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Public Law
123rd Legislature
Second Regular Session

Chapter 684
H.P. 360 - L.D. 461

**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 §301, sub-§2, as amended by PL 2001, c. 383, §26 and affected by §156, is further amended to read:

2. "Restrain" means to restrict substantially the movements of another person without the other person's consent or other lawful authority by:

A. Removing the other person from the other person's residence;~~or~~ place of business; or from a school; ~~or~~

B. Moving the other person a substantial distance from the vicinity where the other person is found; ~~or~~

C. Confining the other person for a substantial period either in the place where the restriction commences or in a place to which the other person has been moved.;

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 the other person; or

E. Using any scheme, plan or pattern intended to cause the other person to believe that if the person does not perform certain labor or services, including prostitution, that the person or another person will suffer serious harm or restraint.

PART B

Sec. B-1. 5 MRSA c. 337-C is enacted to read:

CHAPTER 337-C

CIVIL REMEDIES FOR HUMAN TRAFFICKING

§ 4701. Remedies for human trafficking

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

A. "Trafficked person" means a victim of a human trafficking offense.

B. "Criminal proceeding" includes the investigation and prosecution of criminal charges. A criminal proceeding remains pending until final adjudication in the trial court.

C. "Human trafficking offense" means kidnapping or criminal restraint under Title 17-A, section 301 or 302 when the crime involves restraining a person by destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document or other actual or purported government identification document of the other person or using any scheme, plan or pattern intended to cause that person to believe that if the person does not perform certain labor or services, including prostitution, that the person or another person will suffer serious harm or restraint.

2. Civil action for damages, relief. A trafficked person may bring a civil action for actual damages, compensatory damages, punitive damages, injunctive relief, any combination of those or any other appropriate relief. A prevailing plaintiff is entitled to an award of attorney's fees and costs.

3. Statute of limitations. An action brought pursuant to this section must be commenced within 10 years of the date on which the trafficked person was freed from the trafficking situation.

A. If a person entitled to bring an action under this section is under disability when the cause of action accrues so that it is impossible or impracticable for the person to bring an action, the time during which the person is under disability tolls the running of the time limit for the commencement of the action. For the purposes of this paragraph, a person is under disability if the person is a minor or is mentally ill, imprisoned, outside the United States or otherwise incapacitated or incompetent.

B. The statute of limitations is tolled for an incompetent or minor plaintiff even if a guardian ad litem has been appointed.

C. A defendant is estopped from asserting a defense of the statute of limitations if the trafficked person did not file before the expiration of the statute of limitations due to:

(1) Conduct by the defendant inducing the plaintiff to delay the filing of the action or preventing the plaintiff from filing the action; or

(2) Threats made by the defendant that caused duress to the plaintiff.

D. The statute of limitations is tolled during the pendency of any criminal proceedings against the trafficked person.

4. Cause of action on trafficked person's behalf. A legal guardian, family member, representative of the trafficked person or court appointee may represent the trafficked person or the trafficked person's estate if deceased.

PART C

Sec. C-1. 15 MRSA §5821, sub-§8, as enacted by PL 1989, c. 302, §3, is repealed.

Sec. C-2. 15 MRSA §5821, sub-§9 is enacted to read:

9. Assets in human trafficking offenses. All assets, including money instruments, personal property and real property, used or intended for use in or traceable to a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C.

Sec. C-3. 15 MRSA §5821, as amended by PL 2003, c. 688, Pt. B, §2, is further amended by adding at the end a new paragraph to read:

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.

PART D

Sec. D-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 a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C, "work loss" includes pay or benefits unfairly or illegally withheld from the victim by the offender or any unfair labor agreement under Title 26, section 629, as defined by rules adopted by the Department of Labor.

Sec. D-2. Rulemaking. By October 1, 2008, 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 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. D-3. Effective date. This Part takes effect 90 days after the adjournment of the Second Regular Session of the 123rd Legislature.

PART E

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

I. Causing a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C.

PART F

Sec. F-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 victim 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;
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;
5. Monitor the actions of international matchmaking organizations to determine if state intervention or regulation is necessary; and
6. Determine whether a special tolling statute based on cultural and linguistic isolation would be appropriate for pursuing civil remedies under the Maine Revised Statutes, Title 5, chapter 337-C.

The working group shall report to the Second Regular Session of the 124th Legislature by January 15, 2010.

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

PART G

Sec. G-1. Criminal Code Revision Commission. By March 1, 2009, the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters, after consultation with the joint standing committee of the Legislature having jurisdiction over judiciary matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, shall submit legislation to the First Regular Session of the 124th Legislature establishing

the Criminal Code Revision Commission, for the purpose of reviewing, revising, unifying, recodifying and consolidating Maine's criminal laws, including, but not limited to, the Maine Criminal Code. The commission shall:

1. Examine all sections of the Maine Criminal Code and all crimes outside the Maine Criminal Code;
2. Evaluate the operation of the Maine Criminal Code in an effort to revise the Maine Criminal Code as necessary to ensure clarity, consistency, generalization in defining prohibited conduct, that all penalties and punishments are proportioned to the offense and equity in sentencing. The commission shall recommend amendments to the Maine Criminal Code based on such evaluation and amendments to other criminal statutes outside the Maine Criminal Code; and
3. Examine any other aspects of Maine's criminal law, including substantive, procedural and administrative matters, that the commission determines relevant.

The legislation must provide that the Criminal Code Revision Commission may accept federal and other grants to carry out its responsibilities.

PART H

Sec. H-1. Effective date. Except as otherwise indicated, this Act takes effect January 1, 2009.

Effective January 1, 2009, unless otherwise indicated.