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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
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The Committee on Criminal Justice (Bracy) recommended the following:

1 **Senate Substitute for Amendment (228352) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 787.061, Florida Statutes, is created to
7 read:

8 787.061 Short title.—Sections 787.061-787.065 may be cited
9 as the "Civil Action for Victims of Human Trafficking and
10 Prevention of Human Trafficking Act."



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11 Section 2. Section 787.062, Florida Statutes, is created to
12 read:

13 787.062 Definitions for the Civil Action for Victims of
14 Human Trafficking and Prevention of Human Trafficking Act.—As
15 used in ss. 787.061-787.065 the term:

16 (1) "Council" means the Statewide Council on Human
17 Trafficking within the Department of Legal Affairs, as created
18 in s. 16.617.

19 (2) "Facilitator" means a person who knowingly, or in
20 willful blindness, assists or provides goods or services to a
21 trafficker which assist or enable the trafficker to carry out
22 human trafficking.

23 (3) "Human trafficking" has the same meaning as provided in
24 s. 787.06.

25 (4) "Trafficker" means any person who knowingly engages in
26 human trafficking, attempts to engage in human trafficking, or
27 benefits financially by receiving anything of value from
28 participation in a venture that has subjected a person to human
29 trafficking.

30 (5) "Trust fund" means the Trust Fund for Victims of Human
31 Trafficking and Prevention created in s. 787.0611.

32 (6) "Venture" means any group of two or more individuals
33 associated in fact, whether or not a legal entity.

34 (7) "Victim of human trafficking" means a person subjected
35 to coercion, as defined in s. 787.06, for the purpose of being
36 used in human trafficking, a child under 18 years of age
37 subjected to human trafficking, or an individual subjected to
38 human trafficking as defined by federal law.

39 (8) "Willful blindness" occurs when a person's suspicions



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40 are aroused about a particular fact and, while he or she
41 realizes its probability, he or she deliberately refrains from
42 obtaining confirmation of or acting on the fact because he or
43 she wants to remain in ignorance, such that knowledge of the
44 fact avoided can reasonably and fairly be imputed to the person
45 who avoided confirming it.

46 Section 3. Section 787.063, Florida Statutes, is created to
47 read:

48 787.063 Civil action for victims of human trafficking.—

49 (1) FINDINGS.—The Legislature finds that, to achieve the
50 state's goals relating to human trafficking set forth in s.
51 787.06(1)(d), it is necessary to provide a civil cause of action
52 for the recovery of compensatory and punitive damages.

53 (2) CIVIL CAUSE OF ACTION.—

54 (a) A victim of human trafficking has a civil cause of
55 action against the trafficker or facilitator of human
56 trafficking who victimized her or him, and may recover damages
57 for such victimization as provided in this section.

58 (b) The council, with the consent of the victim, may bring
59 a civil cause of action against a trafficker or facilitator of
60 human trafficking who victimizes a person in this state.

61 (c) If the council prevails in any action, the trust fund
62 shall hold moneys awarded to the victim for distribution to the
63 victim or her or his parent, legal guardian, or estate. However,
64 if the victim's parent or legal guardian knowingly, or through
65 willful blindness, participated in the human trafficking, such
66 person is not entitled to any distribution or benefit from the
67 trust fund. If there is no person or estate to appropriately
68 receive the funds, they must remain in the trust fund and be



69 used for purposes of the trust fund, as described in s.
70 787.0611.

71 (d) The action may be brought in any court of competent
72 jurisdiction and the standard of proof is a preponderance of the
73 evidence.

74 (e) A victim, or the council on behalf of the victim, who
75 prevails in any such action is entitled to recover economic and
76 noneconomic damages, penalties, punitive damages, reasonable
77 attorney fees, reasonable investigative expenses, and costs.

78 1. The measure of economic damages for services or labor
79 coerced from the victim of human trafficking shall be the
80 greater of the fair market value of the labor or services
81 provided or the amount realized by the trafficker. For purposes
82 of this subparagraph, the terms "labor" and "services" have the
83 same meanings as provided in s. 787.06.

84 2. The measure of economic damages for every day that the
85 human trafficking was ongoing shall be calculated as a daily
86 amount of the compensation payable to a person under s.
87 961.06(1)(a).

88 3. Economic damages also include past and future medical
89 and mental health expenses; repatriation expenses, when a victim
90 elects repatriation; and all other reasonable costs and expenses
91 incurred by the victim in the past or estimated to be incurred
92 by the victim in the future as a result of the human
93 trafficking.

94 4. Noneconomic damages shall be calculated as in a tort
95 action.

96 (f) The remedies provided in this section are in addition
97 to and cumulative with other legal and administrative remedies



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98 available to victims of human trafficking, except that a victim
99 may not recover under both this section and s. 772.104(2).

100 (g) If a victim or the council, on behalf of the victim,
101 prevails in an action under this section, in addition to any
102 other award imposed, the court must award a civil penalty
103 against the defendant in the amount of \$100,000. This penalty is
104 in addition to, and not in lieu of, any other damage award. The
105 civil penalty must be assessed by the court and may not be
106 disclosed to the jury. Proceeds from the civil penalty must be
107 deposited into the trust fund.

108 (h) If one or more law enforcement agencies rescued the
109 victim or located the property upon which the abuse or
110 exploitation of a victim or victims had occurred, the court must
111 impose a civil penalty against the defendant in the amount of
112 \$50,000 and award the penalty to the law enforcement agencies to
113 fund future efforts to combat human trafficking. The court must
114 equitably distribute the civil penalty among the law enforcement
115 agencies.

116 (i) The court shall have specific authority to consolidate
117 civil actions for the same trafficker or facilitator for the
118 purpose of case resolution and aggregate jurisdiction.

119 (3) STATUTE OF LIMITATIONS.—There is no statute of
120 limitations for actions brought pursuant to this section.

121 Section 4. Section 787.064, Florida Statutes, is created to
122 read:

123 787.064 Annual Report of the Civil Action for Victims of
124 Human Trafficking and Prevention of Human Trafficking Act.—The
125 council shall issue an annual report no later than October 1 of
126 each year to the President of the Senate and the Speaker of the



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127 House of Representatives detailing for the prior fiscal year all
128 of the following:

129 (1) The status of the trust fund.

130 (2) Any actions and outcomes under s. 787.063.

131 (3) Any information that demonstrates the council's
132 fulfillment of the purposes of the trust fund during the prior
133 fiscal year.

134 Section 5. Paragraph (f) is added to subsection (4) of
135 section 16.617, Florida Statutes, to read:

136 16.617 Statewide Council on Human Trafficking; creation;
137 membership; duties.-

138 (4) DUTIES.-The council shall:

139 (f) Perform the functions and duties as provided in ss.
140 787.061-787.065 and administer the Florida Compensation Trust
141 Fund for Survivors of Human Trafficking as created in s.
142 787.0611.

143 Section 6. For the 2017-2018 fiscal year, the sums of
144 \$153,000 in recurring funds and \$29,000 in nonrecurring funds
145 from the Crimes Compensation Trust Fund are appropriated to the
146 Department of Legal Affairs, and three full-time equivalent
147 positions are authorized, for the purpose of implementing this
148 act.

149 Section 7. This act shall take effect October 1, 2017.

150
151 ===== T I T L E A M E N D M E N T =====

152 And the title is amended as follows:

153 Delete everything before the enacting clause
154 and insert:

155 A bill to be entitled



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156 An act relating to victims of human trafficking;
157 creating s. 787.061, F.S.; providing a short title;
158 creating s. 787.062, F.S.; defining terms; creating s.
159 787.063, F.S.; providing legislative findings;
160 creating a civil cause of action for victims of human
161 trafficking, or for the Statewide Council on Human
162 Trafficking on their behalves, against a trafficker or
163 facilitator; providing procedures and requirements for
164 bringing a claim; requiring a court to impose a civil
165 penalty against a defendant if a victim, or the
166 council on the victim's behalf, prevails; requiring a
167 court to impose a civil penalty and award it equitably
168 to one or more law enforcement agencies under certain
169 circumstances; providing that such actions are not
170 subject to a statute of limitations; creating s.
171 787.064, F.S.; requiring the council to issue an
172 annual report to the Legislature which includes
173 specified information, by a specified date; amending
174 s. 16.617, F.S.; adding functions and duties for the
175 council; providing for administration of the trust
176 fund by the council; providing appropriations;
177 providing an effective date.