

By Senator Bracy

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1 A bill to be entitled
2 An act relating to human trafficking; creating s.
3 787.061, F.S.; providing a short title; providing
4 Legislative findings and intent; defining terms;
5 creating a civil cause of action for minors who are
6 victims of human trafficking; authorizing such minors
7 to recover actual and punitive damages; authorizing
8 the seizure and forfeiture of personal and real
9 property used in human trafficking; providing for
10 recovery by a prevailing victim or the Florida
11 Compensation Trust Fund for Survivors of Human
12 Trafficking of attorney fees, investigative expenses,
13 court costs, economic and noneconomic damages,
14 forfeited personal and real property, and other
15 applicable civil penalties; requiring the court to
16 impose specified civil penalties in certain
17 circumstances; making personal or real property of
18 certain persons subject to civil forfeiture upon
19 disposition of certain leases, mortgages, or liens;
20 requiring the Governor to appoint an administrator and
21 a panel to evaluate and pay claims; requiring the
22 trust fund administrator to establish guidelines and
23 prepare and submit to the Governor an implementation
24 plan; requiring the Executive Office of the Governor
25 to issue an annual report on the compliance of the
26 trust fund with its duties; requiring that
27 applications for compensation be made available in at
28 least English and Spanish; requiring closed hearings
29 and the redaction or sealing of personal identifying

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30 information of the victim, upon the victim's request;
31 providing that there is no statute of limitation for
32 bringing an action; providing an effective date.
33

34 Be It Enacted by the Legislature of the State of Florida:
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36 Section 1. Section 787.061 Florida Statutes, is created to
37 read:

38 787.061 Human trafficking; civil action.-

39 (1) SHORT TITLE.-This section shall be known and may be
40 cited as the "Civil Action Against Human Trafficking of Minors
41 and Survivors Compensation Fund Act."

42 (2) LEGISLATIVE FINDINGS.-The Legislature finds that in
43 order to achieve the goals relating to human trafficking
44 expressed in s. 787.06(1)(d), it is necessary to provide a civil
45 cause of action for the recovery of compensatory and punitive
46 damages and for the civil seizure and forfeiture of the personal
47 and real property used by those who engage in the human
48 trafficking of minors for sex or labor and those who either
49 knowingly or through willful blindness receive profit from or
50 otherwise receive direct or indirect economic benefits from such
51 trafficking.

52 (3) LEGISLATIVE INTENT.-In order to combat the practice of
53 human trafficking, it is the intent of the Legislature to create
54 a civil cause of action for the minors who are victims of human
55 trafficking and to establish the Florida Compensation Trust Fund
56 for Survivors of Human Trafficking.

57 (4) DEFINITIONS.-As used in this section, the term:

58 (a) "Facilitate" or "facilitator" means assisting or

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59 providing services to a human trafficker which assist or enable
60 a trafficker to carry out human trafficking activities, or one
61 who provides such assistance or provides such services.

62 (b) "Human trafficking" has the same meaning as provided in
63 s. 787.06(2).

64 (c) "Trafficker" or "human trafficker" means any person who
65 knowingly, or in reckless disregard of the facts, engages in
66 human trafficking of a minor, attempts to engage in human
67 trafficking of a minor, or benefits financially by receiving
68 anything of value from participation in a venture that has
69 subjected a minor to human trafficking.

70 (d) "Trust fund" refers the Florida Compensation Trust Fund
71 for Survivors of Human Trafficking.

72 (e) "Willful blindness" occurs when a person's suspicions
73 are aroused and he or she realizes the probability that his or
74 her suspicions are well founded, but the person deliberately
75 refrains from obtaining confirmation of or acting on his or her
76 suspicions because he or she wants to remain in ignorance, when
77 knowledge of the suspected activity can be reasonably and fairly
78 imputed to such person.

79 (5) CIVIL CAUSE OF ACTION.—

80 (a) A minor who has been a victim of human trafficking has
81 a civil cause of action against the trafficker or facilitator of
82 human trafficking who victimized the minor and may recover
83 actual and punitive damages for such victimization, and may
84 seize and have forfeited the personal and real property of such
85 trafficker or facilitator used in such trafficking.

86 1. A civil action may be brought by any minor who has been
87 the victim of human trafficking, by the parent or guardian of

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88 the minor, by a person or entity acting on behalf of the minor
89 with the consent of the minor or his or her guardian, or by the
90 personal representative of the estate of a deceased victim who
91 was a minor.

92 2. A civil action may be brought by a licensed attorney in
93 good standing with The Florida Bar, on behalf of and for the
94 benefit of the Florida Compensation Trust Fund for Survivors of
95 Human Trafficking.

96 (b) A civil action may be brought in any court of competent
97 jurisdiction.

98 (c) A victim, or the trust fund on the victim's behalf, who
99 prevails in any such action by proving his or her case by the
100 greater weight of the evidence, is entitled to recover
101 reasonable attorney fees, reasonable investigative expenses,
102 court costs, economic and noneconomic damages, forfeited
103 personal and real property, and any other applicable civil
104 penalties.

105 (d) The remedies provided in this section are in addition
106 to and cumulative with other legal and administrative remedies
107 available to a victim of human trafficking.

108 (e) If a victim, or the trust fund on the victim's behalf,
109 prevails in any action brought under this section, in addition
110 to the verdict, the court shall impose a civil penalty against
111 the defendant in the amount of \$100,000 in favor of the
112 prevailing victim or the trust fund.

113 (f) In addition to a civil penalty imposed under paragraph
114 (e), if a law enforcement agency rescued the victim or located
115 the property upon which the abuse or exploitation of one or more
116 victims occurred, the court shall impose a civil penalty against

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117 the defendant in favor of the law enforcement agency in the
118 amount of \$50,000, which shall be used in support of the law
119 enforcement agency's future efforts to combat human trafficking.

120 (g) The personal or real property of a person who knowingly
121 or through willful blindness allowed his or her property to be
122 used to facilitate human trafficking is subject to civil
123 forfeiture. Subject only to the disposition of valid and lawful
124 leases or recorded mortgages or liens of innocent third parties
125 which were in effect before the date of the arrest of a
126 trafficker or perpetrator and the filing of the civil action,
127 the forfeited property shall be used or disposed of for the
128 benefit of the prevailing victim or the trust fund.

129 (h) The victim, or the trust fund on the victim's behalf,
130 is entitled to seize the personal and real property of
131 traffickers, perpetrators, and facilitators upon proving his or
132 her case by the greater weight of the evidence without having to
133 prove an actual amount of money damages of any individual victim
134 or victims.

135 (6) THE FLORIDA COMPENSATION TRUST FUND FOR SURVIVORS OF
136 HUMAN TRAFFICKING.—

137 (a) The Governor shall appoint the administrator of the
138 trust fund, created in s. 787.062, and a three-person panel to
139 fairly evaluate and pay compensation claims based upon the
140 individual circumstances of each victim and the availability of
141 current funds or future funds received.

142 (b) The trust fund administrator shall establish guidelines
143 and prepare and submit an implementation plan, and any
144 amendments to the plan, to the Governor.

145 (c) The Executive Office of the Governor shall prepare and

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146 issue an annual report on the compliance of the trust fund with
147 its duties.

148 (d) Applications for compensation must be made available in
149 at least English and in Spanish.

150 (7) COURT HEARINGS.—At the victim's request, court hearings
151 conducted pursuant to this section must be closed to the public
152 and any information in the court file and online docket which
153 identifies a victim of human trafficking must be redacted or
154 sealed.

155 (8) STATUTE OF LIMITATIONS.—There is no statute of
156 limitations for suits brought pursuant to this section.

157 Section 2. This act shall take effect July 1, 2017.