

HCS HB 214 -- HUMAN TRAFFICKING

SPONSOR: Schad (Zerr)

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 12 to 0.

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, by blackmailing, or by causing or threatening to cause financial harm to any person. 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, a class B felony, 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. 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 566.206);

(3) Expands the crime of trafficking for the purposes of sexual exploitation, a class B felony, 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. If a violation of this crime was effected by force, abduction, or coercion, the crime will be a class A felony (Section 566.209);

(4) Expands the crime of sexual trafficking of a child, a class A felony, 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. 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 any victim of trafficking being prosecuted for a prostitution offense under Chapter 567 that the person was a victim of trafficking during the time of the alleged offense and that the crime was committed at the direction of another person or in furtherance of the trafficking enterprise (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 or prosecuting or circuit attorney's office 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.

PROPOSERS: Supporters say that sexual trafficking occurs more frequently than most believe by using deception and threats of violence in order to control victims and to force them into labor and prostitution. The bill helps law enforcement officers better identify the crime so victims will be more likely to receive assistance and restitution. There is a recurring link between sexual trafficking and the production of pornography that needs to be addressed. Certain groups of people, including those brought into our country, are particularly vulnerable to exploitation.

Testifying for the bill were Representative Zerr; Missouri Catholic Conference; Deborah Hume, Central Missouri Stop Human Trafficking Coalition; Margaret Howard; Kristy Childs, Veronica's Voice; Office of the Attorney General; Missouri Family Policy Council; Missouri Coalition Against Domestic and Sexual Violence; Missouri Baptist Convention, Christian Life Commission; Missouri Family Network; Vanessa Crawford, Missouri Immigrant and Refugee Advocates; and Donald Love, Missouri Association for Social Welfare-Human Rights.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say that the Children's Services Commission has recently addressed this issue and has

compiled its findings.

Testifying on the bill was Representative Grisamore.