

FINAL BILL REPORT

SSB 5546

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Synopsis as Enacted

Brief Description: Concerning the crime of human trafficking.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Kohl-Welles, Delvin, Chase, Pflug, Fraser, Keiser, Rockefeller, Regala, Kline, Holmquist Newbry, King, Shin, White, Stevens, Roach and Conway).

Senate Committee on Judiciary

House Committee on Public Safety & Emergency Preparedness

Background: In 2000 the United States enacted the Trafficking Victims Protection Act; and, in 2003 Washington was the first state to pass a law criminalizing human trafficking.

According to the 10th annual trafficking in persons report produced by the United States Department of State, the United States is a source, transit, and destination country for men, women, and children subjected to trafficking in persons, specifically forced labor, debt bondage, and forced prostitution. Trafficking occurs primarily for labor and most commonly in domestic servitude, agriculture, manufacturing, janitorial services, hotel services, construction, health and elder care, hair and nail salons, and strip club dancing. Trafficking cases also involve passport confiscation, nonpayment or limited payment of wages, restriction of movement, isolation from the community, and physical and sexual abuse as means of keeping victims in compelled service. The 2008 report produced by the Washington State Task Force Against the Trafficking of Humans indicates that several factors make Washington prone to human trafficking. The factors cited are Washington's international border with Canada, an abundance of ports, vast rural areas, and a dependency on agricultural workers.

A person commits the crime of trafficking when he or she recruits, harbors, transports, provides, or obtains another person knowing that force, fraud, or coercion will be used to cause that person to engage in forced labor or involuntary servitude. The crime is also committed when a person benefits financially or otherwise from participating in such acts. It is trafficking in the first degree if these acts include committing or attempting to commit kidnapping; involve a finding of sexual motivation; or result in a death. Trafficking in the first degree is a class A felony, ranked at seriousness level XIV for purposes of sentencing. Trafficking in the second degree is committed when a person recruits, harbors, transports, provides, or obtains another person knowing that force, fraud, or coercion will be used to cause that person to engage in forced labor or involuntary servitude. The crime is also

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committed when a person benefits financially or otherwise from participating in such acts. Trafficking in the second degree is a class A felony, ranked at seriousness level XII.

Summary: A person commits the crime of trafficking when he or she recruits, harbors, transports, transfers, provides, obtains, or receives another person knowing that force, fraud, or coercion is used to cause that person to engage in forced labor, involuntary servitude, or a commercial sex act. The crime is also committed when a person benefits financially or otherwise from participating in the recruitment, harboring, transporting, transferring, providing, obtaining, or receiving another person knowing that force, fraud, or coercion is used to cause that person to engage in forced labor, involuntary servitude, or a commercial sex act. It is trafficking in the first degree if these acts include committing or attempting to commit kidnapping, involve a finding of sexual motivation, result in a death, or involve illegal harvesting and sale of human organs.

Trafficking in the second degree is committed when a person recruits, harbors, transports, transfers, provides, obtains, or receives another person knowing that force, fraud, or coercion is used to cause that person to engage in forced labor, involuntary servitude, or a commercial sex act. The crime is also committed when a person benefits financially or otherwise from participation in the above described illegal acts.

Forced labor is defined as knowingly providing or obtaining labor or services of a person by (1) threats of serious harm to, or physical restraint against, that person or another person; or (2) means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint. A definition is provided for involuntary servitude. It means a condition of servitude in which the victim was forced to work by the use or threat of physical restraint or physical injury, or by the use of threat of coercion through law or legal process. Serious harm means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor, services, or a commercial sex act in order to avoid incurring that harm. A commercial sex act is defined as any act of sexual contact or sexual intercourse for which something of value is given or received. The offenses of human trafficking in the first or second degree and the offense of promoting commercial sexual abuse of a minor are added to the statutory provision, RCW 9.95.062, that lists certain crimes for which a stay of judgment on appeal is not allowed. Human trafficking in the first or second degree and promoting commercial sexual abuse of a minor are added to the statutory provision, RCW 10.64.025, which lists the offenses for which a defendant is required to be automatically remanded into custody upon conviction while awaiting sentencing.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: July 22, 2011.