
**Community Safety, Justice, & Reentry
Committee**

HB 1150

Brief Description: Creating the offense of unlawful branding of another person.

Sponsors: Representatives Mosbrucker, Rule and Reeves.

Brief Summary of Bill

- Creates the crime of unlawful branding and classifies it as a class B felony and a seriousness level V crime.
- Defines unlawful branding as marking another person's body with a subdermal implant, tattoo, or body art to track or mark the person for ownership.

Hearing Date: 1/16/23

Staff: Martha Wehling (786-7067).

Background:

Trafficking.

"Trafficking" occurs when a person forces another person to perform labor, involuntary servitude, sexually explicit acts, or commercial sex acts. Trafficking in the first and second degree are class A felonies. Trafficking in the first degree is a seriousness level XIV crime, and trafficking in the second degree is a seriousness level XII crime.

Promoting Prostitution.

"Prostitution" is sexual conduct in return for payment. A person is guilty of promoting prostitution when a person uses threat or force to compel a victim to engage in prostitution, or

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when the person profits from prostitution. Promoting prostitution in the first and second degree are class B or C felonies, and seriousness level VIII and III crimes, respectively.

Classification of Crimes and Fines.

Crimes are classified as misdemeanors, gross misdemeanors, or felonies. The classification of a crime generally determines the maximum term of confinement (prison or jail) and/or fine for an offense. For each classification, the maximum terms of confinement and maximum fines are as follows:

<u>Classification</u>	<u>Maximum Confinement</u>	<u>Maximum Fine</u>
Misdemeanor	90 days	\$1,000
Gross Misdemeanor	364 days	\$5,000
Class C Felony	5 years	\$10,000
Class B Felony	10 years	\$20,000
Class A Felony	Life	\$50,000

The classification generally determines the maximum term of confinement. When a person is convicted of a felony, the Sentencing Reform Act (SRA) applies. The SRA is a determinate sentencing system in which a judge selects a particular sentence from a standard range. The standard range is determined by reference to a statutory grid, which is based on the defendant's criminal history (converted into an offender score) and the severity of the offense (according to designated seriousness levels). Seriousness levels range from I to XVI, and offender scores can range from zero to nine or more points. A higher seriousness level or offender score results in a longer sentence.

Statute of Limitations.

Criminal offenses must be prosecuted within specified time periods, which is called the "statute of limitations." Once a statute of limitations has expired, a prosecutor is barred from bringing charges against an alleged perpetrator. Statutes of limitation vary according to the crime. Trafficking must be prosecuted within 10 years, and promoting prostitution must be prosecuted within three years.

Summary of Bill:

A new crime is created that criminalizes the branding of another person. A person is guilty of Unlawful Branding of Another Person if the person:

- marks the victim's body with a subdermal implant, tattoo, or body art or uses force, fraud, or coercion to cause the victim to be marked;
- intends that the mark will be used to track or mark the victim for ownership; and
- intends to engage in Trafficking or Promoting Prostitution.

"Tattoo" means to pierce or puncture human skin to implant an indelible mark in the skin.

"Body art" means invasive cosmetic adornment, including branding and scarification. It does not include health-related procedures performed by licensed health care practitioners.

"Coercion" means use of a threat to compel or induce another person to engage in conduct which the person has a legal right to abstain from, or to compel or induce another person to abstain from conduct which the person has a legal right to engage in.

The use of branding to engage in trafficking or prostitution of the victim is a class B felony and seriousness level V offense.

Unlawful branding must be prosecuted within 10 years of its commission, unless the victim is younger than 18. If the crime is committed against a victim under the age of 18, it must be prosecuted within 10 years or by the victim's thirtieth birthday, whichever is later.

Appropriation: None.

Fiscal Note: Requested on January 10, 2023.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.