

ONE HUNDRED SECOND LEGISLATURE - SECOND SESSION - 2012
COMMITTEE STATEMENT (CORRECTED)
LB1145

Hearing Date: Thursday February 16, 2012
Committee On: Judiciary
Introducer: McGill
One Liner: Change and provide provisions and penalties relating to human trafficking and pandering

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Ashford, Coash, Council, Harr, Larson, Lathrop, Lautenbaugh, McGill
Nay:
Absent:
Present Not Voting:

Proponents:

AMY WILLIAMS
TOM CASADY
LAZARO SPINDOLA
AL RISKOWSKI
ROBERT SANFORD

SRIYANI TIDBALL

JUDY M.gaisashkibas

Representing:

INTRODUCER ON BEHALF OF SEN. MCGILL
CITY OF LINCOLN
LATINO AMERICAN COMMISSION
NEBRASKA FAMILY COUNCIL
NEBRASKA DOMESTIC VIOLENCE SEXUAL
ASSAULT COALITION
UNL/ NEBRASKA STUDENTS AGAINST MODERN
DAY SLAVERY
NEBRASKA INDIAN COMMISSION

Opponents:

Neutral:

DAVID BAKER
JIM CUNNINGHAM

Representing:

OMAHA POLICE DEPT.
NE CATHOLIC CONFERENCE

Summary of purpose and/or changes:

LB 1145 would make the following changes to the Nebraska Statutes:

Section 2: Would amend 28-802 to provide that the penalty for pandering of a person under the age of 18 is a Class III felony (1-20yrs/\$25,000/both) for each offense and pandering of a person 18 or older is a Class IV (5yrs/\$10,000/ both) for the first offense and a Class III felony (1-20yrs/\$25,000/both) for each subsequent offense.

Section 3: References Section 4 of this act to 28-830.

Section 4: Forfeiture of Human Trafficker's Assets:

This section authorizes law enforcement officials to seize property obtained due to a violation of the state human trafficking statute, which would then be subject to forfeiture.

Property subject to seizure and forfeiture includes: vehicles, computers, records, money, weapons, and real property that are used in connection to human trafficking. This section also provides a process for the owner to petition for the release of seized property. The proceeds of the sale of any forfeited assets would be paid to the county treasurer in the county in which the seizure occurred and would be disposed of in a manner consistent with the Nebraska state constitution.

Finally, this section enables the state to hold human traffickers financially accountable for their illegal actions, and therefore places the burden of proof for the return of the property in question, on the person claiming ownership rather than the state. This bill will enable the state to generate financial resources rather than to expend them and therefore has a positive fiscal impact.

Section 5: Hotline Posting:

This section will require posting information about the National Human Trafficking resource Center (NHTRC) Hotline in certain facilities :

Posting the NHTRC Hotline provides resources and information to victims and citizens in places of transit (such as welcome centers, rest stops, bus stations), and in locations where victims are "at work" in known sex or labor trafficking venues (for example strip clubs and unlicensed massage parlors). Other establishments include health care centers and job recruitment centers.

Section 6: Human Trafficking Commission:

This section establishes a commission on human trafficking. The commission is tasked with studying and investigating key aspects of human trafficking including the availability of victim services and the scope of human trafficking in the state.

This section also outlines who the members of the commission should be, how each commissioner should be appointed, and the term of service for each commissioner. Commissioners will not receive compensation for their service, but will be reimbursed for expenses incident to that service.

Finally, the commission will be required to issue a report to the Clerk of the Legislature with regards to the result of the issues they have studied and must forward any legislative recommendations the commission has for future laws needed in the State.

Section 7: Vacating Convictions for Sex Trafficking:

This section allows victims of sex trafficking to file a motion to vacate a conviction of prostitution acquired because of being a victim of sex trafficking.

The applicant must show that the conviction was the result of human trafficking as defined by state or federal law. The bill requires applicants to act with due diligence, but allows for flexibility when the safety of the applicant, the applicant's family, or other victims is a concern.

Applicants must also provide sufficient evidence of their victimization by a human trafficker to enable the court to either grant or deny the motion.

Section 8: Training for Government Officials on Human Trafficking:

This section requires the state to provide mandatory training for law enforcement agencies, prosecutors, public defenders, judges, officials involved with juvenile detention and prosecution, and other relevant government officials on human trafficking.

The training will include information regarding the investigation and prosecution of human trafficking; the identification, protection, and assistance of victims; and methods to increase cooperation between relevant stakeholders including nongovernmental organizations.

This section also would require the state to invest some time and resources to develop the training curriculum, however, training curriculum has been developed in other states that may serve as a starting point. Other states have also pursued online courses to minimize costs and make the training accessible to officials when it is most convenient.

Explanation of amendments:

AM2387 to LB 1145

Strikes all sections and insert the following sections:

Section 1. Pandering:

Would amend 28-802 to provide that the penalty for pandering of a person under the age of 18 is a Class III felony (1-20yrs/\$25,000/both) for each offense and pandering of a person 18 or older is a Class IV (5yrs/\$10,000/ both) for the first offense and a Class III felony (1-20yrs/\$25,000/both) for each subsequent offense.

Section 2. Task Force to study and investigate Human Trafficking:

Creates a twenty member task force to study the issues and effects of human trafficking;

Requires the task force created under this section and the Department of Labor to create or select informational posters to be posted around the state;

Requires strip clubs and rest stops in the state to post signs created under this section and requires the task force to work with other entities across the state to encourage them to voluntarily post signs in their facilities. (Other entities include: schools, post secondary schools hospitals, gas stations, hotels, etc.)

Adds the director of the Commission on Latino-Americans or his or her designee as a member of the task force;

Requires the governor to appoint one member from the six at-large members under subsection (o) of this section to be appointed, to represent child welfare and one member who represents juvenile pretrial diversion.

Section 3. Mandatory Training:

This section requires the state to provide mandatory training for law enforcement agencies, prosecutors, public defenders, judges, officials involved with juvenile detention and prosecution, and other relevant government officials on human trafficking.

The task force created under section 2 of this act shall work with the various agencies under this section to develop a proper training curriculum by December 1, 2012.

The training will include information regarding the investigation and prosecution of human trafficking; the identification, protection, and assistance of victims; and methods to increase cooperation between relevant stakeholders including nongovernmental organizations.

This section also would require the state to invest time and resources to develop the training curriculum, however, training curriculum has been developed in other states that may serve as a starting point. Other states have also pursued online courses to minimize costs and make the training accessible to officials when it is most convenient.

Brad Ashford, Chairperson