trafficking.
- 190 | 16. Chapter 790, relating to weapons and firearms.
- 191 | 17. Section 796.03, s. 796.04, s. 796.045, s. 796.05, or
- 192 | s. 796.07, relating to prostitution.
- 193 | 18. Chapter 806, relating to arson.
- 194 | 19. Section 810.02(2)(c), relating to specified burglary
- 195 | of a dwelling or structure.
- 196 | 20. Chapter 812, relating to theft, robbery, and related
- 197 | crimes.
- 198 | 21. Chapter 815, relating to computer-related crimes.
- 199 | 22. Chapter 817, relating to fraudulent practices, false
- 200 | pretenses, fraud generally, and credit card crimes.
- 201 | 23. Section 827.071, relating to commercial sexual
- 202 | exploitation of children.
- 203 | 24. Chapter 831, relating to forgery and counterfeiting.
- 204 | 25. Chapter 832, relating to issuance of worthless checks
- 205 | and drafts.
- 206 | 26. Section 836.05, relating to extortion.
- 207 | 27. Chapter 837, relating to perjury.
- 208 | 28. Chapter 838, relating to bribery and misuse of public
- 209 | office.
- 210 | 29. Chapter 843, relating to obstruction of justice.
- 211 | 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
- 212 | s. 847.07, relating to obscene literature and profanity.
- 213 | 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
- 214 | 849.25, relating to gambling.

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215 32. Chapter 893, relating to drug abuse prevention and
216 control.

217 33. Section 914.22 or s. 914.23, relating to witnesses,
218 victims, or informants.

219 34. Section 918.12 or s. 918.13, relating to tampering
220 with jurors and evidence.

221 (b) Any conduct which is subject to indictment or
222 information as a criminal offense and listed in 18 U.S.C. s.
223 1961(1) (A), (B), (C), or (D).

224 Section 3. Section 772.104, Florida Statutes, is amended
225 to read:

226 772.104 Civil cause of action.--

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

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

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243 (3) In no event shall punitive damages be awarded under
 244 this section. The defendant shall be entitled to recover
 245 reasonable attorney's fees and court costs in the trial and
 246 appellate courts upon a finding that the claimant raised a claim
 247 which was without substantial fact or legal support. In awarding
 248 attorney's fees and costs under this section, the court shall
 249 not consider the ability of the opposing party to pay such fees
 250 and costs. Nothing under this section shall be interpreted as
 251 limiting any right to recover attorney's fees or costs provided
 252 under other provisions of law.

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

256 895.02 Definitions.--As used in ss. 895.01-895.08, the
 257 term:

258 (1) "Racketeering activity" means to commit, to attempt to
 259 commit, to conspire to commit, or to solicit, coerce, or
 260 intimidate another person to commit:

261 (a) Any crime that ~~which~~ is chargeable by indictment or
 262 information under the following provisions of the Florida
 263 Statutes:

264 1. Section 210.18, relating to evasion of payment of
 265 cigarette taxes.

266 2. Section 403.727(3)(b), relating to environmental
 267 control.

268 3. Section 409.920 or s. 409.9201, relating to Medicaid
 269 fraud.

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

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- 271 5. Section 440.105 or s. 440.106, relating to workers'
272 compensation.
- 273 6. Section 443.071(4), relating to creation of a
274 fictitious employer scheme to commit unemployment compensation
275 fraud.
- 276 7. Section 465.0161, relating to distribution of medicinal
277 drugs without a permit as an Internet pharmacy.
- 278 8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and
279 499.0691, relating to crimes involving contraband and
280 adulterated drugs.
- 281 9. Part IV of chapter 501, relating to telemarketing.
- 282 10. Chapter 517, relating to sale of securities and
283 investor protection.
- 284 11. Section 550.235, s. 550.3551, or s. 550.3605, relating
285 to dogracing and horseracing.
- 286 12. Chapter 550, relating to jai alai frontons.
- 287 13. Section 551.109, relating to slot machine gaming.
- 288 14. Chapter 552, relating to the manufacture,
289 distribution, and use of explosives.
- 290 15. Chapter 560, relating to money transmitters, if the
291 violation is punishable as a felony.
- 292 16. Chapter 562, relating to beverage law enforcement.
- 293 17. Section 624.401, relating to transacting insurance
294 without a certificate of authority, s. 624.437(4)(c)1., relating
295 to operating an unauthorized multiple-employer welfare
296 arrangement, or s. 626.902(1)(b), relating to representing or
297 aiding an unauthorized insurer.

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- 298 18. Section 655.50, relating to reports of currency
299 transactions, when such violation is punishable as a felony.
- 300 19. Chapter 687, relating to interest and usurious
301 practices.
- 302 20. Section 721.08, s. 721.09, or s. 721.13, relating to
303 real estate timeshare plans.
- 304 21. Chapter 782, relating to homicide.
- 305 22. Chapter 784, relating to assault and battery.
- 306 23. Chapter 787, relating to kidnapping or human
307 trafficking.
- 308 24. Chapter 790, relating to weapons and firearms.
- 309 25. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
310 796.05, or s. 796.07, relating to prostitution and sex
311 trafficking.
- 312 26. Chapter 806, relating to arson.
- 313 27. Section 810.02(2)(c), relating to specified burglary
314 of a dwelling or structure.
- 315 28. Chapter 812, relating to theft, robbery, and related
316 crimes.
- 317 29. Chapter 815, relating to computer-related crimes.
- 318 30. Chapter 817, relating to fraudulent practices, false
319 pretenses, fraud generally, and credit card crimes.
- 320 31. Chapter 825, relating to abuse, neglect, or
321 exploitation of an elderly person or disabled adult.
- 322 32. Section 827.071, relating to commercial sexual
323 exploitation of children.
- 324 33. Chapter 831, relating to forgery and counterfeiting.

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- 325 34. Chapter 832, relating to issuance of worthless checks
326 and drafts.
- 327 35. Section 836.05, relating to extortion.
- 328 36. Chapter 837, relating to perjury.
- 329 37. Chapter 838, relating to bribery and misuse of public
330 office.
- 331 38. Chapter 843, relating to obstruction of justice.
- 332 39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
333 s. 847.07, relating to obscene literature and profanity.
- 334 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
335 849.25, relating to gambling.
- 336 41. Chapter 874, relating to criminal street gangs.
- 337 42. Chapter 893, relating to drug abuse prevention and
338 control.
- 339 43. Chapter 896, relating to offenses related to financial
340 transactions.
- 341 44. Sections 914.22 and 914.23, relating to tampering with
342 a witness, victim, or informant, and retaliation against a
343 witness, victim, or informant.
- 344 45. Sections 918.12 and 918.13, relating to tampering with
345 jurors and evidence.
- 346 (b) Any conduct defined as "racketeering activity" under
347 18 U.S.C. s. 1961(1).
- 348 Section 5. Paragraph (a) of subsection (1) of section
349 16.56, Florida Statutes, is, for the purpose of incorporating
350 the amendment made by this act to section 895.02, Florida
351 Statutes, in a reference thereto, reenacted and amended, and
352 subsection (2) of that section is amended, to read:

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353 | 16.56 Office of Statewide Prosecution.--

354 | (1) There is created in the Department of Legal Affairs an
355 | Office of Statewide Prosecution. The office shall be a separate
356 | "budget entity" as that term is defined in chapter 216. The
357 | office may:

358 | (a) Investigate and prosecute the offenses of:

359 | 1. Bribery, burglary, criminal usury, extortion, gambling,
360 | kidnapping, larceny, murder, prostitution, perjury, robbery,
361 | carjacking, and home-invasion robbery;

362 | 2. Any crime involving narcotic or other dangerous drugs;

363 | 3. Any violation of the provisions of the Florida RICO
364 | (Racketeer Influenced and Corrupt Organization) Act, including
365 | any offense listed in the definition of racketeering activity in
366 | s. 895.02(1)(a), providing such listed offense is investigated
367 | in connection with a violation of s. 895.03 and is charged in a
368 | separate count of an information or indictment containing a
369 | count charging a violation of s. 895.03, the prosecution of
370 | which listed offense may continue independently if the
371 | prosecution of the violation of s. 895.03 is terminated for any
372 | reason;

373 | 4. Any violation of the provisions of the Florida Anti-
374 | Fencing Act;

375 | 5. Any violation of the provisions of the Florida
376 | Antitrust Act of 1980, as amended;

377 | 6. Any crime involving, or resulting in, fraud or deceit
378 | upon any person;

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379 | 7. Any violation of s. 847.0135, relating to computer
380 | pornography and child exploitation prevention, or any offense
381 | related to a violation of s. 847.0135;

382 | 8. Any violation of the provisions of chapter 815;

383 | 9. Any criminal violation of part I of chapter 499;

384 | 10. Any violation of the provisions of the Florida Motor
385 | Fuel Tax Relief Act of 2004;

386 | 11. Any criminal violation of s. 409.920 or s. 409.9201;

387 | ~~or~~

388 | 12. Any crime involving voter registration, voting, or
389 | candidate or issue petition activities; or

390 | 13. Any criminal violation of s. 787.06 or any offense
391 | involving or related to a violation of s .787.06;

392 |

393 | or any attempt, solicitation, or conspiracy to commit any of the
394 | crimes specifically enumerated above. The office shall have such
395 | power only when any such offense is occurring, or has occurred,
396 | in two or more judicial circuits as part of a related
397 | transaction, or when any such offense is connected with an
398 | organized criminal conspiracy affecting two or more judicial
399 | circuits.

400 | (2) The Attorney General shall appoint a statewide
401 | prosecutor from not less than three persons nominated by the
402 | judicial nominating commission for the Supreme Court. The
403 | statewide prosecutor shall be in charge of the Office of
404 | Statewide Prosecution for a term of 4 years to run concurrently
405 | with the term of the appointing official. The statewide
406 | prosecutor shall be an elector of the state, shall have been a

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407 member of The Florida Bar for the preceding 5 years, and shall
 408 devote full time to the duties of statewide prosecutor and not
 409 engage in the private practice of law. The Attorney General may
 410 remove the statewide prosecutor prior to the end of his or her
 411 term. A vacancy in the position of statewide prosecutor shall be
 412 filled within 60 days. During the period of any vacancy, the
 413 Attorney General shall exercise all the powers and perform all
 414 the duties of the statewide prosecutor. A person appointed
 415 statewide prosecutor is prohibited from qualifying as a
 416 candidate for election ~~running for or accepting appointment to~~
 417 any state office for a period of 2 years following vacation of
 418 office. The statewide prosecutor shall on March 1 of each year
 419 report in writing to the Governor and the Attorney General on
 420 the activities of the office for the preceding year and on the
 421 goals and objectives for the next year.

422 Section 6. For the purpose of incorporating the amendment
 423 made by this act to section 895.02, Florida Statutes, in a
 424 reference thereto, paragraph (g) of subsection (3) of section
 425 655.50, Florida Statutes, is reenacted to read:

426 655.50 Florida Control of Money Laundering in Financial
 427 Institutions Act; reports of transactions involving currency or
 428 monetary instruments; when required; purpose; definitions;
 429 penalties.--

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

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

433 Section 7. For the purpose of incorporating the amendment
 434 made by this act to section 895.02, Florida Statutes, in a

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435 reference thereto, paragraph (g) of subsection (2) of section
436 896.101, Florida Statutes, is reenacted to read:

437 896.101 Florida Money Laundering Act; definitions;
438 penalties; injunctions; seizure warrants; immunity.--

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

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

442 Section 8. For the purpose of incorporating the amendment
443 made by this act to section 895.02, Florida Statutes, in a
444 reference thereto, section 905.34, Florida Statutes, is
445 reenacted to read:

446 905.34 Powers and duties; law applicable.--The
447 jurisdiction of a statewide grand jury impaneled under this
448 chapter shall extend throughout the state. The subject matter
449 jurisdiction of the statewide grand jury shall be limited to the
450 offenses of:

451 (1) Bribery, burglary, carjacking, home-invasion robbery,
452 criminal usury, extortion, gambling, kidnapping, larceny,
453 murder, prostitution, perjury, and robbery;

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

455 (3) Any violation of the provisions of the Florida RICO
456 (Racketeer Influenced and Corrupt Organization) Act, including
457 any offense listed in the definition of racketeering activity in
458 s. 895.02(1)(a), providing such listed offense is investigated
459 in connection with a violation of s. 895.03 and is charged in a
460 separate count of an information or indictment containing a
461 count charging a violation of s. 895.03, the prosecution of
462 which listed offense may continue independently if the

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463 prosecution of the violation of s. 895.03 is terminated for any
464 reason;

465 (4) Any violation of the provisions of the Florida Anti-
466 Fencing Act;

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

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

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

472 (8) Any violation of s. 847.0135, s. 847.0137, or s.
473 847.0138 relating to computer pornography and child exploitation
474 prevention, or any offense related to a violation of s.
475 847.0135, s. 847.0137, or s. 847.0138;

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

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

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479 or any attempt, solicitation, or conspiracy to commit any
480 violation of the crimes specifically enumerated above, when any
481 such offense is occurring, or has occurred, in two or more
482 judicial circuits as part of a related transaction or when any
483 such offense is connected with an organized criminal conspiracy
484 affecting two or more judicial circuits. The statewide grand
485 jury may return indictments and presentments irrespective of the
486 county or judicial circuit where the offense is committed or
487 triable. If an indictment is returned, it shall be certified and
488 transferred for trial to the county where the offense was
489 committed. The powers and duties of, and law applicable to,
490 county grand juries shall apply to a statewide grand jury except

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491 | when such powers, duties, and law are inconsistent with the
492 | provisions of ss. 905.31-905.40.

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