

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 689

Introduced by Christensen, 44.

Read first time January 19, 2011

Committee: Judiciary

A BILL

1 FOR AN ACT relating to human trafficking; to amend section 28-830,
2 Reissue Revised Statutes of Nebraska, and section 28-101,
3 Revised Statutes Cumulative Supplement, 2010; to define
4 terms; to provide an affirmative defense and for
5 treatment of victims; to harmonize provisions; and to
6 repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-830, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 28-830 For purposes of sections 28-830 to 28-832, the
4 following definitions apply:

5 (1) Actor means a person who solicits, procures, or
6 supervises the services or labor of another person;

7 (2) Commercial sexual activity means any sex act ~~on~~
8 ~~account of which anything of value is given, promised to, or received~~
9 ~~by any person; or sexually explicit performance for which anything of~~
10 value is given, promised to, or received by any person and includes
11 prostitution, participation in the production of pornography, and
12 performance in strip clubs;

13 (3) Financial harm means theft by extortion as described
14 by section 28-513;

15 (4) Forced labor or services means labor or services that
16 are performed or provided by another person and are obtained or
17 maintained through:

18 (a) Inflicting or threatening to inflict serious personal
19 injury as defined by section 28-318;

20 (b) Physically restraining or threatening to physically
21 restrain another person;

22 (c) Knowingly destroying, concealing, removing,
23 confiscating, or possessing any actual or purported passport or other
24 immigration document or any other actual or purported government
25 identification document of another person; ~~or~~

1 (d) Causing or threatening to cause financial harm to
2 another person; or

3 (e) Abusing or threatening to abuse the law or legal
4 process;

5 (5) Labor means work of economic or financial value;

6 (6) Maintain means, in relation to labor or services, to
7 secure continued performance thereof, regardless of any initial
8 agreement by the victim to perform such type of service;

9 (7) Minor means a person younger than eighteen years of
10 age;

11 (8) Obtain means, in relation to labor or services, to
12 secure performance thereof;

13 (9) Services means an ongoing relationship between a
14 person and the actor in which the person performs activities under
15 the supervision of or for the benefit of the actor. Commercial sexual
16 activity and sexually-explicit performances are forms of services
17 under this section. Nothing in this subdivision shall be construed to
18 legalize prostitution;

19 (10) Sexually-explicit performance means a live or public
20 play, dance, show, or other exhibition intended to arouse or gratify
21 sexual desire or to appeal to prurient interests; and

22 (11) Trafficking victim means a person subjected to any
23 act or acts prohibited by section 28-831.

24 Sec. 2. (1) In any prosecution under section 28-831, it
25 shall be an affirmative defense that the defendant was also a victim

1 of a crime that is a violation of such section and the defendant
2 committed the violation of section 28-831 under compulsion by
3 another's threat that serious injury to the defendant was imminent if
4 the defendant did not commit the violation and such belief by the
5 defendant was reasonable under the circumstances.

6 (2) Upon conviction under section 28-831, the court
7 shall, in addition to any criminal penalties imposed under such
8 section, award restitution to the victim taking into consideration
9 the gross income of the defendant or the value of labor or services
10 performed by the victim to the defendant when determining the amount
11 of restitution.

12 Sec. 3. Human trafficking victims shall:

13 (1) Be housed in an appropriate shelter as soon as
14 practicable;

15 (2) Not be detained in facilities inappropriate to their
16 status as crime victims;

17 (3) Not be jailed, fined, or otherwise penalized due to
18 having been trafficked;

19 (4) Receive prompt medical care, mental health care,
20 food, and other assistance, as necessary;

21 (5) Have access to legal assistance, information about
22 their rights, and translation services, as necessary; and

23 (6) Be provided protection if the safety of the victim is
24 at risk or if there is a danger of additional harm by recapture of
25 the victim by a trafficker, including:

- 1 (a) Taking measures to protect trafficked persons and
- 2 their family members from intimidation and threats of reprisals; and
- 3 (b) Ensuring that the names and identifying information
- 4 of trafficked persons and their family members are not disclosed to
- 5 the public.

6 Sec. 4. Section 28-101, Revised Statutes Cumulative
7 Supplement, 2010, is amended to read:

8 28-101 Sections 28-101 to 28-1356 and sections 2 and 3 of
9 this act shall be known and may be cited as the Nebraska Criminal
10 Code.

11 Sec. 5. Original section 28-830, Reissue Revised Statutes
12 of Nebraska, and section 28-101, Revised Statutes Cumulative
13 Supplement, 2010, are repealed.