

By the Committee on Children, Families, and Elder Affairs; and
Senators Book and Campbell

586-03130-18

20181044c1

1 A bill to be entitled
2 An act relating to victims of human trafficking;
3 providing a short title; creating s. 787.061, F.S.;
4 providing legislative findings; defining terms;
5 providing a civil cause of action for victims of human
6 trafficking against a trafficker or facilitator;
7 providing procedures and requirements for bringing a
8 claim; providing for damages, penalties, punitive
9 damages, attorney fees, expenses, and costs; requiring
10 a court to impose civil penalties in certain
11 circumstances; providing for the deposit or
12 distribution of civil penalties; requiring the equal
13 distribution of punitive damages between victims and
14 the trust fund; providing that such actions are
15 subject to specified statute of limitations; providing
16 an affirmative defense for owners or operators of
17 public lodging establishments under certain
18 circumstances; amending s. 772.104, F.S.; specifying
19 that certain provisions concerning civil actions for
20 criminal practices do not apply to actions that may be
21 brought under s. 787.061, F.S.; amending s. 95.11,
22 F.S.; conforming provisions to changes made by the
23 act; providing an effective date.

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

26
27 Section 1. This act may be cited as the "Civil Cause of
28 Action for Victims of Human Trafficking Act."

29 Section 2. Section 787.061, Florida Statutes, is created to

586-03130-18

20181044c1

30 read:

31 787.061 Civil actions by victims of human trafficking.-

32 (1) FINDINGS.-The Legislature finds that, to achieve the
33 intent of the Legislature relating to human trafficking
34 expressed in s. 787.06(1)(d), it is necessary to provide a civil
35 cause of action for the recovery of compensatory and punitive
36 damages and costs.

37 (2) DEFINITIONS.-As used in this section, the term:

38 (a) "Facilitator" means a person who knowingly, or in
39 willful blindness, assists or provides goods or services to a
40 trafficker which assist or enable the trafficker to carry out
41 human trafficking. The term does not include a person who
42 facilitates human trafficking as a result of force, threat, or
43 coercion.

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

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

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

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

586-03130-18

20181044c1

59 subjected to human trafficking as defined by federal law.

60 (g) "Willful blindness" exists when a person has knowledge
61 of information that would raise suspicions in a reasonable
62 person and he or she deliberately refrains from obtaining
63 confirmation of or acting on the information because he or she
64 wants to remain in ignorance, such that knowledge of the facts
65 avoided can reasonably and fairly be imputed to the person who
66 avoided confirming it.

67 (3) CIVIL CAUSE OF ACTION.—

68 (a) A victim of human trafficking has a civil cause of
69 action against the trafficker or facilitator who victimized her
70 or him and may recover damages as provided in this section.

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

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

78 1. Economic damages include, but are not limited to, past
79 and future medical and mental health expenses; repatriation
80 expenses, when a victim elects repatriation; and all other
81 reasonable costs and expenses incurred by the victim in the past
82 or estimated to be incurred by the victim in the future as a
83 result of the human trafficking.

84 2. Noneconomic damages are nonfinancial losses that would
85 not have occurred but for the victimization, and include pain
86 and suffering, inconvenience, physical impairment, mental
87 anguish, disfigurement, loss of capacity for enjoyment of life,

586-03130-18

20181044c1

88 and other nonfinancial losses.

89 (d) The remedies provided in this section are in addition
90 to and cumulative with other legal and administrative remedies
91 available to victims of human trafficking, except that a victim
92 may not recover under both this section and s. 772.104(2). If a
93 parent or legal guardian knowingly or through willful blindness
94 trafficked the victim, facilitated such trafficking, or
95 otherwise participated in the human trafficking of the victim,
96 such parent or legal guardian is not entitled to damages or
97 distributions under this section.

98 (e) If a victim prevails in an action under this section,
99 in addition to any other award imposed, the court shall assess a
100 civil penalty against the defendant in the amount of \$50,000.
101 This penalty is in addition to and not in lieu of any other
102 damage award. The civil penalty must be assessed by the court
103 and may not be disclosed to the jury. Proceeds from this civil
104 penalty shall be deposited into the trust fund.

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

113 (g) The court shall have specific authority to consolidate
114 civil actions for the same trafficker or facilitator for the
115 purpose of case resolution and aggregate jurisdiction.

116 (h) Notwithstanding any other law to the contrary, the

586-03130-18

20181044c1

117 amount of punitive damages awarded under this section shall be
118 equally divided between the victim and the trust fund.

119 (4) STATUTE OF LIMITATIONS.—The statute of limitations as
120 specified in ss. 95.11(7) and 95.11(9) is applicable to actions
121 brought under this section.

122 (5) AFFIRMATIVE DEFENSE.—In any action brought under this
123 section against the owner or operator of a public lodging
124 establishment based on a claim of vicarious liability, it is an
125 affirmative defense to damages recoverable under such claim if
126 the owner or operator proves by the preponderance of evidence
127 that:

128 (a) It required management employees and employees of the
129 establishment reasonably expected to routinely interact with
130 guests to complete an educational program designed to
131 effectively train such employees in the identification,
132 prevention, and reporting of suspected human trafficking within
133 30 days after hiring or by January 1, 2019, whichever occurs
134 later;

135 (b) It had in place an effective employee protocol or
136 employee code of conduct to prevent, detect, and report
137 suspected human trafficking; and

138 (c) Any employee alleged in the action to have been
139 facilitators of, or otherwise participants in, human
140 trafficking, complied with the recommendations and practices
141 suggested or required in the training, protocols, or policies
142 required in this subsection.

143 Section 3. Subsection (4) is added to section 772.104,
144 Florida Statutes, to read:

145 772.104 Civil cause of action.—

586-03130-18

20181044c1

146 (4) This section does not apply to a cause of action that
147 may be brought under s. 787.061.

148 Section 4. Subsections (7) and (9) of section 95.11,
149 Florida Statutes, are amended to read:

150 95.11 Limitations other than for the recovery of real
151 property.—Actions other than for recovery of real property shall
152 be commenced as follows:

153 (7) FOR INTENTIONAL TORTS BASED ON ABUSE.—An action founded
154 on alleged abuse, as defined in s. 39.01, s. 415.102, or s.
155 984.03, ~~or~~ incest, as defined in s. 826.04, or human
156 trafficking, as defined in s. 787.06, may be commenced at any
157 time within 7 years after the age of majority, or within 4 years
158 after the injured person leaves the dependency of the abuser, or
159 within 4 years from the time of discovery by the injured party
160 of both the injury and the causal relationship between the
161 injury and the abuse, whichever occurs later.

162 (9) SEXUAL BATTERY OFFENSES ON VICTIMS UNDER AGE 16.—An
163 action related to an act constituting a violation of s. 794.011
164 or brought pursuant to s. 787.061 involving a victim who was
165 under the age of 16 at the time of the act may be commenced at
166 any time. This subsection applies to any such action other than
167 one which would have been time barred on or before July 1, 2010.

168 Section 5. This act shall take effect October 1, 2018.