

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; providing definitions;
 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, punitive damages, and
 9 costs; requiring a court to impose civil penalties in
 10 certain circumstances; providing for distribution of
 11 civil penalties; providing for the distribution of
 12 punitive damages; providing that such actions are not
 13 subject to a statute of limitations; providing an
 14 affirmative defense for public lodging establishments
 15 under certain circumstances; amending s. 772.104,
 16 F.S.; specifying that certain provisions concerning
 17 civil actions for criminal practices do not apply to
 18 actions that may be brought under s. 787.061, F.S.;
 19 providing an effective date.

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

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 23 Section 1. This act may be cited as the "Civil Action for
 24 Victims of Human Trafficking and Prevention of Human Trafficking
 25 Act."

26 Section 2. Section 787.061, Florida Statutes, is created
27 to read:

28 787.061 Civil actions by victims of human trafficking.-

29 (1) FINDINGS.-The Legislature finds that, to achieve the
30 goals of the state relating to human trafficking in s.

31 787.06(1)(d), it is necessary to provide a civil cause of action
32 for the recovery of compensatory and punitive damages and costs.

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

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

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

42 (c) "Trafficker" means any person who knowingly engages in
43 human trafficking, attempts to engage in human trafficking, or
44 benefits financially by receiving anything of value from
45 participation in a venture that has subjected a person to human
46 trafficking.

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

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

51 (f) "Victim of human trafficking" means a person subjected
52 to coercion, as defined in s. 787.06, for the purpose of being
53 used in human trafficking, a child under 18 years of age
54 subjected to human trafficking, or an individual subjected to
55 human trafficking as defined by federal law.

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

63 (3) CIVIL CAUSE OF ACTION.—

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

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

70 (c) A victim who prevails in any such action is entitled
71 to recover economic and noneconomic damages, penalties, punitive
72 damages, reasonable attorney fees, reasonable investigative
73 expenses, and costs.

74 1. The measure of economic damages for services or labor
75 coerced from the victim of human trafficking is the greater of

76 the fair market value of the labor or services provided or the
77 amount realized by the trafficker. For purposes of this
78 subparagraph, the terms "services" and "labor" have the same
79 meanings as provided in s. 787.06.

80 2. The measure of economic damages for every day that the
81 human trafficking was ongoing shall be calculated as a daily
82 amount of the compensation payable to a person under s.
83 961.06(1)(a).

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

90 4. Noneconomic damages are nonfinancial losses that would
91 not have occurred but for the victimization, and include pain
92 and suffering, inconvenience, physical impairment, mental
93 anguish, disfigurement, loss of capacity for enjoyment of life,
94 and other nonfinancial losses.

95 (d) The remedies provided in this section are in addition
96 to and cumulative with other legal and administrative remedies
97 available to victims of human trafficking, except that a victim
98 may not recover under both this section and s. 772.104(2). If a
99 parent or legal guardian knowingly or through willful blindness
100 trafficked the victim, facilitated such trafficking, or

101 otherwise participated in the human trafficking of the victim,
102 such parent or legal guardian is not entitled to damages or
103 distributions under this section.

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

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

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

122 (h) Notwithstanding any other law to the contrary, the
123 amount of punitive damages awarded under this section shall be
124 equally divided between the victim and the trust fund.

125 (4) STATUTE OF LIMITATIONS.—There is no statute of

126 | limitations for actions brought under this section.

127 | (5) AFFIRMATIVE DEFENSE.—In any action brought under this
 128 | section against the owner or operator of a public lodging
 129 | establishment based on a claim of vicarious liability, it is an
 130 | affirmative defense against such claim if the owner or operator
 131 | proves by a preponderance of evidence that it:

132 | (a) Required employees of the establishment reasonably
 133 | expected to routinely interact with guests to complete an
 134 | educational program designed to effectively train such employees
 135 | in the identification and reporting of suspected human
 136 | trafficking within 30 days of hiring or by July 1, 2019,
 137 | whichever occurs later.

138 | (b) Had in place an employee protocol or employee code of
 139 | conduct to detect and report suspected human trafficking; and

140 | (c) Took reasonable steps, before the first incident
 141 | giving rise to such action, to ensure that any employees alleged
 142 | in the action to have been facilitators of, or otherwise
 143 | participants in, human trafficking, complied with the
 144 | recommendations and practices suggested or required in the
 145 | training, protocols, or policies required in this subsection.

146 | Section 3. Subsection (4) is added to section 772.104,
 147 | Florida Statutes, to read:

148 | 772.104 Civil cause of action.—

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

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151 Section 4. This act shall take effect July 1, 2018.