

SENATE BILL NO. 385
INTRODUCED BY J. COBB

A BILL FOR AN ACT ENTITLED: "AN ACT CRIMINALIZING SUBJECTING ANOTHER TO INVOLUNTARY SERVITUDE AND TRAFFICKING IN PERSONS FOR INVOLUNTARY SERVITUDE; PROVIDING PENALTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, the Legislature recognizes that there is a phenomenon of modern-day slavery, often termed "trafficking in persons", in which traffickers use coercive tactics to obtain and maintain the labor and services of their victims; and

WHEREAS, the Legislature is concerned that the disparate parts of the criminal code may not be clear as to their application to the phenomenon of trafficking in persons and may not reflect current understanding of slavery and trafficking in persons; and

WHEREAS, it may not be clear to prosecutors that behaviors such as kidnapping or prostitution are crimes related to trafficking in persons; and

WHEREAS, the Legislature wishes to address the problem of trafficking in persons and clarify that behaviors that are trafficking in persons be charged as such by prosecutors; and

WHEREAS, the Congress of the United States has enacted criminal provisions specific to trafficking in persons, including the Victims of Trafficking and Violence Protection Act of 2000, 22 U.S.C. 7101, et seq.; and

WHEREAS, having state and federal criminal laws overlap allows for more prosecutions to be brought, allows local prosecutors to respond most appropriately to crime problems in their own jurisdictions, and provides 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 government; and

WHEREAS, the Legislature of the State of Montana finds that it is appropriate to enact statutes to prevent and punish trafficking in persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Subjecting another to involuntary servitude -- definitions.** (1) A person commits the offense of subjecting another to involuntary servitude if the person purposely or knowingly obtains or maintains the forced labor or services of another person by any of the following actions or by threatening any

of the following actions:

- (a) causing physical harm to any person;
- (b) damaging or destroying the property of any person;
- (c) physically restraining another person;
- (d) abusing the law or legal process;
- (e) knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document or any other actual or purported government identification document of another person;
- (f) blackmail; or
- (g) causing financial harm to any person or using financial control over any person.

(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of subjecting another to involuntary servitude shall be imprisoned in the state prison for a term of not less than 2 years or more than 10 years, fined an amount not to exceed \$50,000, or both.

(b) A person convicted of the offense of subjecting another to involuntary servitude, if the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate homicide, shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 2 years or more than 100 years and may be fined not more than \$50,000.

(3) As used in this section, the following definitions apply:

(a) "Blackmail" means an unlawful demand of money, property, or services under threat to accuse another person of a crime or to expose any secret tending to subject a person to hatred, contempt, or ridicule.

(b) "Financial harm" includes employment contracts that violate 28-2-903, taking, receiving, reserving, or charging a rate of interest greater than is allowed by 31-1-107, and defrauding creditors as defined in 45-6-315.

(c) "Forced labor or services" means labor or services that are performed or provided by another person and are obtained or maintained through violation of subsection (1).

(d) "Labor" means work of economic or financial value.

(e) "Maintain" means to secure continued performance of labor or services, regardless of any initial agreement on the part of the victim to perform that type of service.

(f) "Obtain" means to secure performance of labor or services.

(g) "Services" means an ongoing relationship between a person and the offender in which the person performs activities under the supervision of or for the benefit of the offender, including commercial sexual activity and sexually explicit performances.

NEW SECTION. Section 2. Trafficking of persons for involuntary servitude. (1) A person commits the offense of trafficking of persons for involuntary servitude if the person purposely or knowingly:

(a) recruits, entices, harbors, transports, provides, or obtains by any means another person, intending or knowing that the person will be subjected to involuntary servitude as described in [section 1]; or

(b) benefits financially by receiving anything of value from participation in a venture that has engaged in the offense of subjecting another to involuntary servitude as described in [section 1].

(2) (a) Except as provided in subsection (2)(b), a person convicted of the offense of trafficking of persons for involuntary servitude shall be imprisoned in the state prison for a term of not less than 2 years or more than 15 years, fined an amount not to exceed \$100,000, or both.

(b) A person convicted of the offense of trafficking of persons for involuntary servitude, if the violation involves aggravated kidnapping, sexual intercourse without consent, or deliberate homicide, shall be punished by life imprisonment or by imprisonment in the state prison for a term of not less than 2 years or more than 100 years and may be fined not more than \$100,000.

NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 45, chapter 5, part 3, and the provisions of Title 45, chapter 5, part 3, apply to [sections 1 and 2].

NEW SECTION. Section 4. Effective date. [This act] is effective on passage and approval.

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