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LEGISLATIVE ACTION

Senate

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House

Floor: 1a/AD/3R

03/09/2018 06:39 PM

Senator Steube moved the following:

1 **Senate Amendment to Amendment (813382) (with title**
2 **amendment)**

3
4 Delete lines 5 - 118

5 and insert:

6 Section 3. Effective January 1, 2019, section 787.061,
7 Florida Statutes, is created to read:

8 787.061 Civil actions by victims of human trafficking.-

9 (1) FINDINGS.-The Legislature finds that, to achieve the

10 intent of the Legislature relating to human trafficking

11 expressed in s. 787.06(1)(d), it is necessary to provide a civil



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12 cause of action for the recovery of compensatory and punitive
13 damages, attorney fees, and costs.

14 (2) DEFINITIONS.—As used in this section, the term:

15 (a) "Facilitator" means a person who knowingly, or in
16 willful blindness, assists or provides resources or goods or
17 services to a trafficker which assist or enable the trafficker
18 to carry out human trafficking. The term does not include a
19 person who facilitates human trafficking as a result of force,
20 threat, or coercion.

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

23 (c) "Trafficker" means any person who knowingly engages in
24 human trafficking, attempts to engage in human trafficking, or
25 benefits financially by receiving anything of value from
26 participation in a venture that has subjected a person to human
27 trafficking.

28 (d) "Venture" means any group of two or more individuals
29 associated in fact, whether or not a legal entity.

30 (e) "Victim of human trafficking" means a person subjected
31 to coercion, as defined in s. 787.06, for the purpose of being
32 used in human trafficking; a child under 18 years of age
33 subjected to human trafficking; or an individual subjected to
34 human trafficking as defined by federal law.

35 (f) "Willful blindness" exists when a person has knowledge
36 of information that would raise suspicions in a reasonable
37 person and he or she deliberately refrains from obtaining
38 confirmation of or acting on the information because he or she
39 wants to remain in ignorance, such that knowledge of the facts
40 avoided can reasonably and fairly be imputed to the person who



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41 avoided confirming it.

42 (3) CIVIL CAUSE OF ACTION.—

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

46 (b) The action may be brought in any court of competent
47 jurisdiction, and the standard of proof is the greater weight of
48 the evidence, but the standard of proof for punitive damages
49 under this section is clear and convincing evidence.

50 (c) A victim who prevails in any such action is entitled to
51 recover economic and noneconomic damages, punitive damages,
52 reasonable attorney fees, reasonable investigative expenses, and
53 costs.

54 1. Economic damages include, but are not limited to, past
55 and future medical and mental health expenses; repatriation
56 expenses, when a victim elects repatriation; and all other
57 reasonable costs and expenses incurred by the victim in the past
58 or estimated to be incurred by the victim in the future as a
59 result of the human trafficking.

60 2. Noneconomic damages include pain and suffering,
61 inconvenience, physical impairment, mental anguish,
62 disfigurement, loss of capacity for enjoyment of life, and other
63 nonfinancial losses.

64 (d) The remedies provided in this section are in addition
65 to and cumulative with other legal and administrative remedies
66 available to victims of human trafficking, except that a victim
67 may not recover under this section and s. 772.104(2). If a
68 parent or legal guardian knowingly or through willful blindness
69 trafficked the victim, facilitated such trafficking, or



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

73 (e) If a victim prevails in an action under this section,
74 and if one or more law enforcement agencies rescued the victim
75 or stopped the abuse or exploitation of a victim on the property
76 where it occurred, the court shall assess a civil penalty
77 against the defendant in the amount of \$50,000 and award the
78 penalty to such law enforcement agencies to fund future efforts
79 to combat human trafficking. This penalty is in addition to, and
80 not in lieu of, any other damage award. The court shall
81 equitably distribute this civil penalty among the law
82 enforcement agencies. The entire \$50,000 civil penalty shall be
83 distributed to the law enforcement agencies unless the proceeds
84 become subject to equitable distribution under paragraph (f).

85 (f) If an action brought under this section is either
86 settled before a jury verdict or the victim is unable to recover
87 the full amount of the compensatory damages caused by the human
88 trafficking, the court must determine the percentage of the
89 victim's damages that were recovered, after deducting a victim's
90 reasonable and necessary out-of-pocket expenses, but before
91 attorney fees, and that same percentage of \$50,000 must be paid
92 from the recovery to the law enforcement agencies to fund future
93 efforts to combat human trafficking if one or more law
94 enforcement agencies are entitled to a civil penalty under
95 paragraph (e).

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



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

101 And the title is amended as follows:

102 Delete lines 233 - 239

103 and insert:

104 to impose a civil penalty under certain circumstances;

105 providing that such actions are subject to