

1 A bill to be entitled
2 An act relating to sexual exploitation; providing a
3 short title; amending s. 39.001, F.S.; providing
4 legislative intent and goals; conforming cross-
5 references; amending s. 39.01, F.S.; revising the
6 definitions of the terms "abuse," "child who is found
7 to be dependent," and "sexual abuse of a child";
8 amending ss. 39.402 and 39.521, F.S.; requiring a
9 child who has been or is alleged to have been sexually
10 exploited to be placed in a facility that offers
11 treatment; creating s. 39.524, F.S.; requiring
12 assessment of certain children for placement in a
13 facility that treats sexually exploited children;
14 providing for use of such assessments; requiring
15 facilities to report to the Department of Children and
16 Family Services their success in achieving permanency
17 for children who have been sexually exploited;
18 requiring the department to address child welfare
19 service needs of sexually exploited children as a
20 component of its master plan; requiring the department
21 to develop guidelines for treating sexually exploited
22 children; authorizing the department, to the extent
23 that funds are available, to contract with an
24 appropriate not-for-profit agency having experience
25 working with sexually exploited children to train law
26 enforcement officials who are likely to encounter such
27 children; requiring certain reports to the
28 Legislature; creating s. 409.1678, F.S.; providing

29 definitions; providing duties, responsibilities, and
 30 requirements for safe houses and their operators;
 31 amending s. 409.175, F.S.; revising the definitions of
 32 the terms "family foster home" and "residential child-
 33 caring agency" to include safe houses; amending s.
 34 796.07, F.S.; increasing the civil penalty for
 35 soliciting another to commit prostitution or related
 36 acts; providing for disposition of proceeds; amending
 37 s. 960.065, F.S.; allowing victim compensation for
 38 sexually exploited children; providing an effective
 39 date.

40

41 Be It Enacted by the Legislature of the State of Florida:

42

43 Section 1. This act may be cited as the "Florida Safe
 44 Harbor Act."

45 Section 2. Subsections (4) through (12) of section 39.001,
 46 Florida Statutes, are renumbered as subsections (5) through
 47 (13), respectively, paragraph (c) of present subsection (7) and
 48 paragraph (b) of present subsection (9) are amended, and a new
 49 subsection (4) is added to that section, to read:

50 39.001 Purposes and intent; personnel standards and
 51 screening.—

52 (4) SEXUAL EXPLOITATION SERVICES.—

53 (a) The Legislature recognizes that child sexual
 54 exploitation is a serious problem nationwide and in this state.

55 Many of these children have a history of abuse and neglect.

56 Traffickers maintain control of child victims through

57 psychological manipulation, force, drug addiction, or the
 58 exploitation of economic, physical, or emotional vulnerability.
 59 Children exploited through the sex trade often find it difficult
 60 to trust adults because of their abusive experiences. These
 61 children make up a population that is difficult to serve and
 62 even more difficult to rehabilitate.

63 (b) The Legislature establishes the following goals for
 64 the state related to the status and treatment of sexually
 65 exploited children in the dependency process:

- 66 1. To ensure the safety of children.
- 67 2. To provide for the treatment of such children.
- 68 3. To sever the bond between exploited children and
 69 traffickers and to reunite these children with their families or
 70 provide them with appropriate guardians.
- 71 4. To enable such children to be willing and reliable
 72 witnesses in the prosecution of traffickers.

73 (c) The Legislature finds that sexually exploited children
 74 need special care and services, including counseling, health
 75 care, substance abuse treatment, educational opportunities, and
 76 a safe environment secure from traffickers.

77 (d) It is the intent of the Legislature that this state
 78 provide such care and services to all sexually exploited
 79 children in this state who are not otherwise receiving
 80 comparable services, such as those under the federal Trafficking
 81 Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

82 (8)-(7) OFFICE OF ADOPTION AND CHILD PROTECTION.-

83 (c) The office is authorized and directed to:

- 84 1. Oversee the preparation and implementation of the state

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85 plan established under subsection (9) ~~(8)~~ and revise and update
86 the state plan as necessary.

87 2. Provide for or make available continuing professional
88 education and training in the prevention of child abuse and
89 neglect.

90 3. Work to secure funding in the form of appropriations,
91 gifts, and grants from the state, the Federal Government, and
92 other public and private sources in order to ensure that
93 sufficient funds are available for the promotion of adoption,
94 support of adoptive families, and child abuse prevention
95 efforts.

96 4. Make recommendations pertaining to agreements or
97 contracts for the establishment and development of:

98 a. Programs and services for the promotion of adoption,
99 support of adoptive families, and prevention of child abuse and
100 neglect.

101 b. Training programs for the prevention of child abuse and
102 neglect.

103 c. Multidisciplinary and discipline-specific training
104 programs for professionals with responsibilities affecting
105 children, young adults, and families.

106 d. Efforts to promote adoption.

107 e. Postadoptive services to support adoptive families.

108 5. Monitor, evaluate, and review the development and
109 quality of local and statewide services and programs for the
110 promotion of adoption, support of adoptive families, and
111 prevention of child abuse and neglect and shall publish and
112 distribute an annual report of its findings on or before January

113 | 1 of each year to the Governor, the Speaker of the House of
 114 | Representatives, the President of the Senate, the head of each
 115 | state agency affected by the report, and the appropriate
 116 | substantive committees of the Legislature. The report shall
 117 | include:

118 | a. A summary of the activities of the office.

119 | b. A summary of the adoption data collected and reported
 120 | to the federal Adoption and Foster Care Analysis and Reporting
 121 | System (AFCARS) and the federal Administration for Children and
 122 | Families.

123 | c. A summary of the child abuse prevention data collected
 124 | and reported to the National Child Abuse and Neglect Data System
 125 | (NCANDS) and the federal Administration for Children and
 126 | Families.

127 | d. A summary detailing the timeliness of the adoption
 128 | process for children adopted from within the child welfare
 129 | system.

130 | e. Recommendations, by state agency, for the further
 131 | development and improvement of services and programs for the
 132 | promotion of adoption, support of adoptive families, and
 133 | prevention of child abuse and neglect.

134 | f. Budget requests, adoption promotion and support needs,
 135 | and child abuse prevention program needs by state agency.

136 | 6. Work with the direct-support organization established
 137 | under s. 39.0011 to receive financial assistance.

138 | (10) ~~(9)~~ FUNDING AND SUBSEQUENT PLANS.—

139 | (b) The office and the other agencies and organizations
 140 | listed in paragraph (9) ~~(8)~~ ~~(a)~~ shall readdress the state plan

141 and make necessary revisions every 5 years, at a minimum. Such
 142 revisions shall be submitted to the Speaker of the House of
 143 Representatives and the President of the Senate no later than
 144 June 30 of each year divisible by 5. At least biennially, the
 145 office shall review the state plan and make any necessary
 146 revisions based on changing needs and program evaluation
 147 results. An annual progress report shall be submitted to update
 148 the state plan in the years between the 5-year intervals. In
 149 order to avoid duplication of effort, these required plans may
 150 be made a part of or merged with other plans required by either
 151 the state or Federal Government, so long as the portions of the
 152 other state or Federal Government plan that constitute the state
 153 plan for the promotion of adoption, support of adoptive
 154 families, and prevention of child abuse, abandonment, and
 155 neglect are clearly identified as such and are provided to the
 156 Speaker of the House of Representatives and the President of the
 157 Senate as required above.

158 Section 3. Subsections (2) and (15) and paragraph (g) of
 159 subsection (67) of section 39.01, Florida Statutes, are amended
 160 to read:

161 39.01 Definitions.—When used in this chapter, unless the
 162 context otherwise requires:

163 (2) "Abuse" means any willful act or threatened act that
 164 results in any physical, mental, or sexual abuse, injury, or
 165 harm that causes or is likely to cause the child's physical,
 166 mental, or emotional health to be significantly impaired. Abuse
 167 of a child includes acts or omissions. Corporal discipline of a
 168 child by a parent or legal custodian for disciplinary purposes

169 does not in itself constitute abuse when it does not result in
 170 harm to the child.

171 (15) "Child who is found to be dependent" means a child
 172 who, pursuant to this chapter, is found by the court:

173 (a) To have been abandoned, abused, or neglected by the
 174 child's parent or parents or legal custodians;

175 (b) To have been surrendered to the department, the former
 176 Department of Health and Rehabilitative Services, or a licensed
 177 child-placing agency for purpose of adoption;

178 (c) To have been voluntarily placed with a licensed child-
 179 caring agency, a licensed child-placing agency, an adult
 180 relative, the department, or the former Department of Health and
 181 Rehabilitative Services, after which placement, under the
 182 requirements of this chapter, a case plan has expired and the
 183 parent or parents or legal custodians have failed to
 184 substantially comply with the requirements of the plan;

185 (d) To have been voluntarily placed with a licensed child-
 186 placing agency for the purposes of subsequent adoption, and a
 187 parent or parents have signed a consent pursuant to the Florida
 188 Rules of Juvenile Procedure;

189 (e) To have no parent or legal custodians capable of
 190 providing supervision and care; ~~or~~

191 (f) To be at substantial risk of imminent abuse,
 192 abandonment, or neglect by the parent or parents or legal
 193 custodians; or

194 (g) To have been sexually exploited and to have no parent,
 195 legal custodian, or responsible adult relative currently known
 196 and capable of providing the necessary and appropriate

197 supervision and care.

198 (67) "Sexual abuse of a child" means one or more of the
199 following acts:

200 (g) The sexual exploitation of a child, which includes
201 allowing, encouraging, or forcing a child to:

- 202 1. Solicit for or engage in prostitution; ~~or~~
- 203 2. Engage in a sexual performance, as defined by chapter
204 827; or

205 3. Participate in the trade of sex trafficking as provided
206 in s. 796.035.

207 Section 4. Subsection (2) of section 39.402, Florida
208 Statutes, is amended to read:

209 39.402 Placement in a shelter.—

210 (2) A child taken into custody may be placed or continued
211 in a shelter only if one or more of the criteria in subsection
212 (1) apply ~~applies~~ and the court has made a specific finding of
213 fact regarding the necessity for removal of the child from the
214 home and has made a determination that the provision of
215 appropriate and available services will not eliminate the need
216 for placement. If a child has been sexually exploited, the child
217 shall be placed in a facility that offers treatment for sexually
218 exploited children.

219 Section 5. Paragraph (d) of subsection (3) of section
220 39.521, Florida Statutes, is amended to read:

221 39.521 Disposition hearings; powers of disposition.—

222 (3) When any child is adjudicated by a court to be
223 dependent, the court shall determine the appropriate placement
224 for the child as follows:

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225 (d) If the child cannot be safely placed in a nonlicensed
226 placement, the court shall commit the child to the temporary
227 legal custody of the department. Such commitment invests in the
228 department all rights and responsibilities of a legal custodian.
229 The department shall not return any child to the physical care
230 and custody of the person from whom the child was removed,
231 except for court-approved visitation periods, without the
232 approval of the court. Any order for visitation or other contact
233 must conform to the provisions of s. 39.0139. If a child is
234 alleged to have been sexually exploited, the child shall be
235 placed in a facility that offers treatment for sexually
236 exploited children. The term of such commitment continues until
237 terminated by the court or until the child reaches the age of
238 18. After the child is committed to the temporary legal custody
239 of the department, all further proceedings under this section
240 are governed by this chapter.

241
242 Protective supervision continues until the court terminates it
243 or until the child reaches the age of 18, whichever date is
244 first. Protective supervision shall be terminated by the court
245 whenever the court determines that permanency has been achieved
246 for the child, whether with a parent, another relative, or a
247 legal custodian, and that protective supervision is no longer
248 needed. The termination of supervision may be with or without
249 retaining jurisdiction, at the court's discretion, and shall in
250 either case be considered a permanency option for the child. The
251 order terminating supervision by the department shall set forth
252 the powers of the custodian of the child and shall include the

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253 powers ordinarily granted to a guardian of the person of a minor
254 unless otherwise specified. Upon the court's termination of
255 supervision by the department, no further judicial reviews are
256 required, so long as permanency has been established for the
257 child.

258 Section 6. Section 39.524, Florida Statutes, is created to
259 read:

260 39.524 Placement of sexually exploited children.—

261 (1) Except as provided in s. 39.407, any dependent child 6
262 years of age or older who has been found to be a victim of
263 sexual exploitation as defined in s. 39.01(67)(g) must be
264 assessed for placement in a facility that is appropriate to
265 serve sexually exploited children. The assessment shall be
266 conducted by the department or its agent and shall incorporate
267 and address current and historical information from any law
268 enforcement reports; psychological testing or evaluation that
269 has occurred; current and historical information from the
270 guardian ad litem, if one has been assigned; current and
271 historical information from any current therapist, teacher, or
272 other professional who has knowledge of the child and has worked
273 with the child; and any other information concerning the
274 availability and suitability of appropriate placement.

275 (2) The results of the assessment described in subsection
276 (1) and the actions taken as a result of the assessment must be
277 included in the next judicial review of the child. At each
278 subsequent judicial review, the court must be advised in writing
279 of the status of the child's placement, with special reference

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280 regarding the stability of the placement and the permanency
281 planning for the child.

282 (3) Each facility shall report to the department its
283 success in achieving permanency for children who have been
284 sexually exploited and placed by the department at intervals
285 that allow the current information to be provided to the court
286 at each judicial review for the child.

287 (4) (a) The department shall address the child welfare
288 service needs of sexually exploited children as a component of
289 the department's master plan. This determination shall be made
290 in consultation with local law enforcement, runaway and homeless
291 youth program providers, local probation departments, lead
292 agencies and subcontract providers, local guardians ad litem,
293 public defenders, state attorney's offices, and child advocates
294 and service providers who work directly with sexually exploited
295 youth.

296 (b) The department shall develop guidelines for serving
297 children who have been sexually exploited and shall submit a
298 report to the President of the Senate and the Speaker of the
299 House of Representatives detailing the department's master plan
300 and guidelines by June 1, 2013. At a minimum, the plan must
301 include:

302 1. The estimated number of children who have been sexually
303 exploited who are in need of services currently and over the
304 next 5 years.

305 2. Options for treating children who have been sexually
306 exploited and recommendations on the best types of care for
307 these children and reunification with the child's family, if

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308 appropriate.

309 3. Recommendations of specific services needed, including,
310 but not limited to, assessment, security, and crisis and
311 behavioral health services for children who have been sexually
312 exploited.

313 4. Recommendations concerning partnerships with law
314 enforcement and other state and local government entities to
315 best serve children who have been sexually exploited.

316 (c) The department may, to the extent that funds are
317 available and in conjunction with local law enforcement
318 officials, contract with an appropriate not-for-profit agency
319 having experience working with sexually exploited children to
320 train law enforcement officials who are likely to encounter
321 sexually exploited children in the course of their law
322 enforcement duties on the provisions of this section and how to
323 identify and obtain appropriate services for sexually exploited
324 children.

325 (5) By December 1 of each year, the department shall
326 report to the Legislature on the placement of children in
327 facilities that provide treatment for sexually exploited
328 children during the year, including the criteria used to
329 determine the placement of children, the number of children who
330 were evaluated for placement, the number of children who were
331 placed based upon the evaluation, and the number of children who
332 were not placed.

333 Section 7. Section 409.1678, Florida Statutes, is created
334 to read:

335 409.1678 Safe house services for children who are victims
336 of sexual exploitation.—

337 (1) As used in this section, the term:

338 (a) "Child advocate" means an employee of a short-term
339 safe house who has been trained to work with and advocate for
340 the needs of sexually exploited children. The advocate shall
341 accompany the child to all court appearances, meetings with law
342 enforcement, and the state attorney's office and shall serve as
343 a liaison between the short-term safe house and the court.

344 (b) "Safe house" means a living environment that has set
345 aside gender-specific, separate, and distinct living quarters
346 for sexually exploited children who have been adjudicated
347 dependent or delinquent and need to reside in a secure
348 residential facility with staff members awake 24 hours a day. A
349 safe house shall be operated by a licensed family foster home or
350 residential child-caring agency as defined in s. 409.175,
351 including a runaway youth center as defined in s. 409.441. Each
352 facility must be appropriately licensed in this state as a
353 residential child-caring agency as defined in s. 409.175 and
354 must be accredited by July 1, 2013. A safe house serving
355 children who have been sexually exploited must have available
356 staff or contract personnel with the clinical expertise,
357 credentials, and training to provide services identified in
358 paragraph (2) (a).

359 (c) "Secure" means that a child is supervised 24 hours a
360 day by staff members who are awake while on duty.

361 (d) "Sexually exploited child" means a dependent child who
362 has suffered sexual exploitation as defined in s. 39.01(67)(g)

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363 and is ineligible for relief and benefits under the federal
364 Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

365 (e) "Short-term safe house" means a shelter operated by a
366 licensed residential child-caring agency as defined in s.
367 409.175, including a runaway youth center as defined in s.
368 409.441, that has set aside gender-specific, separate, and
369 distinct living quarters for sexually exploited children. In
370 addition to shelter, the house shall provide services and care
371 to sexually exploited children, including food, clothing,
372 medical care, counseling, and appropriate crisis intervention
373 services at the time they are taken into custody by law
374 enforcement or the department.

375 (2) (a) The lead agency, not-for-profit agency, or local
376 government entity providing safe-house services is responsible
377 for security, crisis intervention services, general counseling
378 and victim-witness counseling, a comprehensive assessment,
379 residential care, transportation, access to behavioral health
380 services, recreational activities, food, clothing, supplies,
381 infant care, and miscellaneous expenses associated with caring
382 for sexually exploited children; for necessary arrangement for
383 or provision of educational services, including life skills
384 services and planning services to successfully transition
385 residents back to the community; and for ensuring necessary and
386 appropriate health and dental care.

387 (b) This section does not prohibit any provider of these
388 services from appropriately billing Medicaid for services
389 rendered, from contracting with a local school district for
390 educational services, or from obtaining federal or local funding

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391 for services provided, as long as two or more funding sources do
392 not pay for the same specific service that has been provided to
393 a child.

394 (c) The lead agency, not-for-profit agency, or local
395 government entity providing safe-house services has the legal
396 authority for children served in a safe-house program, as
397 provided in chapter 39 or this chapter, as appropriate, to
398 enroll the child in school, to sign for a driver license for the
399 child, to cosign loans and insurance for the child, to sign for
400 medical treatment of the child, and to authorize other such
401 activities.

402 Section 8. Paragraphs (e) and (j) of subsection (2) of
403 section 409.175, Florida Statutes, are amended to read:

404 409.175 Licensure of family foster homes, residential
405 child-caring agencies, and child-placing agencies; public
406 records exemption.—

407 (2) As used in this section, the term:

408 (e) "Family foster home" means a private residence in
409 which children who are unattended by a parent or legal guardian
410 are provided 24-hour care. Such homes include emergency shelter
411 family homes, safe houses, and specialized foster homes for
412 children with special needs. A person who cares for a child of a
413 friend for a period not to exceed 90 days, a relative who cares
414 for a child and does not receive reimbursement for such care
415 from the state or federal government, or an adoptive home which
416 has been approved by the department or by a licensed child-
417 placing agency for children placed for adoption is not
418 considered a family foster home.

419 (j) "Residential child-caring agency" means any person,
 420 corporation, or agency, public or private, other than the
 421 child's parent or legal guardian, that provides staffed 24-hour
 422 care for children in facilities maintained for that purpose,
 423 regardless of whether operated for profit or whether a fee is
 424 charged. Such residential child-caring agencies include, but are
 425 not limited to, maternity homes, runaway shelters, group homes
 426 that are administered by an agency, emergency shelters that are
 427 not in private residences, short-term safe houses, safe houses,
 428 and wilderness camps. Residential child-caring agencies do not
 429 include hospitals, boarding schools, summer or recreation camps,
 430 nursing homes, or facilities operated by a governmental agency
 431 for the training, treatment, or secure care of delinquent youth,
 432 or facilities licensed under s. 393.067 or s. 394.875 or chapter
 433 397.

434 Section 9. Paragraph (f) of subsection (2) of section
 435 796.07, Florida Statutes, is republished, and subsection (6) of
 436 that section is amended, to read:

437 796.07 Prohibiting prostitution and related acts, ~~etc.;~~
 438 ~~evidence; penalties; definitions.-~~

439 (2) It is unlawful:

440 (f) To solicit, induce, entice, or procure another to
 441 commit prostitution, lewdness, or assignation.

442 (6) A person who violates paragraph (2)(f) shall be
 443 assessed a civil penalty of \$5,000 ~~\$500~~ if the violation results
 444 in any judicial disposition other than acquittal or dismissal.
 445 Of the proceeds from each penalty ~~penalties~~ assessed under this
 446 subsection, \$500 shall be paid to the circuit court

447 administrator for the sole purpose of paying the administrative
 448 costs of treatment-based drug court programs provided under s.
 449 397.334 and \$4,500 shall be paid to the Department of Children
 450 and Family Services for the sole purpose of funding services for
 451 sexually exploited children.

452 Section 10. Section 960.065, Florida Statutes, is amended
 453 to read:

454 960.065 Eligibility for awards.—

455 (1) Except as provided in subsection (2), the following
 456 persons shall be eligible for awards pursuant to this chapter:

457 (a) A victim.

458 (b) An intervenor.

459 (c) A surviving spouse, parent or guardian, sibling, or
 460 child of a deceased victim or intervenor.

461 (d) Any other person who is dependent for his or her
 462 principal support upon a deceased victim or intervenor.

463 (2) Any claim filed by or on behalf of a person who:

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

466 (b) Was engaged in an unlawful activity at the time of the
 467 crime upon which the claim for compensation is based;

468 (c) Was in custody or confined, regardless of conviction,
 469 in a county or municipal detention facility, a state or federal
 470 correctional facility, or a juvenile detention or commitment
 471 facility at the time of the crime upon which the claim for
 472 compensation is based;

473 (d) Has been adjudicated as a habitual felony offender,
 474 habitual violent offender, or violent career criminal under s.

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475 775.084; or

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

478

479 is ineligible ~~shall not be eligible~~ for an award.

480 (3) Any claim filed by or on behalf of a person who was in
481 custody or confined, regardless of adjudication, in a county or
482 municipal facility, a state or federal correctional facility, or
483 a juvenile detention, commitment, or assessment facility at the
484 time of the crime upon which the claim is based, who has been
485 adjudicated as a habitual felony offender under s. 775.084, or
486 who has been adjudicated guilty of a forcible felony offense as
487 described in s. 776.08, is ineligible ~~shall not be eligible~~ for
488 an award. Notwithstanding the foregoing, upon a finding by the
489 Crime Victims' Services Office of the existence of mitigating or
490 special circumstances that would render such a disqualification
491 unjust, an award may be approved. A decision that mitigating or
492 special circumstances do not exist in a case subject to this
493 section does ~~shall~~ not constitute final agency action subject to
494 review pursuant to ss. 120.569 and 120.57.

495 (4) Payment may not be made under this chapter if the
496 person who committed the crime upon which the claim is based
497 will receive any direct or indirect financial benefit from such
498 payment, unless such benefit is minimal or inconsequential.
499 Payment may not be denied based on the victim's familial
500 relationship to the offender or based upon the sharing of a
501 residence by the victim and offender, except to prevent unjust
502 enrichment of the offender.

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503 (5) A person is not ineligible for an award pursuant to
504 paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that
505 person is a victim of sexual exploitation of a child as defined
506 in s. 39.01(67)(g).

507 Section 11. This act shall take effect January 1, 2013.