

By the Committee on Criminal Justice; and Senator Bracy

591-03907-17

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1 A bill to be entitled
2 An act relating to victims of human trafficking;
3 creating s. 787.061, F.S.; providing a short title;
4 creating s. 787.062, F.S.; defining terms; creating s.
5 787.063, F.S.; providing legislative findings;
6 creating a civil cause of action for victims of human
7 trafficking, or for the Statewide Council on Human
8 Trafficking on their behalves, against a trafficker or
9 facilitator; providing procedures and requirements for
10 bringing a claim; requiring a court to impose a civil
11 penalty against a defendant if a victim, or the
12 council on the victim's behalf, prevails; requiring a
13 court to impose a civil penalty and award it equitably
14 to one or more law enforcement agencies under certain
15 circumstances; providing that such actions are not
16 subject to a statute of limitations; creating s.
17 787.064, F.S.; requiring the council to issue an
18 annual report to the Legislature which includes
19 specified information, by a specified date; amending
20 s. 16.617, F.S.; adding functions and duties for the
21 council; providing for administration of the trust
22 fund by the council; providing appropriations;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Section 787.061, Florida Statutes, is created to
28 read:

29 787.061 Short title.—Sections 787.061-787.065 may be cited

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30 as the "Civil Action for Victims of Human Trafficking and
31 Prevention of Human Trafficking Act."

32 Section 2. Section 787.062, Florida Statutes, is created to
33 read:

34 787.062 Definitions for the Civil Action for Victims of
35 Human Trafficking and Prevention of Human Trafficking Act.—As
36 used in ss. 787.061-787.065 the term:

37 (1) "Council" means the Statewide Council on Human
38 Trafficking within the Department of Legal Affairs, as created
39 in s. 16.617.

40 (2) "Facilitator" means a person who knowingly, or in
41 willful blindness, assists or provides goods or services to a
42 trafficker which assist or enable the trafficker to carry out
43 human trafficking.

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

46 (4) "Trafficker" means any person who knowingly engages in
47 human trafficking, attempts to engage in human trafficking, or
48 benefits financially by receiving anything of value from
49 participation in a venture that has subjected a person to human
50 trafficking.

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

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

55 (7) "Victim of human trafficking" means a person subjected
56 to coercion, as defined in s. 787.06, for the purpose of being
57 used in human trafficking, a child under 18 years of age
58 subjected to human trafficking, or an individual subjected to

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59 human trafficking as defined by federal law.

60 (8) "Willful blindness" occurs when a person's suspicions
61 are aroused about a particular fact and, while he or she
62 realizes its probability, he or she deliberately refrains from
63 obtaining confirmation of or acting on the fact because he or
64 she wants to remain in ignorance, such that knowledge of the
65 fact avoided can reasonably and fairly be imputed to the person
66 who avoided confirming it.

67 Section 3. Section 787.063, Florida Statutes, is created to
68 read:

69 787.063 Civil action for victims of human trafficking.—

70 (1) FINDINGS.—The Legislature finds that, to achieve the
71 state's goals relating to human trafficking set forth in s.
72 787.06(1)(d), it is necessary to provide a civil cause of action
73 for the recovery of compensatory and punitive damages.

74 (2) CIVIL CAUSE OF ACTION.—

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

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

82 (c) If the council prevails in any action, the trust fund
83 shall hold moneys awarded to the victim for distribution to the
84 victim or her or his parent, legal guardian, or estate. However,
85 if the victim's parent or legal guardian knowingly, or through
86 willful blindness, participated in the human trafficking, such
87 person is not entitled to any distribution or benefit from the

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88 trust fund. If there is no person or estate to appropriately
89 receive the funds, they must remain in the trust fund and be
90 used for purposes of the trust fund, as described in s.
91 787.0611.

92 (d) The action may be brought in any court of competent
93 jurisdiction and the standard of proof is a preponderance of the
94 evidence.

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

99 1. The measure of economic damages for services or labor
100 coerced from the victim of human trafficking shall be the
101 greater of the fair market value of the labor or services
102 provided or the amount realized by the trafficker. For purposes
103 of this subparagraph, the terms "labor" and "services" have the
104 same meanings as provided in s. 787.06.

105 2. The measure of economic damages for every day that the
106 human trafficking was ongoing shall be calculated as a daily
107 amount of the compensation payable to a person under s.
108 961.06(1)(a).

109 3. Economic damages also include past and future medical
110 and mental health expenses; repatriation expenses, when a victim
111 elects repatriation; and all other reasonable costs and expenses
112 incurred by the victim in the past or estimated to be incurred
113 by the victim in the future as a result of the human
114 trafficking.

115 4. Noneconomic damages shall be calculated as in a tort
116 action.

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117 (f) The remedies provided in this section are in addition
118 to and cumulative with other legal and administrative remedies
119 available to victims of human trafficking, except that a victim
120 may not recover under both this section and s. 772.104(2).

121 (g) If a victim or the council, on behalf of the victim,
122 prevails in an action under this section, in addition to any
123 other award imposed, the court must award a civil penalty
124 against the defendant in the amount of \$100,000. This penalty is
125 in addition to, and not in lieu of, any other damage award. The
126 civil penalty must be assessed by the court and may not be
127 disclosed to the jury. Proceeds from the civil penalty must be
128 deposited into the trust fund.

129 (h) If one or more law enforcement agencies rescued the
130 victim or located the property upon which the abuse or
131 exploitation of a victim or victims had occurred, the court must
132 impose a civil penalty against the defendant in the amount of
133 \$50,000 and award the penalty to the law enforcement agencies to
134 fund future efforts to combat human trafficking. The court must
135 equitably distribute the civil penalty among the law enforcement
136 agencies.

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

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

142 Section 4. Section 787.064, Florida Statutes, is created to
143 read:

144 787.064 Annual Report of the Civil Action for Victims of
145 Human Trafficking and Prevention of Human Trafficking Act.—The

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146 council shall issue an annual report no later than October 1 of
147 each year to the President of the Senate and the Speaker of the
148 House of Representatives detailing for the prior fiscal year all
149 of the following:

150 (1) The status of the trust fund.

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

152 (3) Any information that demonstrates the council's
153 fulfillment of the purposes of the trust fund during the prior
154 fiscal year.

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

157 16.617 Statewide Council on Human Trafficking; creation;
158 membership; duties.—

159 (4) DUTIES.—The council shall:

160 (f) Perform the functions and duties as provided in ss.
161 787.061-787.065 and administer the Trust Fund for Victims of
162 Human Trafficking and Prevention as created in s. 787.0611.

163 Section 6. For the 2017-2018 fiscal year, the sums of
164 \$153,000 in recurring funds and \$29,000 in nonrecurring funds
165 from the Crimes Compensation Trust Fund are appropriated to the
166 Department of Legal Affairs, and three full-time equivalent
167 positions are authorized, for the purpose of implementing this
168 act.

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