

FILED FEB 15 2006

SENATE FILE 2219

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 2027)

Passed Senate, Date 2-22-06

Passed House, Date 3-29-06

Vote: Ayes 50 Nays 0

Vote: Ayes 99 Nays 0

*Re-passed*  
*4-5-06 50-0* Approved April 21, 2006

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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SF 2219

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 participates in a venture to  
16 subject or attempt to subject another person to forced labor  
17 or services by causing or threatening to cause serious  
18 physical injury to that other person is guilty of a class "C"  
19 felony, except that if that other person is a minor, a person  
20 who violates this subsection is guilty of a class "B" felony.

21 2. A person who knowingly participates in a venture to  
22 subject or attempt to subject another person to forced labor  
23 or services by physically restraining or threatening to  
24 physically restrain that other person is guilty of a class "D"  
25 felony, except that if that other person is a minor, a person  
26 who violates this subsection is guilty of a class "C" 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 knowingly soliciting services or  
30 benefiting from the services of that other person is guilty of  
31 a class "D" felony, except if that other person is a minor, a  
32 person who violates this subsection is guilty of a class "C"  
33 felony.

34 4. A person who knowingly participates in a venture to  
35 subject or attempt to subject another person to forced labor

1 or services by abusing or threatening to abuse the law or  
2 legal process is guilty of a class "D" felony, except that if  
3 that other person is a minor, a person who violates this  
4 subsection is guilty of a class "C" felony.

5 5. A person who knowingly participates in a venture to  
6 subject or attempt to subject another person to forced labor  
7 or services by knowingly destroying, concealing, removing,  
8 confiscating, or possessing any actual or purported passport  
9 or other immigration document, or any other actual or  
10 purported government identification document, of that other  
11 person is guilty of a class "D" felony, except that if that  
12 other person is a minor, a person who violates this subsection  
13 is guilty of a class "C" felony.

14 Sec. 4. NEW SECTION. 710A.3 HUMAN TRAFFICKING -- FORCED  
15 LABOR AND SERVICES.

16 1. A person shall not knowingly participate in a venture  
17 to recruit, entice, harbor, transport, provide, or obtain by  
18 any means, or attempt to recruit, entice, harbor, transport,  
19 provide, or obtain by any means, another person, with the  
20 intent that the other person be subjected to forced labor or  
21 services.

22 2. A person shall not benefit, financially or by receiving  
23 anything of value, from knowing participation in a venture  
24 that involves a violation of this section.

25 3. A person who violates this section is guilty of a class  
26 "C" felony, except that if the other person is a minor, a  
27 person who violates this section is guilty of a class "B"  
28 felony.

29 Sec. 5. NEW SECTION. 710A.4 HUMAN TRAFFICKING -- SEXUAL  
30 EXPLOITATION OF A MINOR.

31 1. A person shall not knowingly participate in a venture  
32 to recruit, entice, harbor, transport, provide, or obtain by  
33 any means, or attempt to recruit, entice, harbor, transport,  
34 provide, or obtain by any means, a minor, with the intent that  
35 the minor be subjected to sexual exploitation in violation of

1 section 728.12.

2 2. A person shall not benefit, financially or by receiving  
3 anything of value, from knowing participation in a venture  
4 that involves a violation of section 728.12.

5 3. A person who violates this section is guilty of a class  
6 "B" felony.

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

8 1. If a violation of section 710A.2, 710A.3, or 710A.4  
9 results in the death of the person or if the person is  
10 kidnapped in violation of section 710.2 or 710.3, the  
11 defendant is guilty of a class "A" felony.

12 2. In sentencing a person for a violation of section  
13 710A.2, 710A.3, or 710A.4, the court shall sentence the  
14 defendant to an additional term of confinement of ten years in  
15 cases in which the victim was maintained or held for a period  
16 greater than one hundred eighty days or if the offense  
17 involved more than ten victims.

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

19 It shall be an affirmative defense to a prosecution for a  
20 criminal violation directly related to the defendant's status  
21 as a victim of a crime that is a violation of section 710A.2,  
22 710A.3, or 710A.4, that the defendant committed the violation  
23 under compulsion by another's threat of serious injury,  
24 provided that the defendant reasonably believed that such  
25 injury was imminent.

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

27 A person who is a victim of a crime that is an offense in  
28 violation of section 710A.2, 710A.3, or 710A.4 has a right of  
29 action against the perpetrator in state court. The court may  
30 award actual and punitive damages, reasonable attorney fees,  
31 and any other costs reasonably incurred. Any civil action  
32 filed under this section may be stayed during the pendency of  
33 any criminal action arising out of the same occurrence in  
34 which the plaintiff is a victim.

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

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

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

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

8 3. Order the surrender of the corporation's organizational  
9 authority if organized under state law or revocation of the  
10 corporation's authority to conduct business in this state.

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

12 The state shall seize any profits, proceeds, interest, or  
13 property a person acquired or maintained in relation to a  
14 violation of section 710A.2, 710A.3, or 710A.4. Upon payment  
15 of all restitution pursuant to section 710A.10, such seized  
16 property shall be forfeited in accordance with the provisions  
17 of chapters 809 and 809A.

18 Sec. 11. NEW SECTION. 710A.10 RESTITUTION AND ADDITIONAL  
19 FINE.

20 In addition to any fine or penalty imposed under this  
21 chapter, the court shall order a defendant convicted of a  
22 violation of this chapter to make restitution for damages  
23 resulting directly from the violation, to the victim, pursuant  
24 to chapter 910, and shall include an additional fine of the  
25 greater of either the gross income or value of the victim's  
26 labor or services or the value of the victim's wages of not  
27 less than the applicable federal minimum wage under the  
28 federal Fair Labor Standards Act.

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

30 A law enforcement agency investigating a crime described in  
31 section 710A.2 or 710A.3 shall notify the attorney general in  
32 writing about the investigation. Upon request of the attorney  
33 general, such law enforcement agency shall provide copies of  
34 any investigative reports describing the immigration status  
35 and cooperation of the victim. The attorney general shall

1 certify in writing to the United States department of justice  
2 or other federal agency that an investigation or prosecution  
3 under this chapter has begun and that the person who is a  
4 likely victim of a crime described in section 710A.2 or 710A.3  
5 is willing to cooperate or is cooperating with the  
6 investigation to enable the person, if eligible under federal  
7 law, to qualify for an appropriate special immigrant visa and  
8 to access available federal benefits. Cooperation with law  
9 enforcement shall not be required of a minor victim of a crime  
10 described in section 710A.2, 710A.3, or 710A.4. This  
11 certification shall be made available to the victim and the  
12 victim's designated legal representative.

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

15 In addition to other victim rights provided in this  
16 chapter, including the right to receive victim compensation  
17 pursuant to section 915.84, victims of a crime described in  
18 section 710A.3 or 710A.4 shall have the following rights  
19 directly related to the crimes described in sections 710A.2,  
20 710A.3, and 710A.4 without regard to their immigration status:

21 1. The right to receive prompt medical care including  
22 mental health care, food, shelter, and other assistance, if  
23 necessary.

24 2. The right to have access to legal assistance and  
25 translation services, if necessary.

26 3. The right to receive reasonable police protection if a  
27 victim's safety is at risk or if there is any danger of  
28 additional harm, including measures to protect victims and  
29 their family members from intimidation and threats of  
30 reprisals from traffickers and their associates and ensuring  
31 that the names and identifying information of victims and  
32 their family members are not disclosed to the public.

33 Sec. 14. Section 915.94, Code 2005, is amended to read as  
34 follows:

35 915.94 VICTIM COMPENSATION FUND.

1 A victim compensation fund is established as a separate  
2 fund in the state treasury. Moneys deposited in the fund  
3 shall be administered by the department and dedicated to and  
4 used for the purposes of section 915.41 and this subchapter.  
5 In addition, the department may use moneys from the fund for  
6 the purpose of the department's prosecutor-based victim  
7 service coordination, including the duties defined in sections  
8 910.3 and 910.6 and this chapter, and for the award of funds  
9 to programs that provide services and support to victims of  
10 domestic abuse or sexual assault as provided in chapter 236,  
11 and to victims of section 710A.2, 710A.3, or 710A.4. The  
12 department may also use up to one hundred thousand dollars  
13 from the fund to provide training for victim service  
14 providers. Notwithstanding section 8.33, any balance in the  
15 fund on June 30 of any fiscal year shall not revert to the  
16 general fund of the state.

17

EXPLANATION

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

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

1 another person to forced labor or services by knowingly  
2 soliciting services or benefiting from the services of that  
3 other person is guilty of a class "D" felony, except if the  
4 person is a minor, the person is guilty of a class "C" felony.  
5 A class "B" felony is punishable by confinement for no more  
6 than 25 years, a class "C" felony is punishable by confinement  
7 for no more than 10 years and a fine of at least \$1,000 but  
8 not more than \$10,000, and a class "D" felony is punishable by  
9 confinement for no more than five years and a fine of at least  
10 \$750 but not more than \$7,500. The bill provides sentencing  
11 enhancements for a crime involving a minor victim, depending  
12 on the circumstances of the offense, ranging from a class "B"  
13 felony to a class "C" felony.

14 The bill provides that a person who knowingly participates  
15 in a venture to recruit, entice, harbor, transport, provide,  
16 or obtain by any means, or to attempt to recruit, entice,  
17 harbor, transport, provide, or obtain by any means, another  
18 person, with the intent that the person be subjected to forced  
19 labor or services, or a person who benefits, financially or by  
20 receiving anything of value, from knowing participation in a  
21 venture that involves forced labor or services, is guilty of a  
22 class "C" felony, except if the person being trafficked is a  
23 minor, a person who commits either act is guilty of a class  
24 "B" felony.

25 The bill further provides that a person who knowingly  
26 participates in a venture to recruit, entice, harbor,  
27 transport, provide, or obtain by any means, or to attempt to  
28 recruit, entice, harbor, transport, provide, or obtain by any  
29 means, a minor, with the intent that the minor be subjected to  
30 sexual exploitation in violation of Code section 728.12,  
31 Iowa's sexual exploitation of a minor statute, or a person who  
32 benefits, financially or by receiving anything of value, from  
33 knowing participation in a venture that involves a violation  
34 of Code section 728.12, is guilty of a class "B" felony.

35 The bill provides sentencing enhancements for the crimes of

1 forced labor and services and human trafficking in forced  
2 labor and services. The bill provides that if a violation of  
3 any such offenses results in the death of the person or if the  
4 person is kidnapped, the defendant is guilty of a class "A"  
5 felony. An additional 10-year term of confinement is provided  
6 for offenses involving many victims or long-term holding of  
7 victims.

8 The bill provides that a victim under the bill shall be  
9 entitled to an affirmative defense to a prosecution for a  
10 criminal violation directly related to the defendant's status  
11 as a victim of the crime of forced labor and services, human  
12 trafficking in forced labor and services, or human trafficking  
13 in the sexual exploitation of a minor if the defendant  
14 committed the crime under compulsion by another's threat of  
15 serious injury, provided the defendant believed such injury  
16 was imminent. The bill provides that a person who is a victim  
17 of such crimes has a private right of action against the  
18 perpetrator of such crimes.

19 The bill provides that if a corporation is convicted of the  
20 crimes of forced labor and services, human trafficking in  
21 forced labor and services, or human trafficking in the sexual  
22 exploitation of a minor, the court shall order the  
23 corporation's dissolution or reorganization, order the  
24 suspension or revocation of any license, permit, or prior  
25 approval granted by a state agency in Iowa, or order the  
26 surrender of the corporation's charter if organized under  
27 state law or revocation of the corporation's certificate to  
28 conduct business in the state.

29 The bill provides that the state shall seize any profits,  
30 proceeds, interest, or property a person acquired or  
31 maintained in relation to a violation of new Code section  
32 710A.2, 710A.3, or 710A.4. Upon payment of all restitution  
33 pursuant to new Code section 710A.10, such seized property  
34 shall be forfeited in accordance with the provisions of Code  
35 chapters 809 and 809A.

1 The bill provides that a victim under this bill shall  
2 receive restitution for damages resulting directly from the  
3 violation pursuant to Code chapter 910, which shall include a  
4 fine of the greater of either the gross income or value of the  
5 victim's labor or services or the value of the victim's labor  
6 as guaranteed under the provisions of the federal Fair Labor  
7 Standards Act.

8 The bill provides that a law enforcement agency  
9 investigating a crime involving human trafficking under the  
10 bill shall notify the attorney general about the investigation  
11 and shall provide copies of any investigative reports, if  
12 requested. The bill also provides that the attorney general  
13 shall certify in writing to the United States department of  
14 justice or other federal agency that an investigation or  
15 prosecution under this Code chapter has begun and that the  
16 person who is a likely victim of a crime in the bill is  
17 willing to cooperate or is cooperating with the investigation  
18 to enable the person, if eligible under federal law, to  
19 qualify for an appropriate special immigrant visa and to  
20 access available federal benefits.

21 The bill provides that in addition to other victim rights  
22 provided in Code chapter 915, including the right to receive  
23 victim compensation, human trafficking victims shall have the  
24 right to receive prompt medical care including mental health  
25 care, food, shelter, and other assistance, the right to have  
26 access to legal assistance and translation services, and the  
27 right to receive reasonable police protection if a victim's  
28 safety is at risk or if there is any danger of additional  
29 harm, without regard to their immigration status.

30 The bill provides that the director of the law enforcement  
31 academy shall promulgate rules for law enforcement officers  
32 related to training standards on the subject of human  
33 trafficking. The course of instruction and training standards  
34 shall be developed in consultation with the appropriate  
35 national and state experts in the field of human trafficking.

**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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SF 2219 - Human Trafficking (LSB 5087 SV)

Analyst: Beth Lenstra (Phone: [515] (281-6301) ([beth.lenstra@legis.state.ia.us](mailto:beth.lenstra@legis.state.ia.us)))

Fiscal Note Version – New

Requested by Senator Kreiman

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**Description**

Senate File 2219 creates a new chapter in the Code of Iowa to outlaw human trafficking in the State of Iowa. The Bill imposes a graduated system of criminal penalties for human trafficking, ranging from a Class D to a Class A felony. Senate File 2219 also provides for civil penalties and forfeiture proceedings. The Bill requires the Iowa Law Enforcement Academy (ILEA) to provide training related to human trafficking to local law enforcement. Senate File 2219 provides for compensation to victims.

**Background**

1. This Bill creates new crimes. Therefore, there are no data with which to estimate the number of individuals or corporations that could be charged and convicted under the provisions of the Bill.
2. According to U.S. government estimates, there may be 18,000 to 20,000 victims of human trafficking entering the U.S. each year. The number of victims that may be in Iowa is not estimated.
3. According to the U.S. Department of State, the U.S. Department of Justice initiated prosecutions against 59 human traffickers in FY 2004, the most current data available.
4. The average State costs for one Class D felony conviction ranges from \$3,100 (court costs, probation, and indigent defense) to \$12,100 (court costs, jury trial, indigent defense, prison and parole).
5. The average State costs for one Class C felony conviction ranges from \$3,300 (court costs, indigent defense, and probation) to \$23,700 (court costs, jury trial, indigent defense, prison and parole).
6. The average State costs for one Class B felony conviction ranges from \$5,600 (court costs indigent defense, and probation) to \$61,700 (court costs, jury trial, indigent defense, prison and parole).
7. The costs stated above for the Class D, C, and B Felony will be incurred across multiple years while the offender is supervised in the correctional system, either in prison or in the community.
8. The average State costs for one Class A felony conviction ranges from \$418,000 to \$760,000, depending upon prosecution and defense costs, and where the offender is housed in the State prison system. This includes court costs, prosecution and defense costs, housing costs at the county jail pending trial and sentencing, and the cost of housing the offender in the State prison system. These costs will be incurred across multiple fiscal years, approximately 17 years from the time of arrest until the offender's death in the State prison system.

## Assumptions

1. Based on the level of federal prosecutions, there will be no more than two Iowa prosecutions annually.
2. The ILEA will incur additional costs for implementing the training requirements under SF 2219. Federal funds may be available, or local governments may be billed for the training.
3. Victims would be eligible for victim compensation from the Crime Victim Compensation Fund, plus compensation for legal assistance, translation services, medical care, mental health counseling, plus food and shelter. These costs are estimated to be \$26,000 per victim per year. Legal services may be provided pro bono, in which case the cost per victim is reduced to \$6,000.

## Correctional Impact

Senate File 2219 is not anticipated to have a significant correctional impact. It is anticipated that there will be ten or fewer convictions under the provisions of the Bill in the next five years. These convictions would more than likely be for Class D felonies.

## Fiscal Impact

The maximum fiscal impact is estimated to be \$98,000 annually, as indicated in the table below. Multiple funding sources are available, as indicated in the table.

<u>Department</u>	<u>Fiscal Impact</u>		<u>Funding Source</u>
	<u>FY 2007</u>	<u>FY 2008</u>	
ILEA	\$ 27,500	\$ 27,500	Federal, State, or Local Governments
Department of Justice	26,000	52,000	Crime Victim Compensation Fund; Legal services may be provided pro bono
Public Defender	1,000	2,000	State General Fund
Judicial Branch	250	500	State General Fund
Corrections Department	2,600	16,000	State General Fund
<b>Total</b>	<b>\$ 57,350</b>	<b>\$ 98,000</b>	

## Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Judicial Branch  
Department of Corrections  
Office of the State Public Defender  
Iowa Law Enforcement Academy  
Office of the Attorney General

/s/ Holly M. Lyons

March 10, 2006

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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SENATE FILE 2219

H-8361

1 Amend Senate File 2219, as passed by the Senate, as  
2 follows:

3 1. Page 1, by inserting after line 28 the  
4 following:

5 "3. "Human trafficking" means participating in a  
6 venture to recruit, harbor, transport, supply  
7 provisions, or obtain a person for any of the  
8 following purposes:

9 a. Forced labor or service that results in  
10 involuntary servitude, peonage, debt bondage, or  
11 slavery.

12 b. Commercial sexual activity through the use of  
13 force, fraud, or coercion, except that if the  
14 trafficked person is under the age of eighteen, the  
15 commercial sexual activity need not involve force,  
16 fraud, or coercion."

17 2. Page 1, line 29, by striking the figure "3."  
18 and inserting the following: "4."

19 3. Page 1, line 30, by striking the figure "4."  
20 and inserting the following: "5."

21 4. Page 1, by striking line 34.

22 5. Page 2, by striking lines 12 and 13 and  
23 inserting the following:

24 "10. "Victim" means a person subjected to human  
25 trafficking".

26 6. By striking page 2, line 14, through page 4,  
27 line 17, and inserting the following:

28 "Sec. \_\_\_\_ NEW SECTION. 710A.2 HUMAN  
29 TRAFFICKING.

30 1. A person who knowingly engages in human  
31 trafficking is guilty of a class "D" felony, except  
32 that if the victim is under the age of eighteen, the  
33 person is guilty of a class "C" felony.

34 2. A person who knowingly engages in human  
35 trafficking by causing or threatening to cause serious  
36 physical injury to another person is guilty of a class  
37 "C" felony, except that if the victim is under the age  
38 of eighteen, the person is guilty of a class "B"  
39 felony.

40 3. A person who knowingly engages in human  
41 trafficking by physically restraining or threatening  
42 to physically restrain another person is guilty of a  
43 class "D" felony, except that if the victim is under  
44 the age of eighteen, the person is guilty of a class  
45 "C" felony.

46 4. A person who knowingly engages in human  
47 trafficking by soliciting services or benefiting from  
48 the services of a victim is guilty of a class "D"  
49 felony, except that if the victim is under the age of  
50 eighteen, the person is guilty of a class "C" felony.

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1 5. A person who knowingly engages in human  
2 trafficking by abusing or threatening to abuse the law  
3 or legal process is guilty of a class "D" felony,  
4 except that if the victim is under the age of  
5 eighteen, the person is guilty of a class "C" felony.

6 6. A person who knowingly engages in human  
7 trafficking by knowingly destroying, concealing,  
8 removing, confiscating, or possessing any actual or  
9 purported passport or other immigration document, or  
10 any other actual or purported government  
11 identification document of a victim is guilty of a  
12 class "D" felony, except that if that other person is  
13 under the age of eighteen, the person is guilty of a  
14 class "C" felony.

15 7. A person who benefits financially or by  
16 receiving anything of value from knowing participation  
17 in human trafficking is guilty of a class "D" felony,  
18 except that if the victim is under the age of  
19 eighteen, the person is guilty of a class "C" felony.

20 Sec. \_\_\_\_ . NEW SECTION. 710A.3 SENTENCING  
21 CONSIDERATIONS.

22 In sentencing a person for a violation of section  
23 710A.2, the court shall consider whether the victim  
24 was maintained or held for a period greater than one  
25 hundred eighty days or if the offense involved more  
26 than ten victims."

27 7. Page 4, line 18, by striking the figure  
28 "710A.6" and inserting the following: "710A.4".

29 8. Page 4, line 19, by inserting after the word  
30 "defense" the following: ", in addition to any other  
31 affirmative defenses for which the victim might be  
32 eligible,".

33 9. Page 4, line 22, by striking the figures and  
34 word "710A.3, or 710A.4,".

35 10. By striking page 4, line 26, through page 5,  
36 line 28, and inserting the following:

37 "Sec. \_\_\_\_ . NEW SECTION. 710A.5 RESTITUTION.

38 The gross income of the defendant or the value of  
39 labor or services performed by the victim to the  
40 defendant shall be considered when determining the  
41 amount of restitution."

42 11. Page 5, line 29, by striking the figure  
43 "710A.11" and inserting the following: "710A.6".

44 12. Page 5, line 31, by striking the word and  
45 figure "or 710A.3".

46 13. Page 6, line 4, by striking the word and  
47 figure "or 710A.3".

48 14. Page 6, line 10, by striking the figures and  
49 word ", 710A.3, or 710A.4".

50 15. Page 6, by striking lines 15 through 32 and

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Page 3

1 inserting the following:

2 "In addition to other victims' rights provided in  
3 this chapter, including the right to receive victim  
4 compensation pursuant to section 915.84, victims of  
5 human trafficking shall have the same rights as  
6 refugees, regardless of their immigration status."

7 16. Page 7, line 11, by striking the figures and  
8 word "710A.2, 710A.3, or 710A.4" and inserting the  
9 following: "710A.2".

10 17. Page 7, by inserting after line 16 the  
11 following:

12 "Sec. \_\_\_\_\_. HUMAN TRAFFICKING STUDY. The  
13 legislative council is requested to authorize a study  
14 for the 2006 legislative interim on human trafficking.  
15 The study recommendations and findings shall include  
16 but are not limited to identifying the needs of human  
17 trafficking victims and law enforcement and any other  
18 agencies that serve victims of human trafficking. The  
19 study report, including findings and recommendations,  
20 shall be submitted to the general assembly for  
21 consideration during the 2007 legislative session.  
22 The study shall be conducted by a study committee  
23 consisting of up to nine members of the general  
24 assembly. A chairperson or co-chairpersons shall be  
25 designated by the legislative council."

26 18. Title page, by striking line 3 and inserting  
27 the following: "assistance programs, providing  
28 penalties, and providing for a study."

29 19. By renumbering as necessary.

COMMITTEE ON JUDICIARY

PAULSEN of Linn, Chairperson

**H-8361** FILED MARCH 22, 2006

**SENATE FILE 2219**

**H-8382**

1 Amend Senate File 2219, as passed by the Senate, as  
2 follows:

3 1. Page 1, line 4, by inserting after the word  
4 "trafficking" the following: ", to include classes on  
5 cultural sensitivity and the means to deal effectively  
6 and appropriately with trafficking victims. Such  
7 training shall encourage law enforcement personnel to  
8 communicate in the language of the trafficking  
9 victims".

10 2. By renumbering as necessary.

By FORD of Polk

**H-8382** FILED MARCH 27, 2006

SENATE FILE 2219

H-8423

1 Amend Senate File 2219, as passed by the Senate, as  
2 follows:

3 1. Page 1, by inserting before line 1 the  
4 following:

5 "Section 1. Section 16.181, Code 2005, is amended  
6 by adding the following new subsection:

7 NEW SUBSECTION. 3A. Funds allocated from the  
8 housing trust fund shall not be used for the provision  
9 of rental housing for persons who are not lawfully  
10 present in the United States. This subsection does  
11 not apply to funds allocated to homeless shelters."

12 2. Page 1, by inserting after line 7 the  
13 following:

14 "Sec. \_\_\_\_ . NEW SECTION. 91F.1 DEFINITIONS.

15 As used in this chapter:

16 1. "Commissioner" means the labor commissioner.

17 2. "Employee" means a natural person who is  
18 employed in this state for wages paid on an hourly  
19 basis by an employer.

20 3. "Employer" means a person, as defined in  
21 section 4.1, who in this state employs for wages, paid  
22 on an hourly basis, one or more natural persons. An  
23 employer does not include a client, patient, customer,  
24 or other person who obtains professional services from  
25 a licensed person who provides the services on a fee  
26 service basis or as an independent contractor, or the  
27 state, or an agency or governmental subdivision of the  
28 state.

29 4. "Unauthorized alien" means a person who is not  
30 lawfully present in the United States.

31 Sec. \_\_\_\_ . NEW SECTION. 91F.2 UNAUTHORIZED ALIENS

32 -- EMPLOYER PROHIBITION.

33 An employer shall not knowingly employ as an  
34 employee an unauthorized alien. For purposes of this  
35 section, "knowingly employ as an employee an  
36 unauthorized alien" means an employer has actual  
37 knowledge that a person is an unauthorized alien and  
38 employs the person as an employee. An employer who  
39 obtains a verification of employment eligibility form  
40 required by the federal Immigration Reform and Control  
41 Act of 1986, 8 U.S.C. § 1324a, shall not be considered  
42 in violation of this chapter.

43 Sec. \_\_\_\_ . NEW SECTION. 91F.3 PENALTIES.

44 1. An employer who violates section 91F.2 is  
45 subject to a civil penalty of up to one thousand  
46 dollars.

47 2. A corporate officer of an employer who, by  
48 knowingly directing the repeated violation of section  
49 91F.2, demonstrates a pattern of employing  
50 unauthorized aliens commits a serious misdemeanor.

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1 3. An employer who, through repeated violation of  
2 section 91F.2, demonstrates a pattern of employing  
3 unauthorized aliens may be ordered to pay punitive  
4 damages.

5 Sec. \_\_\_\_ . NEW SECTION. 91F.4 DUTIES AND  
6 AUTHORITY OF THE COMMISSIONER -- ENFORCEMENT BY  
7 ATTORNEY GENERAL.

8 1. The commissioner shall adopt rules to implement  
9 and enforce this chapter.

10 2. In order to carry out the purposes of this  
11 chapter, the commissioner or the commissioner's  
12 representative, upon presenting appropriate  
13 credentials to an employer's owner, operator, or agent  
14 in charge, may:

15 a. Inspect employment records relating to the  
16 employees of the employer.

17 b. Interview an employer, owner, operator, agent,  
18 or employee, during working hours or at other  
19 reasonable times.

20 3. If the commissioner has reason to believe than  
21 an employer may be in violation of this chapter, the  
22 commissioner shall notify the attorney general, and  
23 provide the attorney general with any supporting  
24 information, for prosecution of the violation by the  
25 attorney general.

26 Sec. \_\_\_\_ . NEW SECTION. 91F.5 PROHIBITIONS  
27 RELATING TO CERTAIN ACTIONS BY EMPLOYEES -- PENALTY --  
28 CIVIL REMEDY:

29 1. An employer shall not discharge an employee or  
30 take or fail to take action regarding an employee's  
31 appointment or proposed appointment or promotion or  
32 proposed promotion, or regarding any advantage of an  
33 employee as a reprisal for a failure by that employee  
34 to inform the employer that the employee made a  
35 disclosure of information to any law enforcement  
36 agency if the employee reasonably believes the  
37 information evidences a violation of section 91F.2.

38 2. Subsection 1 does not apply if the disclosure  
39 of the information is prohibited by statute.

40 3. An employer who violates subsection 1 commits a  
41 simple misdemeanor.

42 4. Subsection 1 may be enforced through a civil  
43 action.

44 a. An employer who violates subsection 1 is liable  
45 to an aggrieved employee for affirmative relief,  
46 including reinstatement, with or without back pay, or  
47 any other equitable relief the court deems  
48 appropriate, including attorney fees and costs.

49 b. If an employer commits, is committing, or  
50 proposes to commit an act in violation of subsection

1 1, an injunction may be granted through an action in  
2 district court to prohibit the person from continuing  
3 such acts. The action for injunctive relief may be  
4 brought by an aggrieved employee or the attorney  
5 general.

6 5. An employer shall not discharge an employee or  
7 take or fail to take action regarding an employee's  
8 appointment or proposed appointment or promotion or  
9 proposed promotion, or regarding any advantage of an  
10 employee, or make a report regarding the status of the  
11 employee as an unauthorized alien to any federal  
12 department or agency as a reprisal against an employee  
13 that made a report to a law enforcement agency that  
14 the employee has been a victim of sexual abuse or  
15 sexual harassment by another employee of the employer.  
16 A law enforcement agency that accepts a report of  
17 sexual abuse or sexual harassment as described in this  
18 subsection shall not make a report regarding the  
19 status of the victim as an unauthorized alien to any  
20 federal department or agency.

21 Sec. \_\_\_\_ . NEW SECTION. 535B.11A MORTGAGES TO  
22 PERSONS UNLAWFULLY PRESENT.

23 A licensee or other mortgagee shall not knowingly  
24 originate a first mortgage loan for residential real  
25 estate located in this state on or after July 1, 2007,  
26 that is intended to be used as a primary residence in  
27 this state of a person who is not lawfully present in  
28 the United States. The enforcement provisions of  
29 section 535B.13 shall not apply to a violation under  
30 this section. The attorney general may file an action  
31 for injunctive relief against a licensee or other  
32 mortgagee who violates this section. A licensee or  
33 other mortgagee who complies with the customer  
34 identification program requirements under 31 U.S.C. §  
35 5318(1) shall not be considered in violation of this  
36 section.

37 If a person who has agreed to buy residential real  
38 property is denied a first mortgage loan pursuant to  
39 this section and cannot otherwise comply with the  
40 terms of the agreement, the seller of the property  
41 shall be entitled to any earnest money or other trust  
42 funds held by a real estate broker pursuant to section  
43 543B.46 paid by the person or on behalf of the person  
44 pursuant to the agreement."

45 3. Title page, line 1, by inserting after the  
46 word "to" the following: "the labor and housing of  
47 persons including".

48 4. Title page, line 2, by striking the word  
49 "including" and inserting the following: "the  
50 employment of unauthorized aliens, the allocation of

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Page 4

1 housing trust fund moneys and first mortgages for  
2 unauthorized aliens,".

3 5. By renumbering as necessary.

By DIX of Butler

H-8423 FILED MARCH 29, 2006

OUT OF ORDER

SENATE FILE 2219

H-8424

1 Amend the amendment, H-8361, to Senate File 2219,  
2 as passed by the Senate, as follows:

3 1. Page 1, by inserting after line 2 the  
4 following:

5 "\_\_\_\_. Page 1, by inserting after line 14 the  
6 following:

7 "\_\_\_\_. "Debt bondage" means the status or condition  
8 of a debtor arising from a pledge of the debtor's  
9 personal services or a person under the control of a  
10 debtor's personal services as a security for debt if  
11 the reasonable value of such services is not applied  
12 toward the liquidation of the debt or the length and  
13 nature of those services are not respectively limited  
14 and defined.""

15 2. Page 1, by inserting after line 16 the  
16 following:

17 "\_\_\_\_. Page 1, by inserting before line 29 the  
18 following:

19 "\_\_\_\_. "Involuntary servitude" means a condition of  
20 servitude induced by means of any scheme, plan, or  
21 pattern intended to cause a person to believe that if  
22 the person did not enter into or continue in such  
23 condition, that person or another person would suffer  
24 serious harm or physical restraint or the threatened  
25 abuse of legal process.""

26 3. Page 1, by inserting after line 21 the  
27 following:

28 "\_\_\_\_. Page 2, by inserting after line 1 the  
29 following:

30 "\_\_\_\_. "Peonage" means a status or condition of  
31 involuntary servitude based upon real or alleged  
32 indebtedness.""

33 4. Page 2, by striking lines 20 through 26.

34 5. Page 3, by striking lines 2 through 6 and  
35 inserting the following:

36 "Victims of human trafficking, as defined in  
37 section 710A.1, shall have the same rights as other  
38 victims of a crime, including the right to receive  
39 victim compensation pursuant to section 915.84,  
40 regardless of their immigration status.""

41 6. By renumbering as necessary.

By EICHHORN of Hamilton

H-8424 FILED MARCH 29, 2006

ADOPTED

**SENATE FILE 2219**

**H-8432**

1 Amend the amendment, H-8361, to Senate File 2219,  
2 as passed by the Senate, as follows:

3 1. Page 2, by inserting after line 49 the  
4 following:

5 "\_\_\_\_. Page 6, by inserting after line 12 the  
6 following:

7 "Sec. \_\_\_\_ . NEW SECTION. 730.6 RETALIATION FOR  
8 REPORT OF SEXUAL ABUSE OR SEXUAL HARASSMENT.

9 1. An employer shall not discharge an employee or  
10 take or fail to take action regarding an employee's  
11 appointment or proposed appointment or promotion or  
12 proposed promotion, or regarding any advantage of an  
13 employee, or make a report regarding the status of the  
14 employee as an unauthorized alien to any federal  
15 department or agency as a reprisal against an employee  
16 that made a report to a law enforcement agency that  
17 the employee has been a victim of sexual abuse or  
18 sexual harassment by another employee of the employer.  
19 A law enforcement agency that accepts a report of  
20 sexual abuse or sexual harassment as described in this  
21 subsection shall not make a report regarding the  
22 status of the victim as an unauthorized alien to any  
23 federal department or agency.

24 2. An employer who violates subsection 1 commits a  
25 simple misdemeanor.

26 3. A civil action for damages may be brought  
27 against an employer who violates subsection 1."

28 2. By renumbering as necessary.

**By** FORD of Polk

**H-8432** FILED MARCH 29, 2006

NOT GERMANE

**SENATE FILE 2219**

**H-8433**

1 Amend the amendment, H-8382, to Senate File 2219,  
2 as passed by the Senate, as follows:

3 1. Page 1, line 4, by striking the word "classes"  
4 and inserting the following: "curricula".

**By** FORD of Polk

**H-8433** FILED MARCH 29, 2006

ADOPTED

HOUSE AMENDMENT TO  
SENATE FILE 2219

S-5142

1 Amend Senate File 2219, as passed by the Senate, as  
2 follows:

3 1. Page 1, line 4, by inserting after the word  
4 "trafficking" the following: ", to include curricula  
5 on cultural sensitivity and the means to deal  
6 effectively and appropriately with trafficking  
7 victims. Such training shall encourage law  
8 enforcement personnel to communicate in the language  
9 of the trafficking victims".

10 2. Page 1, by inserting after line 14 the  
11 following:

12 "\_\_\_\_. "Debt bondage" means the status or condition  
13 of a debtor arising from a pledge of the debtor's  
14 personal services or a person under the control of a  
15 debtor's personal services as a security for debt if  
16 the reasonable value of such services is not applied  
17 toward the liquidation of the debt or the length and  
18 nature of those services are not respectively limited  
19 and defined."

20 3. Page 1, by inserting after line 28 the  
21 following:

22 "3. "Human trafficking" means participating in a  
23 venture to recruit, harbor, transport, supply  
24 provisions, or obtain a person for any of the  
25 following purposes:

26 a. Forced labor or service that results in  
27 involuntary servitude, peonage, debt bondage, or  
28 slavery.

29 b. Commercial sexual activity through the use of  
30 force, fraud, or coercion, except that if the  
31 trafficked person is under the age of eighteen, the  
32 commercial sexual activity need not involve force,  
33 fraud, or coercion."

34 4. Page 1, by inserting before line 29 the  
35 following:

36 "\_\_\_\_. "Involuntary servitude" means a condition of  
37 servitude induced by means of any scheme, plan, or  
38 pattern intended to cause a person to believe that if  
39 the person did not enter into or continue in such  
40 condition, that person or another person would suffer  
41 serious harm or physical restraint or the threatened  
42 abuse of legal process."

43 5. Page 1, line 29, by striking the figure "3."  
44 and inserting the following: "4."

45 6. Page 1, line 30, by striking the figure "4."  
46 and inserting the following: "5."

47 7. Page 1, by striking line 34.

48 8. Page 2, by inserting after line 1 the  
49 following:

50 "\_\_\_\_. "Peonage" means a status or condition of

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1 involuntary servitude based upon real or alleged  
2 indebtedness."

3 9. Page 2, by striking lines 12 and 13 and  
4 inserting the following:

5 "10. "Victim" means a person subjected to human  
6 trafficking".

7 10. By striking page 2, line 14, through page 4,  
8 line 17, and inserting the following:

9 "Sec. \_\_\_\_ . NEW SECTION. 710A.2 HUMAN

10 TRAFFICKING.

11 1. A person who knowingly engages in human  
12 trafficking is guilty of a class "D" felony, except  
13 that if the victim is under the age of eighteen, the  
14 person is guilty of a class "C" felony.

15 2. A person who knowingly engages in human  
16 trafficking by causing or threatening to cause serious  
17 physical injury to another person is guilty of a class  
18 "C" felony, except that if the victim is under the age  
19 of eighteen, the person is guilty of a class "B"  
20 felony.

21 3. A person who knowingly engages in human  
22 trafficking by physically restraining or threatening  
23 to physically restrain another person is guilty of a  
24 class "D" felony, except that if the victim is under  
25 the age of eighteen, the person is guilty of a class  
26 "C" felony.

27 4. A person who knowingly engages in human  
28 trafficking by soliciting services or benefiting from  
29 the services of a victim is guilty of a class "D"  
30 felony, except that if the victim is under the age of  
31 eighteen, the person is guilty of a class "C" felony.

32 5. A person who knowingly engages in human  
33 trafficking by abusing or threatening to abuse the law  
34 or legal process is guilty of a class "D" felony,  
35 except that if the victim is under the age of  
36 eighteen, the person is guilty of a class "C" felony.

37 6. A person who knowingly engages in human  
38 trafficking by knowingly destroying, concealing,  
39 removing, confiscating, or possessing any actual or  
40 purported passport or other immigration document, or  
41 any other actual or purported government  
42 identification document of a victim is guilty of a  
43 class "D" felony, except that if that other person is  
44 under the age of eighteen, the person is guilty of a  
45 class "C" felony.

46 7. A person who benefits financially or by  
47 receiving anything of value from knowing participation  
48 in human trafficking is guilty of a class "D" felony,  
49 except that if the victim is under the age of  
50 eighteen, the person is guilty of a class "C" felony.

Page 3

- 1 11. Page 4, line 18, by striking the figure
- 2 "710A.6" and inserting the following: "710A.4".
- 3 12. Page 4, line 19, by inserting after the word
- 4 "defense" the following: ", in addition to any other
- 5 affirmative defenses for which the victim might be
- 6 eligible,".
- 7 13. Page 4, line 22, by striking the figures and
- 8 word "710A.3, or 710A.4,".
- 9 14. By striking page 4, line 26, through page 5,
- 10 line 28, and inserting the following:
- 11 "Sec. \_\_\_\_ . NEW SECTION. 710A.5 RESTITUTION.
- 12 The gross income of the defendant or the value of
- 13 labor or services performed by the victim to the
- 14 defendant shall be considered when determining the
- 15 amount of restitution."
- 16 15. Page 5, line 29, by striking the figure
- 17 "710A.11" and inserting the following: "710A.6".
- 18 16. Page 5, line 31, by striking the word and
- 19 figure "or 710A.3".
- 20 17. Page 6, line 4, by striking the word and
- 21 figure "or 710A.3".
- 22 18. Page 6, line 10, by striking the figures and
- 23 word ", 710A.3, or 710A.4".
- 24 19. Page 6, by striking lines 15 through 32 and
- 25 inserting the following:
- 26 "Victims of human trafficking, as defined in
- 27 section 710A.1, shall have the same rights as other
- 28 victims of a crime, including the right to receive
- 29 victim compensation pursuant to section 915.84,
- 30 regardless of their immigration status."
- 31 20. Page 7, line 11, by striking the figures and
- 32 word "710A.2, 710A.3, or 710A.4" and inserting the
- 33 following: "710A.2".
- 34 21. Page 7, by inserting after line 16 the
- 35 following:
- 36 "Sec. \_\_\_\_ . HUMAN TRAFFICKING STUDY. The
- 37 legislative council is requested to authorize a study
- 38 for the 2006 legislative interim on human trafficking.
- 39 The study recommendations and findings shall include
- 40 but are not limited to identifying the needs of human
- 41 trafficking victims and law enforcement and any other
- 42 agencies that serve victims of human trafficking. The
- 43 study report, including findings and recommendations,
- 44 shall be submitted to the general assembly for
- 45 consideration during the 2007 legislative session.
- 46 The study shall be conducted by a study committee
- 47 consisting of up to nine members of the general
- 48 assembly. A chairperson or co-chairpersons shall be
- 49 designated by the legislative council."
- 50 22. Title page, by striking line 3 and inserting

**S-5142**

Page 4

1 the following: "assistance programs, providing  
2 penalties, and providing for a study."  
3 23. By renumbering, relettering, or redesignating  
4 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

**S-5142** FILED MARCH 30, 2006

**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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SF 2219 - Human Trafficking (LSB 5087 SV)

Analyst: Beth Lenstra (Phone: [515] (281-6301) ([beth.lenstra@legis.state.ia.us](mailto:beth.lenstra@legis.state.ia.us)))

Fiscal Note Version – House Amendment S–5142

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**Description**

House Amendment S–5142 to Senate File 2219 requires the Iowa Law Enforcement Academy (ILEA) to set standards for curricula to include cultural sensitivity. The House Amendment adds definitions for debt bondage, human trafficking, involuntary servitude, and peonage, strikes the definition of a minor, and changes the definition of a victim. House Amendment S–5142 imposes a graduated system of criminal penalties for human trafficking, ranging from a Class D to a Class B felony. The House Amendment strikes civil penalties and forfeiture proceedings. House Amendment S–5142 states that victims of human trafficking have the same rights as other victims of crime, regardless of their immigration status.

**Background**

1. This Amendment creates new crimes. Therefore, there are no data with which to estimate the number of individuals or corporations that could be charged and convicted under the provisions of the Bill.
2. According to U.S. government estimates, there may be 18,000 to 20,000 victims of human trafficking entering the U.S. each year. The number of victims that may be in Iowa is not estimated.
3. According to the U.S. Department of State, the U.S. Department of Justice initiated prosecutions against 59 human traffickers in FY 2004, the most current data available.
4. The average State costs for one Class D felony conviction ranges from \$3,100 (court costs, probation, and indigent defense) to \$12,100 (court costs, jury trial, indigent defense, prison and parole).
5. The average State costs for one Class C felony conviction ranges from \$3,300 (court costs, indigent defense, and probation) to \$23,700 (court costs, jury trial, indigent defense, prison and parole).
6. The average State costs for one Class B felony conviction ranges from \$5,600 (court costs indigent defense, and probation) to \$61,700 (court costs, jury trial, indigent defense, prison and parole).
7. The costs stated above for the Class D, C, and B Felony will be incurred across multiple years while the offender is supervised in the correctional system, either in prison or in the community.

**Assumptions**

1. Based on the level of federal prosecutions, there will be no more than two Iowa prosecutions annually.
2. The ILEA will incur additional costs for implementing the training requirements. Federal funds may be available, or local governments may be billed for the training.

3. Victims would be eligible for victim compensation from the Crime Victim Compensation Fund. These costs are estimated to be \$6,000 per victim per year.

**Correctional Impact**

House Amendment S-5142 is not anticipated to have a significant correctional impact. It is anticipated that there will be ten or fewer convictions under the provisions of the Bill in the next five years. These convictions would more than likely be for Class D felonies.

**Fiscal Impact**

The maximum fiscal impact is estimated to be \$58,000 annually, as indicated in the table below. Multiple funding sources are available, as indicated in the table.

<u>Department</u>	<u>Fiscal Impact</u>		<u>Funding Source</u>
	<u>FY 2007</u>	<u>FY 2008</u>	
ILEA	\$ 27,500	\$ 27,500	Federal, State, or Local Governments
Department of Justice	6,000	12,000	Crime Victim Compensation Fund
Public Defender	1,000	2,000	State General Fund
Judicial Branch	250	500	State General Fund
Corrections Department	2,600	16,000	State General Fund
<b>Total</b>	<b>\$ 37,350</b>	<b>\$ 58,000</b>	

**Sources**

Department of Human Rights, Criminal and Juvenile Justice Planning Division  
Judicial Branch  
Department of Corrections  
Office of the State Public Defender  
Iowa Law Enforcement Academy  
Office of the Attorney General

/s/ Holly M. Lyons

April 3, 2006

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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SENATE FILE 2219

AN ACT

RELATING TO HUMAN TRAFFICKING AND RELATED OFFENSES, INCLUDING THE PROVISION OF LAW ENFORCEMENT TRAINING AND VICTIM ASSISTANCE PROGRAMS, PROVIDING PENALTIES, AND PROVIDING FOR A STUDY.

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

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

NEW SUBSECTION. 4A. Training standards on the subject of human trafficking, to include curricula on cultural sensitivity and the means to deal effectively and appropriately with trafficking victims. Such training shall encourage law enforcement personnel to communicate in the language of the trafficking victims. The course of instruction and training standards shall be developed by the director in consultation with the appropriate national and state experts in the field of human trafficking.

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

As used in this chapter:

1. "Commercial sexual activity" means any sex act on behalf of which anything of value is given, promised to, or received by any person and includes, but is not limited to, prostitution, participation in the production of pornography, and performance in strip clubs.
2. "Debt bondage" means the status or condition of a debtor arising from a pledge of the debtor's personal services or a person under the control of a debtor's personal services as a security for debt if the reasonable value of such services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

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

- a. Causing or threatening to cause serious physical injury to any person.
- b. Physically restraining or threatening to physically restrain another person.
- c. Abusing or threatening to abuse the law or legal process.
- d. Knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person.

4. "Human trafficking" means participating in a venture to recruit, harbor, transport, supply provisions, or obtain a person for any of the following purposes:

- a. Forced labor or service that results in involuntary servitude, peonage, debt bondage, or slavery.
- b. Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen, the commercial sexual activity need not involve force, fraud, or coercion.

5. "Involuntary servitude" means a condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint or the threatened abuse of legal process.

6. "Labor" means work of economic or financial value.

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

8. "Obtain" means, in relation to labor or services, to secure performance thereof.

9. "Peonage" means a status or condition of involuntary servitude based upon real or alleged indebtedness.

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

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

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

13. "Victim" means a person subjected to human trafficking.

Sec. 3. NEW SECTION. 710A.2 HUMAN TRAFFICKING.

1. A person who knowingly engages in human trafficking is guilty of a class "D" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "C" felony.

2. A person who knowingly engages in human trafficking by causing or threatening to cause serious physical injury to another person is guilty of a class "C" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "B" felony.

3. A person who knowingly engages in human trafficking by physically restraining or threatening to physically restrain another person is guilty of a class "D" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "C" felony.

4. A person who knowingly engages in human trafficking by soliciting services or benefiting from the services of a person is guilty of a class "D" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "C" felony.

5. A person who knowingly engages in human trafficking by abusing or threatening to abuse the law or legal process is

guilty of a class "D" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "C" felony.

6. A person who knowingly engages in human trafficking by knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document of a victim is guilty of a class "D" felony, except that if that other person is under the age of eighteen, the person is guilty of a class "C" felony.

7. A person who benefits financially or by receiving anything of value from knowing participation in human trafficking is guilty of a class "D" felony, except that if the victim is under the age of eighteen, the person is guilty of a class "C" felony.

Sec. 4. NEW SECTION. 710A.3 AFFIRMATIVE DEFENSE.

It shall be an affirmative defense, in addition to any other affirmative defenses for which the victim might be eligible, to a prosecution for a criminal violation directly related to the defendant's status as a victim of a crime that is a violation of section 710A.2, that the defendant committed the violation under compulsion by another's threat of serious injury, provided that the defendant reasonably believed that such injury was imminent.

Sec. 5. NEW SECTION. 710A.4 RESTITUTION.

The gross income of the defendant or the value of labor or services performed by the victim to the defendant shall be considered when determining the amount of restitution.

Sec. 6. NEW SECTION. 710A.5 CERTIFICATION.

A law enforcement agency investigating a crime described in section 710A.2 shall notify the attorney general in writing about the investigation. Upon request of the attorney general, such law enforcement agency shall provide copies of any investigative reports describing the immigration status and cooperation of the victim. The attorney general shall

certify in writing to the United States department of justice or other federal agency that an investigation or prosecution under this chapter has begun and that the person who is a likely victim of a crime described in section 710A.2 is willing to cooperate or is cooperating with the investigation to enable the person, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of a minor victim of a crime described in section 710A.2. This certification shall be made available to the victim and the victim's designated legal representative.

**Sec. 7. NEW SECTION. 915.51 GENERAL RIGHTS OF HUMAN TRAFFICKING VICTIMS.**

Victims of human trafficking, as defined in section 710A.1, shall have the same rights as other victims of a crime, including the right to receive victim compensation pursuant to section 915.84, regardless of their immigration status.

**Sec. 8. Section 915.94, Code 2005, is amended to read as follows:**

**915.94 VICTIM COMPENSATION FUND.**

A victim compensation fund is established as a separate fund in the state treasury. Moneys deposited in the fund shall be administered by the department and dedicated to and used for the purposes of section 915.41 and this subchapter. In addition, the department may use moneys from the fund for the purpose of the department's prosecutor-based victim service coordination, including the duties defined in sections 910.3 and 910.6 and this chapter, and for the award of funds to programs that provide services and support to victims of domestic abuse or sexual assault as provided in chapter 236, and to victims of section 710A.2. The department may also use up to one hundred thousand dollars from the fund to provide training for victim service providers. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

**Sec. 9. HUMAN TRAFFICKING STUDY.** The legislative council is requested to authorize a study for the 2006 legislative interim on human trafficking. The study recommendations and findings shall include but are not limited to identifying the needs of human trafficking victims and law enforcement and any other agencies that serve victims of human trafficking. The study report, including findings and recommendations, shall be submitted to the general assembly for consideration during the 2007 legislative session. The study shall be conducted by a study committee consisting of up to nine members of the general assembly. A chairperson or co-chairpersons shall be designated by the legislative council.

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JEFFREY M. LAMBERTI  
President of the Senate

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CHRISTOPHER C. RANTS  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2219, Eighty-first General Assembly.

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MICHAEL E. MARSHALL  
Secretary of the Senate

Approved \_\_\_\_\_, 2006

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THOMAS J. VILSACK  
Governor