

SB 1052 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 3/20, 3/27

WHAT THE MEASURE DOES:

Provides that the crime of subjecting another person to involuntary servitude in the second degree occurs if a person knowingly and without lawful authority forces or attempts to force the other person to continue to engage in services by subjecting the person to: debt bondage; instilling in the other person a fear that the actor will withhold medical care; controlling or threatening to control the other person's access to a controlled substance; or fraud or misrepresentation. Defines debt bondage as the inducement of another person to provide labor or services in payment towards or satisfaction of a real or purported debt if: the reasonable value of the labor or services is not applied towards the repayment of the debt; or the length of the labor or services is unlimited and the nature of the labor or services is not defined. Provides that the crime of subjecting another person to involuntary servitude in the first degree occurs when a person knowingly and without lawful authority forces or attempts to force the other person to continue to engage in services by threatening to cause death or serious physical injury or physically restraining the person. Provides that force or attempted force can be proven by considering the age of the person, the relationship between the person and the defendant, the immigration status of the other person, and any handicap or disability of the other person. Requires the Oregon Criminal Justice Commission to classify subjecting another person to involuntary servitude in the first and second degree as crime category 9 and 8 of the sentencing guidelines grid, respectfully, when the victim is under 18 years of age at the time of the offense. Provides that a person commits the crime of trafficking in persons if the person knowingly recruits, entices, or by other means another person and the person knows or recklessly disregards the fact that the other person will be subjected to involuntary servitude. Creates an affirmative defense to subjecting another person to involuntary servitude if the person was a human trafficking victim at the time of engaging in the conduct and engaged in the conduct due to being a human trafficking victim. Provides that a person injured under the crime of subjecting another person to involuntary servitude may bring civil damages within 10 years after the date on which the conduct giving rise to the claim ceases or the date on which the plaintiff turns 18 if the plaintiff was a minor at the time. Requires alcohol services permittee to report suspected human trafficking. Requires the Board on Public Safety Standards and Training to include training on labor and sex trafficking in the required police officer training. Requires the Department of Justice to develop a training program on human trafficking awareness for state agencies by January 1, 2025 and requires those agencies that come into contact potential human trafficking victims to take the training annually.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

Labor trafficking is a form of human trafficking and includes the use of threats and coercion to force a person to work against their will. Under current law, a person subjects another person to involuntary servitude if they force the other person to engage in services, using a variety of different types of force. In 2020, Attorney General Ellen Rosenblum formed a Labor Trafficking Task Force to study and make recommendations for Oregon's response to labor trafficking. The task force included legislators, advocates and service providers, state and federal law enforcement and prosecutors, state agencies, and consulates from several counties. Under Oregon's current law,

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the debt the trafficker is threatening to collect has to be an unlawful debt. Oregon's law also does not reference fraud or controlling access to controlled substances. Oregon law does allow for an affirmative victim defense, but it requires the victim to prove duress--that the trafficker used force or threatened physical force.

Many of the changes in Oregon's labor trafficking laws were modeled after the Uniform Law Commission (ULC) and California's labor trafficking codes. Debt bondage under the ULC and California code does not require a threat for collection and does not require it to be an "unlawful" debt. Additionally, fraud and controlling access to controlled substances are both referenced in the ULC's section on labor trafficking and California code. The ULC has higher penalties for labor trafficking involving minors and the California code takes into account the totality of the circumstances, which includes the age of the victim, when determining if coercion has taken place. The ULC and California code's affirmative victim defense does not require the proof that the trafficker used physical force or threatened the use of physical force.

Senate Bill 1052 expands the crime of subjecting another person to involuntary servitude to include forcing another person to continue to engage in services by subjecting the person to various acts, including debt bondage, withholding medical care, controlling the access to controlled substances, and fraud or misrepresentation; it increases the penalties when the victim is a minor; creates an affirmative defense when the person was the victim of human trafficking; increases the statute of limitations to 10 years for civil claims; and requires training for various governmental agencies and law enforcement.