2015 SENATE BILL 745

February 17, 2016 −Introduced by Senators RISSER, HARRIS DODD, CARPENTER, MILLER, VINEHOUT, LASA, C. LARSON and RINGHAND, cosponsored by Representatives C. TAYLOR, JOHNSON, KAHL, SARGENT, SUBECK, MASON, CONSIDINE, SPREITZER, POPE and BILLINGS. Referred to Committee on Judiciary and Public Safety.

AN ACT to amend 16.705 (9), 940.302 (1) (b), 940.302 (1) (d), 948.051 (1), 949.04 (2) (a), 973.20 (4o) (intro.) and 973.20 (4o) (b); and to create 165.85 (4) (b) 1e., 939.622, 940.302 (2) (a) 2. ac., ae., cm. and dm., 948.051 (4), 949.04 (1) (c) and 973.20 (4o) (b) 3. of the statutes; relating to: the Uniform Act on Prevention of and Remedies for Human Trafficking and providing a penalty.

Analysis by the Legislative Reference Bureau

Current law prohibits human trafficking and trafficking of a child (trafficking offense). In general, human trafficking is a Class D felony and trafficking of a child is a Class C felony. In June 2013, the National Conference of Commissioners on Uniform State Laws approved and recommended a Uniform Act on Prevention of and Remedies for Human Trafficking. This bill incorporates the parts of that uniform act that are not in current law, including the following:

1. A provision that makes ineligible for state contracts an entity that commits a trafficking offense.

2. A provision that requires law enforcement training programs to provide training on identifying and providing forms to an individual who may qualify under federal law for a nonimmigrant visa or continued presence due to being a victim of a trafficking offense.

3. A provision that allows the maximum term of imprisonment for a trafficking offense to be increased by up to five years if the person obtained the victim from a shelter that serves victims of human trafficking, domestic violence, or sexual assault; runaway youth; or the homeless.
SENATE BILL 745

4. A provision that allows a victim of a trafficking offense to apply for crime victim compensation from the Department of Justice regardless of immigration status.

For further information see the state and local fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 16.705 (9) of the statutes is amended to read:

16.705 (9) The department shall maintain a list of persons that are or have been a party to a contract with the state under this subchapter who have violated a provision of this subchapter or, a contract under this subchapter, or s. 940.302 (2) or 948.051. The parties on the list are ineligible for state contracts and no state contract may be awarded to a party on the ineligible list. The department may remove any party from the ineligible list if the department determines that the party's practices comply with this subchapter and provide adequate safeguards against future violations of this subchapter or contracts under this subchapter.

SECTION 2. 165.85 (4) (b) 1e. of the statutes is created to read:

165.85 (4) (b) 1e. A training program established under subd. 1. shall provide training on how a law enforcement officer may identify an individual who may qualify for a nonimmigrant T or U visa under 8 USC 1101 (a) (15) (T) or (U) or for continued presence under 22 USC 7105 (c) (3) because of being a victim of an offense under s. 940.302 (2) or 948.051. The training shall provide that, upon request by an individual, if the law enforcement officer reasonably believes the individual would qualify, the law enforcement officer shall complete, sign, and give to the individual a federal Form I−914B or Form I−918B and request a federal law enforcement officer to request continued presence. The training shall provide that, upon request by an
individual, if the law enforcement officer does not reasonably believe that an
individual would qualify, the law enforcement officer shall inform the individual of
the reason the law enforcement officer does not reasonably believe the individual
would qualify and inform the individual that he or she may make another request
and submit additional evidence of qualification.

SECTION 3. 939.622 of the statutes is created to read:

939.622 Human trafficking; penalty enhancers. If a person commits a
violation under s. 940.302 (2) or 948.051, the maximum term of imprisonment for
that crime may be increased by not more than 5 years if the person recruited, enticed,
or obtained the victim of the violation from a shelter that serves individuals who have
been victims of, or who have been exposed to, human trafficking, domestic violence,
or sexual assault; who are runaway youth; or who are homeless.

SECTION 4. 940.302 (1) (b) of the statutes is amended to read:

940.302 (1) (b) “Debt bondage” means the condition of a debtor arising from the
debtor’s pledge of services as a security for debt or purported debt if the reasonable
value of those services is not applied toward repaying the debt or purported debt or
if the length and nature of the services are not defined.

SECTION 5. 940.302 (1) (d) of the statutes is amended to read:

940.302 (1) (d) “Trafficking” means recruiting, enticing, harboring, 
transporting, transferring, receiving, isolating, maintaining, providing, or
obtaining, or attempting to recruit, entice, harbor, transport, transfer, receive,
isolate, maintain, provide, or obtain, an individual.

SECTION 6. 940.302 (2) (a) 2. ac., ae., cm. and dm. of the statutes are created
to read:
SENATE BILL 745

SECTION 6

940.302 (2) (a) 2. ac. Causing or threatening to cause mental or emotional harm to any individual.

ae. Causing or threatening to cause harm to any individual’s reputation if the harm or threat would compel a reasonable individual of the same background and in the same circumstance to provide such labor or services or perform the commercial sex act to avoid the harm.

cm. Abducting or threatening to abduct any individual.

dm. Using an individual’s physical or mental impairment if the impairment substantially affects the individual’s functions.

SECTION 7. 948.051 (1) of the statutes is amended to read:

948.051 (1) Whoever knowingly recruits, entices, provides, obtains, transports, transfers, receives, isolates, maintains, or harbors, or knowingly attempts to recruit, entice, provide, obtain, transport, transfer, receive, isolate, maintain, or harbor, any child for the purpose of commercial sex acts, as defined in s. 940.302 (1) (a), is guilty of a Class C felony.

SECTION 8. 948.051 (4) of the statutes is created to read:

948.051 (4) The knowledge requirement under sub. (1) does not require proof of knowledge that the person was a child. It is not a defense to a prosecution under this section that the actor mistakenly believed that the person under sub. (1) had attained the age of 18 years, even if the mistaken belief was reasonable, or that the child under sub. (1) had consented to the activity.

SECTION 9. 949.04 (1) (c) of the statutes is created to read:

949.04 (1) (c) A victim of s. 940.302 (2) or 948.051 may apply for an award under this subchapter regardless of immigration status.

SECTION 10. 949.04 (2) (a) of the statutes is amended to read:
949.04 (2) (a) The department shall prescribe application forms for awards under this subchapter. If the application results from the commission of or the attempt to commit a crime specified in s. 940.22 (2), 940.225, 940.302 (2), 948.02, 948.025, 948.051, 948.085, or 948.095 or a crime or an act compensable under s. 949.03 that was sexually motivated, as defined in s. 980.01 (5), any personally identifiable information, as defined in s. 19.62 (5), provided on the application form is not subject to inspection or copying under s. 19.35 (1).

SECTION 11. 973.20 (4o) (intro.) of the statutes is amended to read:

973.20 (4o) (intro.) If the defendant violated s. 940.302 (2) or 948.051, the court shall order restitution under this section even if the victim is unavailable to accept payment of the restitution. If the defendant violated s. 940.302 (2) or 948.051, and sub. (2) or (3) does not apply, the restitution order may require that the defendant pay an amount equal to any of the following:

SECTION 12. 973.20 (4o) (b) of the statutes is amended to read:

973.20 (4o) (b) The greater of the following:

1. The gross income gained by the defendant due to, or the value to the defendant of, the services of the victim.

2. The value of the victim’s services as provided under calculated, including overtime, using the greater of the state minimum wage or the federal minimum wage.

SECTION 13. 973.20 (4o) (b) 3. of the statutes is created to read:

973.20 (4o) (b) 3. The amount the defendant contracted to pay the victim.

(END)