
Commerce & Labor Committee

E2SSB 5850

Brief Description: Protecting workers from human trafficking violations.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Swecker, Keiser, Franklin, Kline, Hargrove, Fraser, Tom, Regala, Prentice, McAuliffe and Shin).

Brief Summary of Engrossed Second Substitute Bill

- Requires the Office of Crime Victims Advocacy to supply certain health profession boards and commissions with information about human trafficking, and requires these boards and commissions to disseminate this information to certain health care professionals.
- Requires employers and international labor recruitment agencies to provide disclosure statements to foreign workers, specifies the content of these statements, and makes this requirement subject to the Consumer Protection Act.

Hearing Date: 3/24/09

Staff: Jill Reinmuth (786-7134)

Background:

Human trafficking generally involves the recruitment or transportation of a person, within or across national borders, for work or services, by means of violence or threat of violence, debt bondage, deception, or other coercion. A person may be trafficked for a number of reasons including forced prostitution, exploitative domestic service in private homes, and indentured servitude in sweatshops.

In 2003 a bill classifying human trafficking as a criminal offense was passed. In 2002 and 2003 bills addressing the international matchmaking industry were passed. International matchmaking agencies must notify foreign prospective spouses that they may request a background check and

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other personal information about Washington resident prospective spouses. A violation of this requirement is a violation of the Consumer Protection Act.

Since 2002 various task forces have developed recommendations for responding to human trafficking. Most recently, in July 2008, the Task Force against the Trafficking of Persons issued recommendations. Phase I recommendations included providing comprehensive direct outreach to those who may be victims, and training service providers to identify and assist victims.

The Office of Crime Victims Advocacy (OCVA) assists communities in planning and implementing services for crime victims, advocates on behalf of crime victims in obtaining needed services and resources, and advises local and state governments on practices, policies, and priorities that impact crime victims. The OCVA has coordinated efforts to study human trafficking and worked with various task forces on human trafficking.

Employers are not required to inform workers of services for victims of human trafficking. They are, however, required to inform workers of their rights under certain federal and state laws.

Most employers are required to post notices on: job safety and health law; workers' rights under wage and hour laws; workers' rights under family and medical leave laws; workers' compensation benefits; unemployment insurance benefits; and employment discrimination.

Some employers and other parties are required to disclose certain information in writing to workers. For example, agricultural employers, agricultural associations, and farm labor contractors must provide certain information to migrant agricultural workers at the time of recruitment. The disclosure statement must be in English, or as necessary and reasonable, in Spanish or other languages. It must include information about wages, benefits, workers' compensation, and costs for transportation and housing that will be charged. Employment agencies must provide applicants with contracts that contain information about services, fees, and payment methods.

Summary of Bill:

Information for Health Professionals

The Office of Crime Victims Advocacy (OCVA) must supply certain health profession boards and commissions with information on how to recognize victims of human trafficking, what services are available for these victims, and where to report potential trafficking situations. The boards and commissions are the Medical Quality Assurance Commission, the Examining Board of Psychologists, and the Mental Health Counselors, Marriage and Family Therapists, and Social Workers' Advisory Committee. The information must be culturally sensitive and include information on minor victims.

The health profession boards and commissions must disseminate this information to certain health care professionals by providing information on web sites, in newsletters, at meetings, or through other methods. The health care professionals are physicians, psychologists, and social workers, mental health counselors, and marriage and family therapists. The boards and commissions must report to the OCVA on methods used to distribute information.

Information for Foreign Workers

Domestic employers of foreign workers ("employers") are persons residing in the state who recruit or employ a foreign worker to perform work in the state. International labor recruitment agencies ("agencies") are entities that do business in the United States and offer employment referral services involving foreign workers by acting as intermediaries between employers and foreign workers. Foreign workers are persons who are not United State citizens and who come to the state based on an offer of employment, but not persons who hold H-1B visas.

Employers and agencies must provide disclosure statements to foreign workers referred to or hired by a Washington employer. The disclosure statement must be given to the worker no later than the date the worker arrives at the place of employment.

The disclosure statement must:

- be in the foreign worker's primary language;
- state that the foreign worker may be considered an employee under state law, is subject to state worker health and safety laws, and may be eligible for workers' compensation and unemployment insurance;
- state that the foreign worker may be subject to state and federal laws on overtime and work hours;
- include itemized listings of the agency's fees and the employer's intended deductions from pay for food and housing;
- state that the foreign worker has the right to control travel and labor documents at all times, and that the employer may not require the employee to surrender those documents; and
- include a list of services or a hotline a foreign worker may contact if he or she thinks he or she may be a victim of trafficking.

The Department of Labor and Industries may create a model disclosure form and post it on its website.

Employers and agencies are deemed to be doing business in Washington and are subject to the jurisdiction of state courts if the employer contracts for employment services with a Washington resident or is considered to be doing business under any other law. A violation of the disclosure statement requirement is a violation of the Consumer Protection Act.

Rules Authority: The bill does not address the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.