

HCS HB 214 -- HUMAN TRAFFICKING (Zerr)

COMMITTEE OF ORIGIN: Committee on Crime Prevention and Public Safety

This substitute changes the laws regarding human trafficking. In its main provisions, the substitute:

(1) Expands the crime of abusing an individual through forced labor, a class B felony, to include by causing or threatening to cause serious physical injury to any person, by physically restraining or threatening to physically restrain another person, or by blackmail. If death results from a violation of this crime or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony or an attempt to commit sexual abuse when punishable as a class B felony, or an attempt to kill, the crime will be a class A felony (Section 566.203, RSMo);

(2) Expands the crime of trafficking for the purpose of slavery, involuntary servitude, peonage, or forced labor to include if a person knowingly entices by the use of force, abduction, coercion, fraud, deception, or blackmail or causes or threatens to cause financial harm as well as benefits financially or by receiving anything of value for participating in these activities. The crime will be punishable by imprisonment for a term of not less than five years and not more than 20 years and a fine of up to \$250,000. If death results from a violation of this crime or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony or an attempt to commit sexual abuse when punishable as a class B felony, or an attempt to kill, the crime will be a class A felony and punishable by imprisonment for a term of not less than five years or life and a fine of up to \$250,000 (Section 566.206);

(3) Expands the crime of trafficking for the purposes of sexual exploitation to include if a person knowingly entices or harbors by the use of force, abduction, coercion, fraud, deception, or blackmail or causes or threatens to cause financial harm to another person for the use or employment in sexual conduct, a sexual performance, or the production of explicit sexual material as well as benefits financially or by receiving anything of value for participating in these activities. The crime will be punishable by imprisonment for a term of not less than five years and not more than 20 years and a fine of up to \$250,000. If a violation of this crime was effected by force, abduction, or coercion, it will be a class A felony. If death results from a violation of this crime or if the violation includes kidnapping or an attempt to kidnap, sexual abuse when punishable as a class B felony or an attempt to commit sexual abuse when punishable as

a class B felony, or an attempt to kill, the punishment will be imprisonment for a term of not less than five years or life and a fine of up to \$250,000 (Section 566.209);

(4) Expands the crime of sexual trafficking of a child to include if a person knowingly uses force, abduction, coercion, fraud, deception, or blackmail or causes or threatens to cause financial harm to a person younger than 18 years of age to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material. It will not be a defense that the defendant believed the person was 18 years of age or older. The crime will be punishable by imprisonment for a term of not less than 10 years or life and a fine of up to \$250,000 if the child is younger than 18 years of age. If a violation of this crime was effected by force, abduction, or coercion, the crime will be a felony for which the authorized term of imprisonment is life without eligibility for probation or parole until the defendant serves at least 25 years of his or her sentence (Section 566.212);

(5) Expands the crime of sexual trafficking of a child younger than 12 years of age to include if a person knowingly uses force, abduction, coercion, fraud, deception, or blackmail or causes or threatens to cause financial harm to a person younger than 12 years of age to participate in a commercial sex act, a sexual performance, or the production of explicit sexual material. It will not be a defense that the defendant believed the person was 12 years of age or older (Section 566.213);

(6) Specifies that a court must order a defendant convicted of trafficking or contributing to human trafficking to pay restitution to the victim regardless of whether the defendant is sentenced to a term of imprisonment or probation. The minimum restitution must be an amount determined by the court necessary to compensate the victim for the value of the victim's labor and/or for the mental and physical rehabilitation of the victim and any child of the victim (Section 566.218);

(7) Specifies that it will be an affirmative defense for the offense of prostitution that the defendant engaged in the conduct charged because he or she was coerced to do so by the use of, or threatened use of, unlawful physical force upon himself or herself or a third person in which a person of reasonable firmness in his or her situation would have been unable to resist (Section 566.223.2);

(8) Authorizes the Department of Public Safety to establish procedures for identifying victims of trafficking and to develop training programs and standard protocols to educate employees of appropriate agencies on state and federal laws regulating human

trafficking. Upon a first encounter with a person who reasonably appears to be a victim of trafficking, a law enforcement agency must notify the Department of Social Services and, where applicable, juvenile justice authorities in order for the agencies to determine whether the victim is eligible for state or federal assistance (Sections 566.223.3 and 566.223.4);

(9) Allows the Department of Social Services to coordinate with relevant state, federal, and local agencies to evaluate appropriate services for victims of trafficking and allows state agencies to implement programs with nonprofit agencies and nongovernment organizations to provide services to confirmed victims of trafficking if funds are available (Section 566.223.5);

(10) Allows a victim of trafficking to bring a civil action within 10 years after the later of the final criminal order, the victim's emancipation from the defendant, or the victim's eighteenth birthday against any person who pled guilty to or was found guilty of trafficking to recover the actual damage sustained, court costs, attorney fees, and punitive damages when determined appropriate by the court (Section 566.223.6); and

(11) Allows the Attorney General to file a civil action to recover from any person or entity that benefits from trafficking a civil penalty of up to \$50,000 for each violation and injunctive and other equitable relief as may be ordered by the court. Any money or property collected by a civil action must first be used to pay restitution to the victim (Section 566.223.7).

FISCAL NOTE: Estimated Net Cost on General Revenue Fund of Less than \$100,000 in FY 2012, FY 2013, and FY 2014. No impact on Other State Funds in FY 2012, FY 2013, and FY 2014.