

**To:** Chair Mariani and Members of the Public Safety & Criminal Justice Committee

**From:** Susan B. Crumb, Senior Assistant Hennepin County Attorney, Complex Crimes Unit

**Re:** Proposed Amendments to Labor Trafficking Statutes

**Date:** March 7, 2022

Minnesota statutes criminalizing labor trafficking, specifically Minn. Stat. §609.281 (Definitions), §609.282 (Labor Trafficking), and §609.283 (Unlawful conduct with respect to documents in furtherance of labor or sex trafficking), have been in effect since 2005. Very few criminal cases have been prosecuted since the passage of the statutes more than 20 years ago. Most were alleged in conjunction with sex trafficking or within the context of sex trafficking.

In 2018, the Hennepin County Attorney's Office prosecuted a labor broker, Richard Batres, for labor trafficking, theft by swindle and insurance fraud, in connection with the exploitation of workers within the construction industry. Our experience with that prosecution informs our recommendations to the Minnesota House Public Safety and Criminal Justice Committee.

Our recommendations are two-fold:

First, to simplify and clarify the definitions contained within the statute. Much of the language is vague and incomprehensible or couched in terms that lack meaning or reference to our criminal statutes. Clarifying and simplifying the language would provide guidance to prosecutors, defense counsel and the court. Second, we are recommending that the sentencing portion of the statute be amended to recognize the different levels of harm that a victim or victims of labor trafficking may experience and have punishments commensurate to that harm.<sup>1</sup>

We are recommending clarifying changes to the definitions of the term "debt bondage." We are also recommending clarifying the language defining the acts that are delineated as methods by which a trafficker obtains forced labor or services, that is threat of harm, infliction of harm, abuse of the legal process and withholding documents. The affected subdivisions are contained in Minn. Stat. §609.281.<sup>2</sup>

Regarding the punishment or sentencing provision, Minn. Stat. §609.282, the existing statute creates two levels of seriousness of the offense: cases where the victim is under 18 and cases where the victim is an adult. We are recommending an analysis that recognizes not only the serious harm caused to minors, but also the other harm that victims suffer within the labor trafficking context. Our recommendation is that the sentencing portion of the statute track other criminal offenses in having cases that result in more severe consequences to victims have more serious punishment.

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<sup>1</sup> It should be noted that these offenses have not been ranked by the Minnesota Sentencing Guidelines Commission, which means that the court and the parties in a labor trafficking prosecution lack guidance in determining the potential outcomes of a criminal conviction. We are also recommending that the MSG Commission be asked to rank these offenses.

<sup>2</sup> Proposed amendments to the definitions would also need to be made to Minn. Stat §299A.78 and 299A.79.