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JUDICIARY

HOUSE FILE 2205
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(COMPANION TO SF 2027
BY TINSMAN)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to human trafficking and related offenses,
2 including the provision of law enforcement training and victim
3 assistance programs, and providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2205

1 Section 1. Section 80B.11, Code 2005, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4A. Training standards on the subject of
4 human trafficking. The course of instruction and training
5 standards shall be developed by the director in consultation
6 with the appropriate national and state experts in the field
7 of human trafficking.

8 Sec. 2. NEW SECTION. 710A.1 DEFINITIONS.

9 As used in this chapter:

10 1. "Commercial sexual activity" means any sex act on
11 behalf of which anything of value is given, promised to, or
12 received by any person and includes, but is not limited to,
13 prostitution, participation in the production of pornography,
14 and performance in strip clubs.

15 2. "Forced labor or services" means labor or services that
16 are performed or provided by another person and that are
17 obtained or maintained through any of the following:

18 a. Causing or threatening to cause serious physical injury
19 to any person.

20 b. Physically restraining or threatening to physically
21 restrain another person.

22 c. Abusing or threatening to abuse the law or legal
23 process.

24 d. Knowingly destroying, concealing, removing,
25 confiscating, or possessing any actual or purported passport
26 or other immigration document, or any other actual or
27 purported government identification document, of another
28 person.

29 3. "Labor" means work of economic or financial value.

30 4. "Maintain" means, in relation to labor and services, to
31 secure continued performance thereof, regardless of any
32 initial agreement on the part of the victim to perform such
33 type of services.

34 5. "Minor" means a person under the age of eighteen years.

35 6. "Obtain" means, in relation to labor or services, to

1 secure performance thereof.

2 7. "Services" means an ongoing relationship between a
3 person and the actor in which the person performs activities
4 under the supervision of or for the benefit of the actor,
5 including commercial sexual activity and sexually explicit
6 performances.

7 8. "Sexually explicit performance" means a live or public
8 act or show intended to arouse or satisfy the sexual desires
9 or appeal to the prurient interest of patrons.

10 9. "Venture" means any group of two or more persons
11 associated in fact, whether or not a legal entity.

12 10. "Victim" means a person subjected to the practices set
13 forth in section 710A.2, 710A.3, or 710A.4.

14 Sec. 3. NEW SECTION. 710A.2 FORCED LABOR AND SERVICES.

15 1. A person who knowingly subjects, attempts to subject,
16 or engages in a conspiracy to subject another person to forced
17 labor or services by causing or threatening to cause serious
18 physical injury to that other person is guilty of a class "B"
19 felony, except that if that other person is a minor, a person
20 who violates this subsection is guilty of a class "A" felony.

21 2. A person who knowingly subjects, attempts to subject,
22 or engages in a conspiracy to subject another person to forced
23 labor or services by physically restraining or threatening to
24 physically restrain that other person is guilty of a class "C"
25 felony, except that if that other person is a minor, a person
26 who violates this subsection is guilty of a class "B" felony.

27 3. A person who knowingly subjects, attempts to subject,
28 or engages in a conspiracy to subject another person to forced
29 labor or services by abusing or threatening to abuse the law
30 or legal process is guilty of a class "D" felony, except that
31 if that other person is a minor, a person who violates this
32 subsection is guilty of a class "C" felony.

33 4. A person who knowingly subjects, attempts to subject,
34 or engages in a conspiracy to subject another person to forced
35 labor or services by knowingly destroying, concealing,

1 removing, confiscating, or possessing any actual or purported
2 passport or other immigration document, or any other actual or
3 purported government identification document, of that other
4 person is guilty of a class "D" felony, except that if that
5 other person is a minor, a person who violates this subsection
6 is guilty of a class "C" felony.

7 Sec. 4. NEW SECTION. 710A.3 HUMAN TRAFFICKING -- FORCED
8 LABOR AND SERVICES.

9 1. A person shall not knowingly recruit, entice, harbor,
10 transport, provide, or obtain by any means, or attempt to
11 recruit, entice, harbor, transport, provide, or obtain by any
12 means, another person, with the intent that the other person
13 be subjected to forced labor or services.

14 2. A person shall not knowingly benefit, financially or by
15 receiving anything of value, from participation in a venture
16 that involves a violation of this section.

17 3. A person who violates this section is guilty of a class
18 "B" felony, except that if the other person is a minor, a
19 person who violates this section is guilty of a class "A"
20 felony.

21 Sec. 5. NEW SECTION. 710A.4 HUMAN TRAFFICKING -- SEXUAL
22 EXPLOITATION OF A MINOR.

23 1. A person shall not knowingly recruit, entice, harbor,
24 transport, provide, or obtain by any means, or attempt to
25 recruit, entice, harbor, transport, provide, or obtain by any
26 means, a minor, with the intent that the minor be subjected to
27 sexual exploitation in violation of section 728.12.

28 2. A person shall not knowingly benefit, financially or by
29 receiving anything of value, from participation in a venture
30 that involves a violation of section 728.12.

31 3. A person who violates this section is guilty of a class
32 "A" felony.

33 Sec. 6. NEW SECTION. 710A.5 SENTENCING ENHANCEMENTS.

34 1. If a violation of section 710A.2 or 710A.3 results in
35 the death of the person or if the person is kidnapped in

1 violation of section 710.2 or 710.3, the defendant is guilty
2 of a class "A" felony.

3 2. In sentencing a person for a violation of section
4 710A.2, 710A.3, or 710A.4, the court shall sentence the
5 defendant to an additional term of confinement of ten years in
6 cases in which the victim was maintained or held for a period
7 greater than one hundred eighty days or if the offense
8 involved more than ten victims.

9 Sec. 7. NEW SECTION. 710A.6 AFFIRMATIVE DEFENSE.

10 It shall be an affirmative defense to a prosecution for any
11 criminal violation that, during the time of the alleged
12 commission of the offense, the defendant was a victim of a
13 crime that is an offense in violation of section 710A.2,
14 710A.3, or 710A.4.

15 Sec. 8. NEW SECTION. 710A.7 PRIVATE RIGHT OF ACTION.

16 A person who is a victim of a crime that is an offense in
17 violation of section 710A.2, 710A.3, or 710A.4 has a right of
18 action against the perpetrator in state court. The court may
19 award actual and punitive damages, reasonable attorney fees,
20 and any other costs reasonably incurred. Any civil action
21 filed under this section shall be stayed during the pendency
22 of any criminal action arising out of the same occurrence in
23 which the plaintiff is a victim.

24 Sec. 9. NEW SECTION. 710A.8 CORPORATE LIABILITY.

25 If a corporation is convicted of an offense pursuant to
26 section 710A.2, 710A.3, or 710A.4, in addition to any other
27 penalties provided in this chapter, the court shall, where
28 appropriate, do any of the following:

29 1. Order the corporation's dissolution or reorganization.

30 2. Order the suspension or revocation of any license,
31 permit, or prior approval granted by a state agency.

32 3. Order the surrender of the corporation's organizational
33 authority if organized under state law or revocation of the
34 corporation's authority to conduct business in this state.

35 Sec. 10. NEW SECTION. 710A.9 FORFEITURE.

1 A person who commits an offense under this chapter shall
2 forfeit to the state any profits or proceeds and any interest
3 or property the person acquired or maintained in relation to a
4 violation of section 710A.2, 710A.3, or 710A.4, in accordance
5 with the provisions of chapters 809 and 809A.

6 Sec. 11. NEW SECTION. 710A.10 RESTITUTION AND ADDITIONAL
7 FINE.

8 In addition to any fine or penalty imposed under this
9 chapter, the court shall order a defendant convicted of a
10 violation of this chapter to make restitution for damages
11 resulting directly from the violation, to the victim, pursuant
12 to chapter 910, and shall include an additional fine of the
13 greater of either the gross income or value of the victim's
14 labor or services or the value of the victim's wages of not
15 less than the applicable federal minimum wage under the
16 federal Fair Labor Standards Act.

17 Sec. 12. NEW SECTION. 710A.11 CERTIFICATION.

18 The attorney general shall certify in writing to the United
19 States department of justice or other federal agency that an
20 investigation or prosecution under this chapter has begun and
21 that the person who is a likely victim of a crime described in
22 section 710A.2 or 710A.3 is willing to cooperate or is
23 cooperating with the investigation to enable the person, if
24 eligible under federal law, to qualify for an appropriate
25 special immigrant visa and to access available federal
26 benefits. Cooperation with law enforcement shall not be
27 required of a minor victim of a crime described in section
28 710A.2, 710A.3, or 710A.4. This certification shall be made
29 available to the victim and the victim's designated legal
30 representative.

31 Sec. 13. NEW SECTION. 915.51 GENERAL RIGHTS OF HUMAN
32 TRAFFICKING VICTIMS.

33 1. In addition to other victim rights provided in this
34 chapter, including the right to receive victim compensation
35 pursuant to section 915.84, victims of a crime described in

1 section 710A.2, 710A.3, or 710A.4 shall have the following
2 rights without regard to their immigration status:

3 a. The right to receive prompt medical care including
4 mental health care, food, shelter, and other assistance, if
5 necessary.

6 b. The right to have access to legal assistance and
7 translation services, if necessary.

8 c. The right to receive reasonable police protection if a
9 victim's safety is at risk or if there is any danger of
10 additional harm, including measures to protect victims and
11 their family members from intimidation and threats of
12 reprisals from traffickers and their associates and ensuring
13 that the names and identifying information of victims and
14 their family members are not disclosed to the public.

15 2. The departments of human services, human rights,
16 health, public safety, justice, and other public state
17 agencies shall provide the requisite services to assist in the
18 administration of this section.

19 EXPLANATION

20 This bill relates to human trafficking and related
21 offenses, including the provision of law enforcement training
22 and victim assistance programs, and provides penalties.

23 The bill provides that a person who knowingly subjects,
24 attempts to subject, or engages in a conspiracy to subject
25 another person to forced labor or services by causing or
26 threatening to cause serious physical injury to that person,
27 by physically restraining or threatening to physically
28 restrain another person, by abusing or threatening to abuse
29 the law or legal process, or by destroying, concealing,
30 removing, confiscating, or possessing any actual or purported
31 passport or other immigration document, or any other actual or
32 purported government identification document, of another
33 person is guilty of the crime of forced labor and services and
34 is subject to a class "B" felony, a class "C" felony, or a
35 class "D" felony, depending upon the circumstances of the

1 offense. A class "B" felony is punishable by confinement for
2 no more than 25 years, a class "C" felony is punishable by
3 confinement for no more than 10 years and a fine of at least
4 \$1,000 but not more than \$10,000, and a class "D" felony is
5 punishable by confinement for no more than five years and a
6 fine of at least \$750 but not more than \$7,500. The bill
7 provides sentencing enhancements for a crime involving a minor
8 victim, depending on the circumstances of the offense, ranging
9 from a class "A" felony, punishable by confinement for life
10 without the possibility of parole, to a class "C" felony.

11 The bill provides that a person who knowingly recruits,
12 entices, harbors, transports, provides, or obtains by any
13 means, or attempts to recruit, entice, harbor, transport,
14 provide, or obtain by any means, another person, with the
15 intent that the person be subjected to forced labor or
16 services, or a person who knowingly benefits, financially or
17 by receiving anything of value, from participation in a
18 venture that involves forced labor or services, is guilty of a
19 class "B" felony, except if the person being trafficked is a
20 minor, a person who commits either act is guilty of a class
21 "A" felony.

22 The bill further provides that a person who knowingly
23 recruits, entices, harbors, transports, provides, or obtains
24 by any means, or attempts to recruit, entice, harbor,
25 transport, provide, or obtain by any means, a minor, with the
26 intent that the minor be subjected to sexual exploitation in
27 violation of Code section 728.12, Iowa's sexual exploitation
28 of a minor statute, or a person who knowingly benefits,
29 financially or by receiving anything of value, from
30 participation in a venture that involves a violation of Code
31 section 728.12, is guilty of a class "A" felony.

32 The bill provides sentencing enhancements for the crimes of
33 forced labor and services and human trafficking in forced
34 labor and services. The bill provides that if a violation of
35 any such offenses results in the death of the person or if the

1 person is kidnapped, the defendant is guilty of a class "A"
2 felony.

3 The bill provides that a victim under the bill shall be
4 entitled to an affirmative defense to any prosecution for a
5 crime that occurred while a victim of the crime of forced
6 labor and services, human trafficking in forced labor and
7 services, or human trafficking in the sexual exploitation of a
8 minor. The bill provides that a person who is a victim of
9 such crimes has a private right of action against the
10 perpetrator of such crimes.

11 The bill provides that if a corporation is convicted of the
12 crimes of forced labor and services, human trafficking in
13 forced labor and services, or human trafficking in the sexual
14 exploitation of a minor, the court shall order the
15 corporation's dissolution or reorganization, order the
16 suspension or revocation of any license, permit, or prior
17 approval granted by a state agency in Iowa, or order the
18 surrender of the corporation's charter if organized under
19 state law or revocation of the corporation's certificate to
20 conduct business in the state.

21 The bill provides that a person who commits an offense
22 under this chapter shall forfeit to the state any profits or
23 proceeds and any interest or property the person acquired as a
24 result of maintaining a person in forced labor or
25 participating in trafficking a person for forced labor or
26 services or trafficking a minor for sexual exploitation, in
27 accordance with the provisions of the state's seizure and
28 forfeiture laws.

29 The bill provides that a victim under this bill shall
30 receive restitution for damages resulting directly from the
31 violation pursuant to Code chapter 910, which shall include a
32 fine of the greater of either the gross income or value of the
33 victim's labor or services or the value of the victim's labor
34 as guaranteed under the provisions of the federal Fair Labor
35 Standards Act.

1 The bill provides that the attorney general shall certify
2 in writing to the United States department of justice or other
3 federal agency that an investigation or prosecution under this
4 Code chapter has begun and that the person who is a likely
5 victim of a crime in the bill is willing to cooperate or is
6 cooperating with the investigation to enable the person, if
7 eligible under federal law, to qualify for an appropriate
8 special immigrant visa and to access available federal
9 benefits.

10 The bill provides that in addition to other victim rights
11 provided in Code chapter 915, including the right to receive
12 victim compensation, victims shall have the right to receive
13 prompt medical care including mental health care, food,
14 shelter, and other assistance, the right to have access to
15 legal assistance and translation services, and the right to
16 receive reasonable police protection if a victim's safety is
17 at risk or if there is any danger of additional harm, without
18 regard to their immigration status.

19 The bill provides that the director of the law enforcement
20 academy shall promulgate rules for law enforcement officers
21 related to training standards on the subject of human
22 trafficking. The course of instruction and training standards
23 shall be developed in consultation with the appropriate
24 national and state experts in the field of human trafficking.

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