

Ohio Human Trafficking Bills

Senate Bill 235 & House Bill 493

Senate Bill 235: Fedor & Grendell

S.B. 235^[1] is sponsored by Sen. Fedor (D), Sen. Grendell (R), and 24 other senators. As introduced, it will make human trafficking a stand-alone second degree felony under state law by enacting R.C. §2905.31 and 2905.32. This proposed language was replaced by a sub-bill in March that also amends the criminal charges of conspiracy (§2923.01) and a pattern of corrupt activity (§2923.31) to include human trafficking. This sub-bill also amends the definition of human trafficking in §2929.01(AAA) to cover both labor and sex trafficking.

[1] http://www.legislature.state.oh.us/bills.cfm?ID=128_SB_235

House Bill 493: Chandler

H.B. 493^[2] is sponsored by Rep. Chandler (D) and 22 other representatives. It contains identical criminal provisions to S.B. 235, but adds numerous civil provisions in line with the recommendations of the Ohio Attorney General Richard Cordray.^[3] These civil provisions require human trafficking training for law enforcement; recommend the development of public awareness programs through the attorney general's office; allow victims to bring a civil action against their traffickers; mandate that minor victims be provided necessary protection and services; and require that particular establishments (hotels, truck stops, etc.) display the national human trafficking hotline number.

[2] http://www.legislature.state.oh.us/bills.cfm?ID=128_HB_493

[3] <http://www.ohioattorneygeneral.gov/TraffickingLegalProposal>

Ohio is one of only seven states that do not have a stand-alone human trafficking felony. Currently, Ohio only has a human trafficking "specification" or "sentencing enhancement," R.C. §2941.1422., that is defined by §2929.01(AAA) to only cover sex trafficking cases. If a person is charged with two sex trafficking related felonies (i.e. abduction or compelling prostitution), this sentencing enhancement may be attached, which will mandate prison time of at least 12 months. R.C. §2941.1422 is complicated to use and has never been utilized.



In Ohio, at least 1,078 American youth are forced into the sex trade per year and another 783 foreign born people are currently in the labor or sex trade.

<http://www.ohioattorneygeneral.gov/TraffickingReport>



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U.S. Department of Justice

Recommendations for state human trafficking law given alongside their model statute

http://www.justice.gov/crt/crim/model_state_law.pdfhttp://www.justice.gov/crt/crim/model_state_law.pdf

Toledo is currently number four in the nation in terms of the number of arrests, investigations, and rescue of domestic minor sex trafficking victims among U.S. cities.

<http://www.ohioattorneygeneral.gov/TraffickingReport>

IMPORTANT CONSIDERATIONS:

- S.B. 235 is still in committee and needs to be voted onto the Senate floor soon if it is to become law by 2011.
- H.B. 493 has been assigned to the House Criminal Justice committee and will need to be voted through as quickly as possible.
- Neither bill addresses the education of Ohio children and teachers about the how to stay safe from human trafficking.
- Unlike federal law, neither of these bills distinguishes child sex trafficking from other forms of trafficking. Under the Trafficking Victim Protection Act of 2000, prosecutors are not required to prove that the trafficker forced, fraudulently induced, or coerced the child into trafficking.
- Neither bill discusses providing housing and other victim services to adult victims of human trafficking.
- Neither bill discusses John Schools, which have been proven to successfully deter persons from purchasing commercial sex. Encouraging such programs would address the demand side of sex trafficking.

“There is a strong need for uniformity in definitions and concepts across state lines to minimize confusion as trafficking victims in state prosecutions begin to seek the victim protections available through the federal Departments of Health and Human Services and of Homeland Security.”

“A provision specific to minors in sexually-related activities sets forth a lesser standard of coercion – recognizing that sexual activities are conceptually different when minors are involved – by casting as Sexual Servitude those activities which involve minors but are not the result of coercion. This Section is the equivalent of Statutory Rape laws, which obviate the need to prove coercion when a victim is under the age of legal consent. This Section would allow for trafficking prosecutions in cases in which minors are kept in prostitution because of their circumstances but overt force is not used, such as is common in cases involving runaway U.S. citizen youth.”

“Federal experience has shown that prosecution without victim protection is unworkable. At the federal level, there is a variety of benefits and services available to trafficking victims. Accordingly, this Model Law provides a mechanism through which a state could determine how well current state programs serve the needs of trafficking victims. In addition, a state may want to consider optional Model Law language regarding the incorporation of federal T non-immigrant status as a basis through which certain state benefits, programs, and licenses could be accessed by alien trafficking victims.”