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An Act To Implement the Recommendations of the Human Trafficking Task Force

Be it enacted by the People of the State of Maine as follows:

PART A

Sec. A-1. 17-A MRSA c. 10 is enacted to read:

CHAPTER 10

INVOLUNTARY SERVITUDE AND HUMAN TRAFFICKING OFFENSES

§ 221. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. "Commercial sexual activity" means a sexual act, sexual contact or sexual touching as defined in section 251 or sexually explicit performance for which anything of value is given to, promised to or received by a person.

2. "Debt bondage" means the status or condition of a debtor arising from a pledge by the debtor of the debtor's personal services or those of a person under the debtor's control as security for debt if the value of those services as reasonably assessed is not applied toward the payment of the debt or the length and nature of the services are not limited and defined.

3. "Force, fraud or coercion" means, but is not limited to, the following:

A. Causing or threatening to cause bodily injury to a person;

B. Physically restraining or threatening to physically restrain a person;

C. Abusing or threatening to abuse the law or legal process;

D. Destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document, or other actual or purported government identification document of another person, without the legal right to do so;

E. Using extortion, as described in section 355, subsection 2, including, but not limited to, using a scheme, plan or pattern intended to cause a person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

F. Causing or threatening to cause financial harm, including, but not limited to, through credit extortion, an intentional or knowing violation of the Maine Consumer Credit Code or an unfair employment agreement as described in Title 26, section 629.

4. "Forced labor or services" means labor or services, including, but not limited to, debt bondage, commercial sexual activity, sexual exploitation of a minor and production of pornography, that are performed or provided by another person and are obtained or maintained by the use of force, fraud or coercion.

5. "Human trafficking offense" means an offense under sections 223 to 225.

6. "Pornography" means any written or printed material, picture, photograph, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that:

A. To the average individual, applying contemporary community standards and considered as a whole, appeals to the prurient interest;

B. Depicts or describes, in a patently offensive manner, ultimate sexual acts, excretory functions, masturbation or lewd exhibition of the genitals; and

C. Considered as a whole, lacks serious literary, artistic, political or scientific value.

7. "Sexually explicit performance" means a live or public act or show intended to arouse or satisfy the sexual desires of or appeal to the prurient interests of the audience.

8. "Sexual exploitation of a minor" has the same meaning as described in section 282.

9. "Victim" means a person subjected to the practices prohibited in sections 222 to 225.

§ 222. Causing involuntary servitude

1. A person is guilty of causing involuntary servitude if the person:

A. Intentionally or knowingly subjects another person to forced labor or services; or

B. Intentionally or knowingly benefits financially from or receives anything of value from participating in involuntary servitude.

2. Causing involuntary servitude is a Class B crime.

§ 223. Human trafficking

1. A person is guilty of human trafficking if the person:

A. Intentionally or knowingly recruits, entices, harbors, transports, provides or obtains by any means another person, intending or knowing that the person will be subjected to forced labor or services; or

B. Intentionally or knowingly benefits financially or receives anything of value from participating in a human trafficking offense.

2. Human trafficking is a Class B crime.

§ 224. Human trafficking of a minor

1. A person is guilty of human trafficking of a minor if the person intentionally or knowingly recruits, entices, harbors, transports, provides or obtains by any means a minor, intending or knowing that the minor will be subjected to commercial sexual activity, sexual exploitation of a minor or the production of pornography.

2. Human trafficking of a minor is a Class B crime.

§ 225. Aggravated human trafficking

1. A person is guilty of aggravated human trafficking if the person:

A. Commits human trafficking and the victim of the human trafficking dies in the course or as a result of the human trafficking; or

B. Commits human trafficking and the victim of the human trafficking is a minor.

2. Aggravated human trafficking is a Class A crime.

§ 226. Inapplicable defenses

1. The following defenses are not defenses to prosecutions under sections 222 to 225:

A. A victim's sexual history or history of commercial sexual activity;

B. A victim's connection by blood or marriage to the defendant or to anyone else involved in the involuntary servitude or human trafficking;

C. The consent of the victim or another person on behalf of the victim to commercial sexual activity;

D. Age of consent to sex or legal age for marriage; and

E. Any mistake as to the age of the victim.

PART B

Sec. B-1. 15 MRSA §5821, sub-§7-A, ¶A, as enacted by PL 1999, c. 349, §2, is amended to read:

A. Property may not be forfeited under this subsection, to the extent of the interest of an owner, by reason of an act or omission established by that owner to have been committed or omitted without the knowledge or consent of the owner; ~~and~~

Sec. B-2. 15 MRSA §5821, sub-§8, as enacted by PL 1989, c. 302, §3, is amended to read:

8. Bona fide lienholders. A forfeiture, under this section, of property encumbered by a perfected bona fide security interest, is subject to the interest of the secured party if the party neither had knowledge of nor consented to the act or omission upon which the right of forfeiture is based: ; and

Sec. B-3. 15 MRSA §5821, sub-§9 is enacted to read:

9. Assets in involuntary servitude and human trafficking offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable to an involuntary servitude or a human trafficking offense under Title 17-A, chapter 10.

PART C

Sec. C-1. 17-A MRSA §1322, sub-§3, ¶F, as repealed and replaced by PL 1993, c. 305, §1, is amended to read:

F. "Work loss" means loss of income from work the injured person would have performed if the injured person had not been injured and expenses reasonably incurred by the injured person in obtaining services in lieu of those the injured person would have performed for income, reduced by any income for substitute work actually performed by the injured person or by income the injured person would have earned in available appropriate substitute work the injured person was capable of performing but unreasonably failed to undertake. For a victim of an involuntary servitude or a human trafficking offense under chapter 10, "work loss" includes pay or wages unfairly or illegally withheld from the victim by the offender, as defined by rules adopted by the Department of Labor.

Sec. C-2. Rulemaking. By October 1, 2007, the Department of Labor shall adopt rules to define "work loss" under the Maine Revised Statutes, Title 17-A, section 1322, subsection 3, paragraph F for victims of involuntary servitude or human trafficking offenses under Title 17-A, chapter 10 who are eligible for restitution. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. C-3. Effective date. This Part takes effect 90 days after the adjournment of the First Regular Session of the 123rd Legislature.

PART D

Sec. D-1. 5 MRSA §3360, sub-§3, ¶G, as amended by PL 2005, c. 22, §2, is further amended to read:

G. Leaving the scene of a motor vehicle accident involving personal injury or death, in violation of Title 29-A, section 2252; ~~or~~

Sec. D-2. 5 MRSA §3360, sub-§3, ¶H, as enacted by PL 2005, c. 22, §3, is amended to read:

H. Sexual exploitation of a minor as described in Title 17-A, chapter 12; or

Sec. D-3. 5 MRSA §3360, sub-§3, ¶I is enacted to read:

I. Causing involuntary servitude or a human trafficking offense as described in Title 17-A, chapter 10.

Sec. D-4. 5 MRSA §3360, sub-§6, as enacted by PL 1999, c. 360, §3 and as affected by §9, is amended to read:

6. Personal injury. "Personal injury" means bodily injury as defined in Title 17-A, section 2, subsection 5 or psychological injury incurred by a victim who has sustained the threat of bodily injury. A victim of an involuntary servitude or a human trafficking offense under Title 17-A, chapter 10 is deemed to have suffered personal injury.

PART E

Sec. E-1. 10 MRSA §1141, sub-§5 is enacted to read:

5. Travel for commercial sexual purposes. "Travel for commercial sexual purposes" means travel, transportation or vacation services provided for the purpose of enabling a customer to engage in prostitution or engage a prostitute as defined in Title 17-A, section 851.

Sec. E-2. 10 MRSA §1142, as enacted by PL 1991, c. 261, is amended to read:

§ 1142. Prohibited credit card practice

When a travel agent furnishes travel services to a consumer and the consumer uses a credit card to obtain credit in the transaction, the provider of travel services for which ~~the~~that travel agent is an agent may not as the result of the use of the credit card impose a surcharge on or reduce commissions paid to the travel agent. This prohibition does not apply if the provider of travel services is the issuer of the credit card used in the transaction.

Sec. E-3. 10 MRSA §1144 is enacted to read:

§ 1144. Prohibited travel for commercial sexual purposes

A provider of travel services or travel agent may not advertise or furnish travel, transportation or vacation services for travel for commercial sexual purposes.

Sec. E-4. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 10, chapter 202-B, in the chapter headnote, the words "prohibited credit card practices involving providers of travel services" are amended to read "prohibited practices involving providers of travel services" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART F

Sec. F-1. 10 MRSA c. 202-E is enacted to read:

CHAPTER 202-E

REQUIREMENTS FOR INTERNATIONAL MATCHMAKING ORGANIZATIONS

§ 1151. Requirements for international matchmaking organizations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Client" means a person who is a resident of this State who contracts with an international matchmaking organization for its services.

B. "International matchmaking organization" means a person that is located in the State or that provides services to clients who are residents of the State that, on a for-profit basis, facilitates meeting, dating, matrimony or matchmaking or provides social referral services involving citizens of a foreign country who are not residing in the United States including the exchange of names and personal information or the selection of photographs or providing a social environment in a country other than the United States in which to meet. "International matchmaking organization" does not include a traditional matchmaking organization of a religious nature that operates in compliance with the laws of the country of the foreign recruits and the laws of the United States or any organization that does not charge a fee to any party for the service provided.

C. "Recruit" means a person who is a nonresident noncitizen who is listed by an international matchmaking organization for its purposes of providing meeting, dating, matrimonial and social referral services to clients.

2. Requirements. Prior to or at the time of providing written information to a client or a recruit and prior to the date of any actual meeting of the client and recruit, an international matchmaking organization shall provide written notice to the client and recruit, in the native languages of both the client and the recruit, of the right to certain public information about the other person. The written notice must provide information on how to access public information regarding criminal and marital histories and protection from abuse or harassment and other court records and judicial proceedings in the jurisdiction of the client or recruit.

3. Violation; enforcement. A violation of this section is a civil violation for which a fine of not more than \$1,000 per violation may be adjudged. The Attorney General may enforce the requirements of this section, including through the use of a petition for injunctive relief.

PART G

Sec. G-1. Attorney General's working group on human trafficking; report. The Attorney General shall convene a working group on human trafficking consisting of representatives of the following: the Department of Health and Human Services, the Department of Labor, the Department of Public Safety, the Maine Institute for Public Safety Innovation, law enforcement, immigrant legal services, interested parties, other state agencies and service providers, including, but not limited to, health care, domestic violence and sexual assault advocates and other social service providers. The working group shall:

1. Develop training for law enforcement and community organizations;
2. Develop outreach and public awareness campaigns;
3. Work on options and initiatives for data collection; and
4. Determine the need for victim and witness laws, victims' services and obtaining special visa status for victims who are undocumented immigrants, the coordination of services and the coordination of state and federal victim services programs for benefits, programs and licenses.

The working group shall report to the Second Regular Session of the 123rd Legislature by January 15, 2008.

Sec. G-2. Effective date. This Part takes effect 90 days after the adjournment of the First Regular Session of the 123rd Legislature.

PART H

Sec. H-1. Effective date. Except as otherwise indicated, this Act takes effect January 1, 2008.

SUMMARY

This bill contains the recommendations of the Human Trafficking Task Force. The bill proposes to:

1. Enact a law criminalizing involuntary servitude and human trafficking, making them Class B offenses, with enhancement to Class A in certain circumstances, and specifying certain defenses that do not apply to involuntary servitude or human trafficking offenses;
2. Authorize the court to order forfeiture of assets acquired as a result of human trafficking;
3. Give the human trafficking victim rights, restitution and the right to collect damages and compensation through criminal restitution law and the Victims' Compensation Fund and require rulemaking by the Department of Labor for the purposes of victim restitution;
4. Prohibit travel agencies operating within the State from advertising or arranging for travel for commercial sexual purposes;
5. Require commercial international matchmaking organizations operating within the State to inform recruits and clients of the right to information on the other person's criminal, marital, protection from abuse, harassment and other official records;

6. Direct the Attorney General to convene a broad working group to address human trafficking issues. The working group would report to the Legislature by January 15, 2008; and

7. Provide an effective date of January 1, 2008 except that the provisions enacting the Attorney General's working group on human trafficking and the definition of "work loss" and rulemaking in the Department of Labor regarding work loss take effect 90 days after adjournment of the First Regular Session of the 123rd Legislature.