



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0145/1
CMH:emw&wlj

2015 SENATE BILL 745

February 17, 2016 - Introduced by Senators RISSER, HARRIS DODD, CARPENTER, MILLER, VINEHOUT, LASSA, 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.

1 **AN ACT to amend** 16.705 (9), 940.302 (1) (b), 940.302 (1) (d), 948.051 (1), 949.04
2 (2) (a), 973.20 (4o) (intro.) and 973.20 (4o) (b); and **to create** 165.85 (4) (b) 1e.,
3 939.622, 940.302 (2) (a) 2. ac., ae., cm. and dm., 948.051 (4), 949.04 (1) (c) and
4 973.20 (4o) (b) 3. of the statutes; **relating to:** the Uniform Act on Prevention
5 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.

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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:

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

2 16.705 (9) The department shall maintain a list of persons that are or have
3 been a party to a contract with the state under this subchapter who have violated a
4 provision of this subchapter ~~or~~, a contract under this subchapter, or s. 940.302 (2) or
5 948.051. The parties on the list are ineligible for state contracts and no state contract
6 may be awarded to a party on the ineligible list. The department may remove any
7 party from the ineligible list if the department determines that the party's practices
8 comply with this subchapter and provide adequate safeguards against future
9 violations of this subchapter or contracts under this subchapter.

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

11 165.85 (4) (b) 1e. A training program established under subd. 1. shall provide
12 training on how a law enforcement officer may identify an individual who may
13 qualify for a nonimmigrant T or U visa under 8 USC 1101 (a) (15) (T) or (U) or for
14 continued presence under 22 USC 7105 (c) (3) because of being a victim of an offense
15 under s. 940.302 (2) or 948.051. The training shall provide that, upon request by an
16 individual, if the law enforcement officer reasonably believes the individual would
17 qualify, the law enforcement officer shall complete, sign, and give to the individual
18 a federal Form I-914B or Form I-918B and request a federal law enforcement officer
19 to request continued presence. The training shall provide that, upon request by an

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1 individual, if the law enforcement officer does not reasonably believe that an
2 individual would qualify, the law enforcement officer shall inform the individual of
3 the reason the law enforcement officer does not reasonably believe the individual
4 would qualify and inform the individual that he or she may make another request
5 and submit additional evidence of qualification.

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

7 **939.622 Human trafficking; penalty enhancers.** If a person commits a
8 violation under s. 940.302 (2) or 948.051, the maximum term of imprisonment for
9 that crime may be increased by not more than 5 years if the person recruited, enticed,
10 or obtained the victim of the violation from a shelter that serves individuals who have
11 been victims of, or who have been exposed to, human trafficking, domestic violence,
12 or sexual assault; who are runaway youth; or who are homeless.

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

14 940.302 (1) (b) "Debt bondage" means the condition of a debtor arising from the
15 debtor's pledge of services as a security for debt or purported debt if the reasonable
16 value of those services is not applied toward repaying the debt or purported debt or
17 if the length and nature of the services are not defined.

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

19 940.302 (1) (d) "Trafficking" means recruiting, enticing, harboring,
20 transporting, transferring, receiving, isolating, maintaining, providing, or
21 obtaining, or attempting to recruit, entice, harbor, transport, transfer, receive,
22 isolate, maintain, provide, or obtain, an individual.

23 **SECTION 6.** 940.302 (2) (a) 2. ac., ae., cm. and dm. of the statutes are created
24 to read:

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1 940.302 (2) (a) 2. ac. Causing or threatening to cause mental or emotional harm
2 to any individual.

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

7 cm. Abducting or threatening to abduct any individual.

8 dm. Using an individual's physical or mental impairment if the impairment
9 substantially affects the individual's functions.

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

11 948.051 (1) Whoever knowingly recruits, entices, provides, obtains, transports,
12 transfers, receives, isolates, maintains, or harbors, or knowingly attempts to recruit,
13 entice, provide, obtain, transport, transfer, receive, isolate, maintain, or harbor, any
14 child for the purpose of commercial sex acts, as defined in s. 940.302 (1) (a), is guilty
15 of a Class C felony.

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

17 948.051 (4) The knowledge requirement under sub. (1) does not require proof
18 of knowledge that the person was a child. It is not a defense to a prosecution under
19 this section that the actor mistakenly believed that the person under sub. (1) had
20 attained the age of 18 years, even if the mistaken belief was reasonable, or that the
21 child under sub. (1) had consented to the activity.

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

23 949.04 (1) (c) A victim of s. 940.302 (2) or 948.051 may apply for an award under
24 this subchapter regardless of immigration status.

25 **SECTION 10.** 949.04 (2) (a) of the statutes is amended to read:

