

Department of Legislative Services
Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

Senate Bill 630

(Senator Forehand)

Judicial Proceedings

Judiciary

Trafficking of Persons and Involuntary Servitude

This bill prohibits knowingly recruiting, enticing, harboring, transporting, providing, or “obtaining” another person or a minor for a commercial sex act, a sexually explicit performance, labor, or services by specified means. An attempt to commit such an act is similarly prohibited. A person is also prohibited from knowingly benefiting financially or receiving anything of value from participation in such ventures. A violator is guilty of a felony and subject to maximum penalties of imprisonment for 15 years and/or a fine of \$15,000.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill’s incarceration penalty provisions.

Local Effect: Potential minimal increase in revenues due to the bill’s monetary penalty provisions.

Small Business Effect: None.

Analysis

Current Law: Maryland statutes do not specifically address forced labor or involuntary servitude. However, these acts are prohibited by federal constitutional and statutory provisions. Maryland statutes generally prohibit the practice of prostitution.

The Thirteenth Amendment to the U.S. Constitution abolishes slavery and federal laws prohibit peonage (a system of forced labor based on the debts of workers), involuntary servitude, and forced labor. The penalties for violation of the federal laws include fines and up to 20 years imprisonment. Anyone who is convicted of obstruction, attempted obstruction, or prevention of the enforcement of any of these provisions is subject to the same penalties. If the violations result in the victim's death or include kidnapping, aggravated sexual abuse, or attempted murder, kidnapping, or aggravated sexual abuse, the violator is subject to a fine and/or any term of years of imprisonment up to life imprisonment.

Background: Human and sex trafficking has been described as a growing underground industry fueled largely by the extreme economic hardship that families face in many parts of the world. Thirteen states have already passed criminal statutes, and several states have created task forces to study the issue.

Human trafficking is a modern day form of slavery and a lucrative criminal enterprise in today's world economy. It includes the recruitment, transportation, and sale of individuals, usually members of vulnerable populations in countries outside the United States, for labor. Labor is forced and maintained through violence, threats, and coercion. Living conditions for victims are often prison-like. It is believed that the number of people involved began growing in the early 1990s and that the trend continues to increase. The United States is a country of destination for many trafficked persons, the majority of whom are transported from Asia and Latin America, with increasing numbers from the Newly Independent States of the former Soviet Union, Eastern Europe, and other regions.

Human trafficking takes many forms. It involves transporting people within or across borders to, among other things, labor in sweatshops, perform domestic work, work in the sex industry, work in hotels or restaurants, peddle or beg, or work as farm or timber laborers. Victims may also be exploited in mail-order bride or child adoption schemes. In their countries of origin, victims of trafficking commonly experience poverty, oppression, persecution, civil unrest, and lack of opportunity. Victims are often deceived by recruiters and led to believe that the opportunity offered will bring them and their loved ones a better life.

At the international and national level, remedies exist to address human trafficking. In February 2000, the United Nations adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the U.N. Convention Against Transnational Organized Crime. The federal Trafficking Victims Protection Act of 2000 (TVPA) is designed to prevent trafficking, punish traffickers, and protect and assist trafficked persons. TVPA extends assistance and benefits to victims of

“severe forms of trafficking” which is defined as “a) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or b) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” TVPA protects trafficked persons by providing immigration status (T visa), permission to work, and possible U.S. permanent residence.

The Trafficking Victims Protection Reauthorization Act of 2003 amended TVPA to remove obstacles in the process of securing needed assistance, increase benefits to victims of trafficking, increase knowledge about trafficking in persons, enhance prevention efforts, provide greater protection to victims, and increase prosecution.

The federal Refugee Act of 1980 provides cash assistance to newly arrived refugees, who are not eligible for Temporary Cash Assistance (TCA), for the first eight months after arrival. Persons who are victims of a severe form of trafficking are also eligible for this cash assistance. The fiscal 2006 budget allowance shows \$690,057 in federal funds under TCA. Approximately 312 refugees per month in Maryland participate in this program. According to DHR, monthly grants to individuals average about \$177 (with the maximum grant set at \$216).

In Baltimore City, Baltimore, Carroll, Howard, Anne Arundel, and Harford counties, beginning October 1, 2001, TCA cash assistance was replaced by Refugee Transitional Cash Assistance, which is administered by the voluntary agencies that resettle refugees. The monthly grant for individuals is \$195 for the first four months, dropping to \$180 for the final four months.

States have also enacted laws against human trafficking. Proponents of state laws against human trafficking contend that current laws prohibiting kidnapping, rape, sexual offense, prostitution, and the like do not adequately address human trafficking, in part because of the psychological aspect of the coercion that trafficking victims are subjected to and that federal authorities do not have the resources to address all cases of human trafficking that exist. To date, 13 states – Arizona, Arkansas, California, Florida, Illinois, Kansas, Louisiana, Minnesota, Missouri, Nevada, New Jersey, Texas, and Washington – have enacted laws to make trafficking a state offense. Several states, including Colorado, Connecticut, Washington, Idaho, Minnesota, and California, have established task forces to study the issue of human trafficking.

The provisions of this bill are based on *Model Elements of Comprehensive State Legislation to Combat Trafficking in Persons* as prepared by the Polaris Project, a self-

described “multicultural grassroots organization combating human trafficking and modern-day slavery.” The House Judiciary Committee held a hearing on the issue of human trafficking during the 2005 interim.

The extent to which human trafficking actually occurs in Maryland is unknown.

State Expenditures: General fund expenditures could increase minimally as a result of the bill’s incarceration penalties due to more people being committed to Division of Correction (DOC) facilities. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,974 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$341 per month. Excluding medical care, the average variable costs total \$134 per month.

Local Revenues: Revenues could increase minimally as a result of the bill’s monetary penalty provisions from cases heard in the circuit courts.

Additional Information

Prior Introductions: HB 1473 of 2005, which sought to prohibit human trafficking in Maryland, was withdrawn after a hearing before the House Judiciary Committee.

Cross File: HB 996 (Delegates Petzold and Lawton) – Judiciary.

Information Source(s): Department of Public Safety and Correctional Services, Department of State Police, Department of Human Resources, Department of Legislative Services

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