

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Toledo offered the following:

Amendment (with title amendment)

Remove lines 64-324 and insert:

Section 1. Section 90.5037, Florida Statutes, is created to read:

90.5037 Human trafficking victim advocate-victim privilege.-

(1) For purposes of this section, the term:

(a) "Anti-human trafficking organization" means a registered public or private agency that offers assistance to victims of the offense of human trafficking, as defined in s. 787.06(2).

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14 (b) "Human trafficking victim" means a person who consults
15 a human trafficking victim advocate or a trained volunteer for
16 the purpose of securing advice, counseling, or services
17 concerning a need arising from an experience of human
18 trafficking exploitation.

19 (c) "Human trafficking victim advocate" means an employee
20 of an anti-human trafficking organization whose primary purpose
21 is to provide advice, counseling, or services to human
22 trafficking victims and who complies with the training
23 requirements under subsection (5).

24 (d) "Trained volunteer" means a person who volunteers with
25 an anti-human trafficking organization and who complies with the
26 training requirements under subsection (5).

27 (2) A communication between a human trafficking victim
28 advocate or trained volunteer and a human trafficking victim is
29 confidential if it is not intended to be disclosed to third
30 persons other than:

31 (a) Those persons present to further the interest of the
32 human trafficking victim in the consultation, examination, or
33 interview.

34 (b) Those persons necessary for the transmission of the
35 communication.

36 (c) Those persons to whom disclosure is reasonably
37 necessary to accomplish the purposes for which the human
38 trafficking victim advocate or trained volunteer is consulted.

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39 (3) A human trafficking victim has a privilege to refuse
40 to disclose, and to prevent any other person from disclosing, a
41 confidential communication made by the human trafficking victim
42 to a human trafficking victim advocate or trained volunteer or a
43 record made in the course of advising, counseling, or providing
44 services to the human trafficking victim. Such confidential
45 communication or record may be disclosed only with the prior
46 written consent of the human trafficking victim. This privilege
47 includes any advice given by the human trafficking victim
48 advocate or trained volunteer to the human trafficking victim in
49 the course of that relationship.

50 (4) The privilege may be claimed by:

51 (a) The human trafficking victim or the human trafficking
52 victim's attorney on his or her behalf.

53 (b) The guardian or conservator of the human trafficking
54 victim.

55 (c) The personal representative of a deceased human
56 trafficking victim.

57 (d) The human trafficking victim advocate or trained
58 volunteer, but only on behalf of the human trafficking victim.
59 The authority of a human trafficking victim advocate or trained
60 volunteer to claim the privilege is presumed in the absence of
61 evidence to the contrary.

62 (5) A human trafficking victim advocate or a trained
63 volunteer shall:

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64 (a) Complete 24 hours of human trafficking training
65 delivered by the Office of the Attorney General, the Bureau of
66 Criminal Justice Programs and Victim Services, and the Florida
67 Crime Prevention Training Institute.

68 (b) Within 3 years after completing the training required
69 under paragraph (a), complete an 8-hour human trafficking update
70 course.

71 Section 2. Paragraphs (d) and (g) of subsection (2) and
72 paragraphs (a), (c), (e), (f), and (g) of subsection (3) of
73 section 787.06, Florida Statutes, are amended, and subsection
74 (12) is added to that section, to read:

75 787.06 Human trafficking.—

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

77 (d) "Human trafficking" means transporting, soliciting,
78 recruiting, harboring, providing, enticing, maintaining,
79 purchasing, patronizing, procuring, or obtaining another person
80 for the purpose of exploitation of that person.

81 (g) "Obtain" means, in relation to labor, commercial
82 sexual activity, or services, to receive, take possession of, or
83 take custody of another person or secure performance thereof.

84 (3) Any person who knowingly, or in reckless disregard of
85 the facts, engages in human trafficking, or attempts to engage
86 in human trafficking, or benefits financially by receiving
87 anything of value from participation in a venture that has
88 subjected a person to human trafficking:

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89 (a)1. For labor or services of any child younger than 18
90 years of ~~under the~~ age or an adult believed by the person to be
91 a child younger than ~~of~~ 18 years of age commits a felony of the
92 first degree, punishable as provided in s. 775.082, s. 775.083,
93 or s. 775.084.

94 2. Using coercion for labor or services of an adult
95 commits a felony of the first degree, punishable as provided in
96 s. 775.082, s. 775.083, or s. 775.084.

97 (c)1. For labor or services of any child younger than 18
98 years of ~~under the~~ age or an adult believed by the person to be
99 a child younger than ~~of~~ 18 years of age who is an unauthorized
100 alien commits a felony of the first degree, punishable as
101 provided in s. 775.082, s. 775.083, or s. 775.084.

102 2. Using coercion for labor or services of an adult who is
103 an unauthorized alien commits a felony of the first degree,
104 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

105 (e)1. For labor or services who does so by the transfer or
106 transport of any child younger than 18 years of ~~under the~~ age or
107 an adult believed by the person to be a child younger than ~~of~~ 18
108 years of age from outside this state to within this ~~the~~ state
109 commits a felony of the first degree, punishable as provided in
110 s. 775.082, s. 775.083, or s. 775.084.

111 2. Using coercion for labor or services who does so by the
112 transfer or transport of an adult from outside this state to

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113 within this ~~the~~ state commits a felony of the first degree,
114 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

115 (f)1. For commercial sexual activity who does so by the
116 transfer or transport of any child younger than 18 years of
117 under the age or an adult believed by the person to be a child
118 younger than ~~of~~ 18 years of age from outside this state to
119 within this ~~the~~ state commits a felony of the first degree,
120 punishable by imprisonment for a term of years not exceeding
121 life, or as provided in s. 775.082, s. 775.083, or s. 775.084.

122 2. Using coercion for commercial sexual activity who does
123 so by the transfer or transport of an adult from outside this
124 state to within this ~~the~~ state commits a felony of the first
125 degree, punishable as provided in s. 775.082, s. 775.083, or s.
126 775.084.

127 (g) For commercial sexual activity in which any child
128 younger than 18 years of ~~under the age~~ or an adult believed by
129 the person to be a child younger than ~~of~~ 18 years of age, or in
130 which any person who is mentally defective or mentally
131 incapacitated as those terms are defined in s. 794.011(1), is
132 involved commits a life felony, punishable as provided in s.
133 775.082(3)(a)6., s. 775.083, or s. 775.084.

134
135 For each instance of human trafficking of any individual under
136 this subsection, a separate crime is committed and a separate
137 punishment is authorized.

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138 (12) The Legislature encourages each state attorney to
 139 adopt a pro-prosecution policy for human trafficking offenses,
 140 as provided in this section. After consulting the victim, or
 141 making a good faith attempt to consult the victim, the state
 142 attorney shall determine the filing, nonfiling, or diversion of
 143 criminal charges even in circumstances when there is no
 144 cooperation from a victim or over the objection of the victim,
 145 if necessary.

T I T L E A M E N D M E N T

Remove lines 2-32 and insert:

150 An act relating to human trafficking; creating s. 90.5037,
 151 F.S.; providing definitions; providing that a communication
 152 between a human trafficking victim advocate or trained
 153 volunteer and a human trafficking victim is confidential in
 154 certain circumstances; specifying what the privilege
 155 encompasses; specifying who may claim the privilege;
 156 amending s. 787.06, F.S.; revising the definitions of the
 157 terms "human trafficking" and "obtain"; prohibiting a
 158 person from engaging in specified criminal acts relating to
 159 human trafficking with an adult believed to be a child
 160 younger than 18 years of age; providing criminal penalties;
 161 encouraging each state attorney to adopt a pro-prosecution
 162 policy for acts of human trafficking;

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