

By the Committees on Judiciary; and Criminal Justice; and
Senator Braynon

590-03981-14

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1 A bill to be entitled
2 An act relating to human trafficking; amending s.
3 39.01, F.S.; redefining the term "sexual abuse of a
4 child" to include human trafficking; amending s.
5 92.56, F.S.; authorizing a defendant who has been
6 charged with specified human trafficking offenses to
7 apply for an order of disclosure of confidential and
8 exempt information; authorizing the court to use a
9 pseudonym, instead of a victim's name, to designate
10 the victim of specified human trafficking offenses;
11 providing that trial testimony for specified human
12 trafficking offenses may be published or broadcast
13 under certain circumstances; amending s. 787.06, F.S.;
14 making technical changes; amending s. 960.065, F.S.;
15 providing an exception to ineligibility for victim
16 assistance awards to specified victims of human
17 trafficking; amending s. 960.199, F.S.; authorizing
18 the Department of Legal Affairs to provide relocation
19 assistance to a victim of specified human trafficking
20 offenses; requiring the human trafficking offense to
21 be reported to the proper authorities and certified by
22 the state attorney or statewide prosecutor; requiring
23 the state attorney's or statewide prosecutor's
24 approval of a rape crisis center's or a certified
25 domestic violence center's certification that a victim
26 is cooperating with law enforcement officials;
27 providing that the act of human trafficking must occur
28 under certain circumstances for the victim to be
29 eligible for relocation assistance; providing an

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30 effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

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34 Section 1. Paragraph (g) of subsection (67) of section
35 39.01, Florida Statutes, is amended to read:

36 39.01 Definitions.—When used in this chapter, unless the
37 context otherwise requires:

38 (67) "Sexual abuse of a child" for purposes of finding a
39 child to be dependent means one or more of the following acts:

40 (g) The sexual exploitation of a child, which includes the
41 act of a child offering to engage in or engaging in
42 prostitution, provided that the child is not under arrest or is
43 not being prosecuted in a delinquency or criminal proceeding for
44 a violation of any offense in chapter 796 based on such
45 behavior; or allowing, encouraging, or forcing a child to:

46 1. Solicit for or engage in prostitution;

47 2. Engage in a sexual performance, as defined by chapter
48 827; or

49 3. Participate in commercial sexual activity ~~the trade of~~
50 ~~sex trafficking~~ as provided in ss. 787.06(3)(g) or (h) and
51 796.035 ~~s. 796.035~~.

52 Section 2. Section 92.56, Florida Statutes, is amended to
53 read:

54 92.56 Judicial proceedings and court records involving
55 sexual offenses and human trafficking.—

56 (1) (a) The confidential and exempt status of criminal
57 intelligence information or criminal investigative information
58 made confidential and exempt pursuant to s. 119.071(2)(h) must

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59 be maintained in court records pursuant to s. 119.0714(1)(h) and
60 in court proceedings, including testimony from witnesses.

61 (b) If a petition for access to such confidential and
62 exempt records is filed with the trial court having jurisdiction
63 over the alleged offense, the confidential and exempt status of
64 such information shall be maintained by the court if the state
65 or the victim demonstrates that:

66 1. The identity of the victim is not already known in the
67 community;

68 2. The victim has not voluntarily called public attention
69 to the offense;

70 3. The identity of the victim has not otherwise become a
71 reasonable subject of public concern;

72 4. The disclosure of the victim's identity would be
73 offensive to a reasonable person; and

74 5. The disclosure of the victim's identity would:

75 a. Endanger the victim because the assailant has not been
76 apprehended and is not otherwise known to the victim;

77 b. Endanger the victim because of the likelihood of
78 retaliation, harassment, or intimidation;

79 c. Cause severe emotional or mental harm to the victim;

80 d. Make the victim unwilling to testify as a witness; or

81 e. Be inappropriate for other good cause shown.

82 (2) A defendant charged with a crime specified ~~described~~ in
83 s. 787.06(3)(a), if the victim is younger than 18 years of age,
84 in s. 787.06(3)(b), (d), (f), (g), or (h), or in chapter 794 or
85 chapter 800, or with child abuse, aggravated child abuse, or
86 sexual performance by a child as described in chapter 827, may
87 apply to the trial court for an order of disclosure of

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88 information in court records held confidential and exempt
89 pursuant to s. 119.0714(1)(h) or maintained as confidential and
90 exempt pursuant to court order under this section. Such
91 identifying information concerning the victim may be released to
92 the defendant or his or her attorney in order to prepare the
93 defense. The confidential and exempt status of this information
94 does ~~may not be construed to~~ prevent the disclosure of the
95 victim's identity to the defendant; however, the defendant may
96 not disclose the victim's identity to any person other than the
97 defendant's attorney or any other person directly involved in
98 the preparation of the defense. A willful and knowing disclosure
99 of the identity of the victim to any other person by the
100 defendant constitutes contempt.

101 (3) The state may use a pseudonym instead of the victim's
102 name to designate the victim of a crime specified ~~described~~ in
103 s. 787.06(3)(a), if the victim is younger than 18 years of age,
104 in s. 787.06(3)(b), (d), (f), (g), or (h), or in chapter 794 or
105 chapter 800, or of child abuse, aggravated child abuse, or
106 sexual performance by a child as described in chapter 827, or
107 any crime involving the production, possession, or promotion of
108 child pornography as described in chapter 847, in all court
109 records and records of court proceedings, both civil and
110 criminal.

111 (4) The protection of this section may be waived by the
112 victim of the alleged offense in a writing filed with the court,
113 in which the victim consents to the use or release of
114 identifying information during court proceedings and in the
115 records of court proceedings.

116 (5) This section does not prohibit the publication or

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117 broadcast of the substance of trial testimony in a prosecution
118 for an offense specified ~~described~~ in s. 787.06(3)(a), if the
119 victim is younger than 18 years of age, in s. 787.06(3)(b), (d),
120 (f), (g), or (h), or in chapter 794 or chapter 800, or for a
121 crime of child abuse, aggravated child abuse, or sexual
122 performance by a child, as described in chapter 827; however,
123 ~~but~~ the publication or broadcast may not include an identifying
124 photograph, an identifiable voice, or the name or address of the
125 victim, unless the victim has consented in writing to the
126 publication and filed such consent with the court or unless the
127 court has declared such records not confidential and exempt as
128 provided for in subsection (1).

129 (6) A willful and knowing violation of this section or a
130 willful and knowing failure to obey a ~~any~~ court order issued
131 under this section constitutes contempt.

132 Section 3. Subsection (3) of section 787.06, Florida
133 Statutes, is amended to read:

134 787.06 Human trafficking.—

135 (3) A ~~Any~~ person who knowingly, or in reckless disregard of
136 the facts, engages in, or attempts to engage in human
137 trafficking, or benefits financially by receiving anything of
138 value from participation in a venture that has subjected a
139 person to human trafficking:

140 (a) Using coercion for labor or services commits a felony
141 of the first degree, punishable as provided in s. 775.082, s.
142 775.083, or s. 775.084.

143 (b) Using coercion for commercial sexual activity commits a
144 felony of the first degree, punishable as provided in s.
145 775.082, s. 775.083, or s. 775.084.

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146 (c) Using coercion for labor or services of an ~~any~~
147 individual who is an unauthorized alien commits a felony of the
148 first degree, punishable as provided in s. 775.082, s. 775.083,
149 or s. 775.084.

150 (d) Using coercion for commercial sexual activity of an ~~any~~
151 individual who is an unauthorized alien commits a felony of the
152 first degree, punishable as provided in s. 775.082, s. 775.083,
153 or s. 775.084.

154 (e) Using coercion for labor or services who does so by the
155 transfer or transport of an ~~any~~ individual from outside this
156 state to within the state commits a felony of the first degree,
157 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

158 (f) Using coercion for commercial sexual activity who does
159 so by the transfer or transport of an ~~any~~ individual from
160 outside this state to within the state commits a felony of the
161 first degree, punishable as provided in s. 775.082, s. 775.083,
162 or s. 775.084.

163 (g) For commercial sexual activity in which a ~~any~~ child
164 younger than ~~under the age of~~ 18 years of age is involved
165 commits a felony of the first degree, punishable by imprisonment
166 for a term of years not exceeding life, or as provided in s.
167 775.082, s. 775.083, or s. 775.084. In a prosecution under this
168 paragraph in which the defendant had a reasonable opportunity to
169 observe the person who was subject to human trafficking, the
170 state is not required to ~~need not~~ prove that the defendant knew
171 that the person was younger than ~~had not attained the age of~~ 18
172 years of age.

173 (h) For commercial sexual activity in which a ~~any~~ child
174 younger than ~~under the age of~~ 15 years of age is involved

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175 commits a life felony, punishable as provided in s. 775.082, s.
176 775.083, or s. 775.084. In a prosecution under this paragraph in
177 which the defendant had a reasonable opportunity to observe the
178 person who was subject to human trafficking, the state is not
179 required to ~~need not~~ prove that the defendant knew that the
180 person was younger than ~~had not attained the age of~~ 15 years of
181 age.

182

183 For each instance of human trafficking of any individual under
184 this subsection, a separate crime is committed and a separate
185 punishment is authorized.

186 Section 4. Subsection (2) of section 960.065, Florida
187 Statutes, is amended to read:

188 960.065 Eligibility for awards.—

189 (2) A ~~Any~~ claim is ineligible for an award if it is filed
190 by or on behalf of a person who:

191 (a) Committed or aided in the commission of the crime upon
192 which the claim for compensation was based;

193 (b) Was engaged in an unlawful activity at the time of the
194 crime upon which the claim for compensation is based, unless the
195 victim was engaged in prostitution as a result of being a victim
196 of human trafficking as described in s. 787.06(3)(b), (d), (f),
197 (g), or (h);

198 (c) Was in custody or confined, regardless of conviction,
199 in a county or municipal detention facility, a state or federal
200 correctional facility, or a juvenile detention or commitment
201 facility at the time of the crime upon which the claim for
202 compensation is based;

203 (d) Has been adjudicated as a habitual felony offender,

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204 habitual violent offender, or violent career criminal under s.
205 775.084; or

206 (e) Has been adjudicated guilty of a forcible felony
207 offense as described in s. 776.08~~7~~

208

209 ~~is ineligible for an award.~~

210 Section 5. Section 960.199, Florida Statutes, is amended to
211 read:

212 960.199 Relocation assistance for victims of sexual battery
213 or human trafficking.-

214 (1) The department may award a one-time payment of up to
215 \$1,500 on any one claim and a lifetime maximum of \$3,000 to a
216 victim of sexual battery as defined in s. 794.011 or of human
217 trafficking as described in s. 787.06(3)(b), (d), (f), (g), or
218 (h) who needs relocation assistance.

219 (2) In order for an award to be granted to a victim for
220 relocation assistance:

221 (a) There must be proof that a sexual battery offense or
222 human trafficking offense as described in s. 787.06(3)(b), (d),
223 (f), (g), or (h) was committed.

224 (b) The sexual battery offense or human trafficking offense
225 as specified in s. 787.06(3)(b), (d), (f), (g), or (h) must be
226 reported to the proper authorities.

227 (c) The victim's need for assistance must be certified by a
228 certified rape crisis center in this state or by the state
229 attorney or statewide prosecutor having jurisdiction over the
230 offense. A victim of human trafficking's need for assistance may
231 also be certified by a state-certified domestic violence center.

232 (d) The center's ~~center~~ certification must assert that the

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233 victim is cooperating with law enforcement officials, if
234 applicable, and must include documentation that the victim has
235 developed a safety plan. If the victim seeking relocation
236 assistance is a victim of a human trafficking offense as
237 specified in s. 787.06(3)(b), (d), (f), (g), or (h), the
238 certified rape crisis center's or certified domestic violence
239 center's certification shall include approval of the state
240 attorney or statewide prosecutor, who shall attest that the
241 victim is cooperating with law enforcement officials, if
242 applicable.

243 (e) The act of sexual battery or human trafficking as
244 specified in s. 787.06(3)(b), (d), (f), (g), or (h) must be
245 committed in the victim's place of residence or in a location
246 that would lead the victim to reasonably fear for his or her
247 continued safety in the place of residence.

248 (3) Relocation payments for a sexual battery or human
249 trafficking claim under this section shall be denied if the
250 department has previously approved or paid out a domestic
251 violence relocation claim under s. 960.198 to the same victim
252 regarding the same incident.

253 Section 6. This act shall take effect July 1, 2014.