

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 811 Human Trafficking

SPONSOR(S): Thompson and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 168

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee	7 Y, 0 N, As CS	Krol	Kramer
2)	State Universities & Private Colleges Policy Committee			
3)	Criminal & Civil Justice Policy Council			
4)	State Universities & Private Colleges Appropriations Committee			
5)	Full Appropriations Council on Education & Economic Development			

SUMMARY ANALYSIS

HB 811 creates the Florida Statewide Task Force on Human Trafficking within the Executive Office of the Governor. The bill prescribes the membership of the task force, its activities, and other matters necessary to the task force completing its work.

The bill requires the task force to receive the Statewide Strategic Plan currently being formulated by the Florida State University Center for the Advancement of Human Rights, and to receive, revise, and propose a plan of implementation of the strategic plan.

The bill also requires the Florida State University Center for the Advancement of Human Rights to carry out specified activities.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

According to the United States Immigration and Customs Enforcement,¹

“An estimated 800,000 men, women and children are trafficked across international borders each year, according to the U.S. Department of State. Victims are trafficked into the international sex trade and into forced labor situations throughout the world. Many of these victims are lured from their homes with false promises of well-paying jobs; instead, they are forced or coerced into prostitution, domestic servitude, farm or factory labor or other types of forced labor.”

The United States Department of Health and Human Services² reports,

“After drug dealing, human trafficking is tied with the illegal arms industry as the second largest criminal industry in the world today, and it is the fastest growing.”

Federal Human and Sex Trafficking Laws

In October 2000, the Trafficking Victims Protection Act of 2000 (TVPA)³ was enacted. According to the U.S. Department of Justice, the TVPA “provides extensive protections and services for victims of trafficking found in the United States regardless of nationality” and defines “severe forms of trafficking in persons” as:

- Sex trafficking in which a commercial sex act is induced by force, fraud or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

¹ “Human Trafficking and Human Smuggling,” U.S. Immigration and Customs Enforcement, fact sheet dated November 19, 2008, (<http://www.ice.gov/pi/news/factsheets/humantrafficking.htm>).

² “Human Trafficking Fact Sheet,” U.S. Department of Health and Human Services, (http://www.acf.hhs.gov/trafficking/about/fact_human.html).

³ Pub.L. No. 106-386 (2000).

- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.⁴

Florida Human and Sex Trafficking Laws

Human trafficking is defined as transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport.⁵

Section 787.06(3), F.S., provides that it is a second-degree felony⁶ for any person to knowingly:

- Engage, or attempt to engage, in human trafficking with the intent or knowledge that the trafficked person will be subjected to forced labor or services; or
- Benefit financially by receiving anything of value from participation in a venture that has subjected a person to forced labor or services.

Section 796.045, F.S., provides that any person who knowingly recruits, entices, harbors, transports, provides, or obtains by any means a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution, commits the offense of sex trafficking, a second degree felony. However, a person commits a first degree felony if the offense of sex trafficking is committed against a person who is under the age of 14 or if such offense results in death.

The Florida State University Center for the Advancement of Human Rights (center) was created in 2000 through the funds from an anonymous donor matched by the State of Florida. The center was mandated with three tasks:

- Facilitating the development of interdisciplinary human rights courses throughout the university and of fostering human rights scholarship;
- Establishing human rights field placements for FSU students and engaging in direct human rights advocacy; and
- Supporting non-governmental organizations (NGOs) throughout the world that engage in human rights work.

The center is currently engaged in creating a Strategic Plan for Florida to better coordinate statewide efforts to eliminate trafficking and to better assist victims.⁷

HB 811 contains the Legislature's declaration that the purpose of this act is to create a public and private task force to examine and analyze the problem of human trafficking and to plan for a coordinated, humane response for victims of human trafficking through a review of existing programs, a clarification of existing options for such victims, and revised policy efforts to coordinate governmental and private efforts.

The bill creates within the Executive Office of the Governor the Florida Statewide Task Force on Human Trafficking.⁸ The task force is created for the express purpose of examining the problem of human trafficking and recommending strategies and actions for reducing or eliminating the unlawful trafficking of men, women, and children into this state. The bill provides that the task force consists of the following governmental members (or their designee):

- The executive director of the Department of Law Enforcement, who serves as co-chair;
- The Secretary of Children and Family Services, who serves as co-chair;

⁴ "Trafficking in Persons Report," U.S. Department of State, 2007.

⁵ Section 787.06(2)(c), F.S.

⁶ As punishable by ss. 775.082, 775.083, and 775.084, F.S.

⁷ Florida State University Center for the Advancement of Human Rights, (<http://www.cahr.fsu.edu/index.html>).

⁸ The bill creates a "task force" as defined in s. 20.03, F.S.

- The Chief Financial Officer;
- The Commissioner of Agriculture;
- The Attorney General;
- The State Surgeon General;
- The statewide prosecutor;
- The executive director of the Florida Commission on Human Relations;
- The Secretary of Business and Professional Regulation;
- A sheriff; and
- A police chief.

The task force also consists of the following nongovernmental members:

- The executive director of the Florida State University Center for the Advancement of Human Rights;
- The executive director of the Florida Immigrant Advocacy Center;
- The Secretary of the Coalition of Immokalee Workers;
- The executive director of the Florida Coalition Against Human Trafficking;
- The executive director of the Florida Freedom Partnership;
- The executive director of Gulf Coast Legal Services;
- The executive director of the Florida Council Against Sexual Violence; and
- The executive director of the Florida Coalition Against Domestic Violence;

The bill requires the Governor to appoint a sheriff and a police chief to the task force by July 1, 2009, and provides that the Governor may appoint additional ex officio members at any time. Members of the task force serve without compensation or reimbursement for per diem and travel expenses.

The bill provides that the task force is required to receive the Statewide Strategic Plan currently being formulated by the Florida State University Center for the Advancement of Human Rights. This plan must be presented at the first meeting of the task force no later than November 1, 2009. The work of the task force is to receive, revise, and propose a plan of implementation of the strategic plan no later than October 1, 2010.

The bill requires the Florida State University Center for the Advancement of Human Rights to carry out the following activities:

- Collect and organize data concerning the nature and extent of trafficking in persons in Florida and measure and evaluate the progress in the state in preventing trafficking, protecting and providing assistance to victims of trafficking, and prosecuting persons engaged in trafficking activities;
- Identify available federal, state, and local programs in this state which provide services to victims of trafficking, including, but not limited to, health care and human services, housing services, education services, legal assistance, job training or preparation classes, interpreting services, English as a Second Language classes, and victim's compensation;
- Evaluate approaches to increase public awareness of trafficking, particularly the risks of becoming a trafficking victim; the common recruitment techniques; the use of debt bondage, blackmail, forced labor and services, prostitution, and other coercive tactics; the crime victims' rights; and the reporting of recruitment activities involved in trafficking;
- Analyze the current state, local, and federal criminal statutes for their adequacy in addressing trafficking and, if the analysis determines that those statutes are inadequate, recommend revisions to those statutes or the enactment of new statutes that specifically define and address trafficking; and
- Consult with governmental and nongovernmental organizations, especially those specializing in stopping trafficking or representing diverse communities disproportionately affected by trafficking, in developing recommendations to strengthen state and local efforts to prevent trafficking, protect and assist victims of trafficking, and prosecute traffickers.

The bill provides that the task force is abolished on July 1, 2011.

- B. SECTION DIRECTORY: Section 1. Creates an act relating to human trafficking; creating within the Executive Office of the Governor the Florida Statewide Task Force on Human Trafficking.
Section 2. Provides the act will take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See "Fiscal Comments."

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See "Fiscal Comments."

2. Expenditures:

See "Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "Fiscal Comments."

D. FISCAL COMMENTS:

The bill provides that members of the task force serve without compensation or reimbursement for per diem and travel expenses. This would require state employees to pay for their own per diem and travel expenses. Apparently private entities would be required to pay for their own travel. The bill specifies that the task force is created within the Executive Office of the Governor but does not specify that that office (or any other office or agency) is responsible for providing staff services to the task force.

This bill may increase the work load of the Florida State University Center for the Advancement of Human Rights.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that employees will not be compensated or reimbursed for their travel or per diem. State agencies generally reimburse employees, however the bill would apparently require employees to pay out of pocket for travel or per diem expenses.

The Florida State University Center for the Advancement of Human Rights was not a statutorily created entity and its responsibilities are not set forth in statute. It is not clear why legislation is needed to require the center to complete functions that could be completed without legislation.

The bill does not specify who will decide when, where and how often the task force meets.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2009, the Public Safety & Domestic Security Policy Committee adopted an amendment that amends the bill as follows:

Moves the Florida Coalition Against Domestic Violence from the governmental agency list to the nongovernmental agency list.