

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB294

Hearing Date: Wednesday March 04, 2015

Committee On: Judiciary

Introducer: Scheer

One Liner: Adopt the Human Trafficking Victims Civil Remedy Act and change and adopt provisions relating to service of process, sexual assault, crimes relating to morals, human trafficking, search warrants, juveniles, intercepted communications, and forfeiture of assets

Roll Call Vote - Final Committee Action:

Advanced to General File with amendment(s)

Vote Results:

Aye: 5 Senators Coash, Ebke, Morfeld, Pansing Brooks, Williams

Nay:

Absent: 2 Senators Krist, Seiler

Present Not Voting: 1 Senator Chambers

Verbal Testimony:

Proponents:

SENATOR SCHEER
JOHN FREUDENBERG
NICOLE BRUNDO
WEYSAN DUN

TORI MOSER
LINDA BURKLE
RACHEL POINTER
AL RISKOWSKI
STEPHEN PATRICK O

STANLEY CLOUSE

DOUG PETERSON
JASEL KANTU

Opponents:

TOM STRIGENZ

Neutral:

AMBER SCHLOTE
JULIET SUMMERS

Representing:

INTRODUCER
ATTORNEY GENERAL'S OFFICE
NE COUNTY ATTORNEY ASSOCIATION
HUMAN TRAFFICKING TASK FORCE (NEBRASKA
CRIME COMMISSION)
IAMFORFREEDOM
THE SALVATION ARMY
FREE THE PEOPLE MOVEMENT
NE FAMILY ALLIANCE
FORMER ASSISTANT US ATTORNEY, OMAHA
CHILD EXPLOITATION TASK FORCE, COALITION
ON HUMAN TRAFFICKING
HUMAN TRAFFICKING TASK FORCE, MAYOR OF
KEARNEY
NEBRASKA ATTORNEY GENERAL
LATINO AMERICAN COMMISSION

Representing:

NE CRIMINAL DEFENSE ATTORNEY ASSOCIATION

Representing:

OMAHA POLICE DEPARTMENT
VOICES FOR CHILDREN

Summary of purpose and/or changes:

Section 1 through Section 5 would create the Human Trafficking Victims Civil Remedy Act.

Section 2 would provide definitions for the Human Trafficking Victims Civil Remedy Act.

Section 3 would provide that actual damages in a civil action under the Act are deemed to be a minimum of \$150,000.

Section 4 would provide a statute of limitations for recovery under the Act, within 10 years.

Section 5 would provide that a plaintiff may request to use a pseudonym in all court proceedings and records.

Section 6 would amend 21-2,212 regarding service of process.

Section 7 would amend 21-20,177 regarding service of process upon an agent of a foreign corporation, pursuant to section 29-812 to 29-821.

Section 8 would amend 27-413 to provide that sexual assault includes attempt, conspiracy, or the commission or conviction of a similar offense in a different jurisdiction.

Section 9 would amend 28-801 to provide that the juvenile court has jurisdiction over a person suspected of or charged with prostitution.

Section 10 would amend 28-801.01 to increase the penalty for the offense of solicitation and would eliminate the affirmative defense for victims of trafficking. This section would also require a fine, a mental health evaluation, and a class on the health impact of prostitution.

Section 11 would amend 28-802 to increase the penalty for the offense of pandering, from a Class IV to Class III or from a Class III to Class II felony.

Section 12 would amend 28-804 to increase the penalty for keeping a place of prostitution, from a Class I misdemeanor to a Class IV felony, or from a Class III to IV felony.

Section 13 would amend 28-831 to increase the penalty for trafficking, to a Class IIIA felony, generally. This section would also eliminate certain elements of the offense, including abuse of legal process, controlling access to drugs, etc.

Section 14 would amend 29-812 regarding service of a search warrant on any corporation within or outside Nebraska.

Section 15 would amend 29-815 to provide that the return and inventory required to execute a warrant may be returned by fax or email.

Section 16 would amend 43-246.01 to provide that the juvenile court has jurisdiction over a juvenile who violated 28-801 (a child under age 18, who is suspected of prostitution, who is subject to juvenile court jurisdiction under 43-246.01(1)(e) and is immune from prosecution as an adult).

Section 17 would amend 43-247 to move reference to dangerous occupation, including prostitution which is currently covered under (3)(a) to a new (12).

Section 18 would amend 43-248 to provide that law enforcement officers may take temporary custody of a juvenile without a warrant, if the juvenile is suspected of prostitution.

Section 19 would amend 43-250 to provide that a juvenile taken into custody as a prostitution suspect, the child may be taken to a juvenile detention facility or adult jail.

Section 20 through section 25 would amend 43-251, 43-251.01, 43-254, 43-258, 43-286, and 43-2,108.01 to include reference to juveniles under the juvenile court jurisdiction pursuant to the changes made in section 17. This would treat certain juveniles who are suspected of being involved in prostitution the same as juveniles who have committed a felony.

Section 26 and section 27 would amend 86-2,108 and 86-2,112 regarding warrants and subpoenas, to provide that the attorney general can serve a subpoena on a corporation within or outside of Nebraska, and would allow a gag order on the subpoena.

Section 28 includes new language to provide that property used in violation of 28-831 may be subject to civil forfeiture proceedings.

Section 29 would create a Human Trafficking Victim Assistance Fund.

Section 30 would provide an operative date of January 1, 2016 for Sections 6, 31, and 33.

Section 31 would repeal 21-2,212.

Section 32 repeal all other sections amended by this act.

Section 33 would outright repeal 21-20,177.

Explanation of amendments:

AM1104 removes the provision in Section 3 that would deem actual damages to be a minimum of \$150,000.

AM 1104 removes Sections 9, 16, 17, 18, 20, 21, 22, 23, 24 and 25 from LB294.

Section 12 reorganizes offenses and penalties involving trafficking.

Section 16 of AM1104 would task the Foster Care Review Office with collecting information related to child trafficking victims.

Section 20 of AM1104 expands the sources of funding for the Human Trafficking Victim Assistance Fund.

Les Seiler, Chairperson