

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 370

INTRODUCER: Senator Harrell

SUBJECT: Victims of Human Trafficking

DATE: February 1, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Storch	Jones	CJ	Pre-meeting
2.	_____	_____	ACJ	_____
3.	_____	_____	AP	_____

I. Summary:

SB 370 provides that a person who solicits, induces, entices, or procures a victim of human trafficking to commit prostitution, lewdness, or assignation shall be sentenced to a minimum mandatory period of incarceration of 30 days, in addition to any other penalty imposed.

The bill requires the current 10-day minimum mandatory sentence for a second or subsequent violation in s. 796.07(2)(f), F.S., to be served consecutively to the 30-day minimum mandatory sentence established by the bill.

The Criminal Justice Impact Conference has not yet determined the fiscal impact for this bill. The bill creates a new 30-day minimum mandatory period and requires the current 10-day minimum mandatory period to be served consecutively to that sentence, if applicable. This will likely result in a positive indeterminate fiscal impact to county jails (i.e. an increase in jail beds).

The bill is effective October 1, 2019.

II. Present Situation:

Human Trafficking

Human trafficking is a form of modern-day slavery. Young children, teenagers, and adults are all victims of human trafficking, who are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.¹ Human trafficking is the third-largest international crime

¹ Section 787.06(1)(a), F.S.

industry, generating a profit of an estimated \$32 billion every year.² In 2016, there were an estimated 40.3 million victims of human trafficking.³

From 2007-2017, there were 40,987 human trafficking cases reported to the National Human Trafficking Hotline (Hotline). In 2017, the Hotline and BeFree Textline recorded a total of 8,759 human trafficking cases in the U.S. alone, which represented a 13 percent jump in the number of identified human trafficking cases from the year prior.⁴ The Hotline receives an average of 150 calls per day.⁵

Forced labor and sex trafficking are the most common types of human trafficking. Labor trafficking is “all work or service which is extracted from any person under the threat of penalty and for which the person has not offered himself or herself voluntarily.”⁶ Sex trafficking “occurs when someone uses force, fraud or coercion to cause a commercial sex act with an adult or causes a minor to commit a commercial sex act.”⁷ Sex trafficking accounted for 6,244 of the reported cases of human trafficking in 2017.⁸

Traffickers coerce victims into sex trafficking in numerous ways. Some victims may be forced into prostitution by an intimate partner while others may be recruited with a false job offer. Fake massage businesses, truck stops, and hotels and motels are all venues used in sex trafficking operations.⁹

In an effort to combat human trafficking in the U.S., the Trafficking Victims Protection Act (Act) was passed in 2000 and established several methods of prosecuting traffickers, preventing human trafficking, and protecting victims and survivors of trafficking. The Act contained severe penalties and mandated restitution for victims of human trafficking.¹⁰

Human Trafficking in Florida

Florida ranks third in the nation for reported cases of human trafficking.¹¹ From January through June of 2018, the Hotline had 367 human trafficking cases reported in Florida.¹² Children are

² DoSomething.org, *11 Facts About Human Trafficking*, available at <https://www.dosomething.org/us/facts/11-facts-about-human-trafficking> (last visited January 28, 2019).

³ International Labour Organization, *Forced labour, modern slavery and human trafficking*, available at <http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm> (last visited January 28, 2019).

⁴ Polaris, *Growing Awareness. Growing Impact. 2017 Statistics from the National Human Trafficking Hotline and BeFree Textline*, available at <http://polarisproject.org/sites/default/files/2017NHTHStats%20%281%29.pdf> (last visited January 28, 2019).

⁵ Polaris, *The Facts*, available at <https://polarisproject.org/human-trafficking/facts> (last visited January 28, 2019).

⁶ Polaris, *What is forced labour, modern slavery and human trafficking*, available at <http://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm> (last visited January 31, 2019).

⁷ Sharedhope International, *What is Sex Trafficking*, available at <https://sharedhope.org/the-problem/what-is-sex-trafficking/> (last visited January 31, 2019).

⁸ See generally n. 4.

⁹ Polaris, *Sex Trafficking*, available at <https://polarisproject.org/human-trafficking/sex-trafficking> (last visited January 29, 2019).

¹⁰ Pub. L. No. 106-386 (2000).

¹¹ National Human Trafficking Hotline, *Hotline Statistics*, available at <https://humantraffickinghotline.org/states> (last visited January 28, 2019).

¹² National Human Trafficking Hotline, *Florida: Statistics*, available at <https://humantraffickinghotline.org/state/florida> (last visited January 28, 2019).

often those targeted in trafficking operations, with 12-14 being the average age that a trafficked victim is first used for commercial sex.¹³

Florida law defines “human trafficking” to mean the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person.¹⁴ In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking commits the crime of human trafficking.¹⁵ Such an offense is punishable as a first degree felony,¹⁶ unless the person being sex trafficked is a child under the age of 18, mentally defective, or mentally incapacitated, then such an offense is punishable as a life felony.¹⁷

The number of human trafficking cases listed in reports may not accurately reflect the number of actual cases of human trafficking due to the fact that many traffickers are prosecuted for other crimes.¹⁸ Additionally, prosecutors often have difficulty proving the relationship at issue is that of human trafficking or when dealing with a victim who might be unwilling to testify against his or her trafficker in court.¹⁹

Human trafficking cases are often hidden operations that require law enforcement agencies engage in intricate investigations. In November 2018, an investigation in Polk County lead to the arrest of 103 people for charges including prostitution and human trafficking.²⁰ Similarly, in January 2019, a two month-long investigation lead to the arrest of a 36-year-old male in Tallahassee on prostitution and sex trafficking charges involving a 14-year old girl. At the time of his arrest, the male was already facing charges for sex trafficking a child in 2014.²¹

Prostitution and Other Prohibited Acts

Prostitution is prohibited in Florida and is defined as the giving or receiving of the body for sexual activity for hire.²² Prostitution rings are often covert operations. As a result, police

¹³ Statewide Council on Human Trafficking, *Statewide Council on Human Trafficking Annual Reports*, available at <http://myfloridalegal.com/pages.nsf/Main/8AEA5858B1253D0D85257D34005AFA72> (last visited January 28, 2019).

¹⁴ Section 787.06(2)(d), F.S.

¹⁵ Section 787.06(3), F.S.

¹⁶ A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

¹⁷ Section 787.06(3)(a)-(g), F.S. A life felony is punishable by a state prison term for life, by a term of imprisonment not exceeding 40 years, a fine not exceeding \$15,000, or both. Sections 775.082 and 775.083, F.S.

¹⁸ Nada Hassanein, *Preying on the vulnerable: Human trafficking prevalent yet elusive in the Big Bend*, Tallahassee Democrat, (June 27, 2018) available at <https://www.tallahassee.com/story/news/2019/01/27/preying-vulnerable-human-trafficking-alive-and-well-big-bend/2648630002/> (last visited January 28, 2019).

¹⁹ *Id.*

²⁰ Daniel Dahm and Brianna Volz, *Orlando-area doctor among 103 arrested in Polk County sex sting, sheriff says*, ClickOrlando.com, (December 3, 2018) available at <https://www.clickorlando.com/news/103-arrested-in-polk-county-sex-sting> (last visited January 28, 2019).

²¹ WTXL, *Human trafficking suspect accused of sex-trafficking child in Tallahassee*, (January 26, 2019) available at http://www.wtxl.com/news/human-trafficking-suspect-accused-of-sex-trafficking-child-in-tallahassee/article_9748879c-21a4-11e9-b768-5bb68f906ecc.html (last visited January 28, 2019).

²² This definition excludes sexual activity between spouses. Section 796.07(1)(a), F.S.

officers go undercover in an effort to conduct prostitution stings. In Cocoa, six suspects were arrested in January 2019 after an undercover police officer who was posing as a prostitute was approached by the individuals who subsequently agreed to pay the officer for the services of a prostitute.²³

Another tool commonly used by law enforcement agencies to crack down on prostitution activity is the Internet. In January 2019, four people were arrested in Tallahassee in conjunction with an undercover prostitution operation that was aimed at reducing street level prostitution in the capital city. After an undercover police officer contacted the suspects through an online advertisement that had indicators of being associated with prostitution activity and met with each suspect individually at an undisclosed hotel, the officer placed each of them under arrest.²⁴

Section 796.07(2)(f), F.S., prohibits the solicitation, inducement, enticement, or procurement of another to commit prostitution, lewdness, or assignation.²⁵ Those terms are defined in the following ways:

- “Lewdness” means any indecent or obscene act; and
- “Assignation” means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.²⁶

A person who violates s. 796.07(2)(f), F.S., commits:

- A misdemeanor of the first degree²⁷ for a first violation;
- A felony of the third degree²⁸ for a second violation; and
- A felony of the second degree²⁹ for a third or subsequent violation.³⁰

A person who commits a second or subsequent violation of s. 796.07(2)(f), F.S., must be sentenced to a minimum mandatory³¹ period of 10 days incarceration.³²

²³ Caryn Shaffer, *Six arrested in Cocoa police operation targeting prostitution*, Florida Today, (January 28, 2019) available at <https://www.floridatoday.com/story/news/crime/2019/01/28/six-arrested-cocoa-after-soliciting-undercover-cop-disguised-prostitute/2706115002/> (last visited January 29, 2019).

²⁴ WTXL, *Four arrested in undercover prostitution sting in Tallahassee*, (January 14, 2019) available at http://www.wtxl.com/news/four-arrested-in-undercover-prostitution-sting-in-tallahassee/article_47c5602a-182e-11e9-aa98-0bf1f95703cb.html (last visited January 29, 2019).

²⁵ Section 796.07(2)(f), F.S.

²⁶ Section 796.07(1)(b) and (c), F.S.

²⁷ A first degree misdemeanor is punishable by a state prison term not exceeding 1 year, a fine not exceeding \$1,000, or both. Sections 775.082 and 775.083, F.S.

²⁸ A third degree felony is punishable by a state prison term not exceeding 5 years, a fine not exceeding \$5,000, or both. Sections 775.082 and 775.083, F.S.

²⁹ A second degree felony is punishable by a state prison term not exceeding 15 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

³⁰ Section 796.07(5)(a)1.-3., F.S.

³¹ Florida law imposes minimum mandatory sentences for certain offenses, which limit judicial discretion in sentencing. “Mandatory minimum sentences are those for which a minimum period of incarceration is specified by statute.”

MANDATORY MINIMUM SENTENCES Are They Being Imposed and Who Is Receiving Them? Report to the Chairman, Subcommittee on Crime and Criminal Justice, Committee on the Judiciary, House of Representatives, United States General Accounting Office, GAO/GGD-94-13 (Nov. 1993), p. 1, n. 1, available at <http://www.gao.gov/assets/220/218742.pdf> (last visited January 31, 2019).

³² Section 796.07(5)(c), F.S.

III. Effect of Proposed Changes:

The bill provides that a person who solicits, induces, entices, or procures a *victim of human trafficking* to commit prostitution, lewdness, or assignation shall be sentenced to a minimum mandatory period of incarceration of 30 days, in addition to any other penalty imposed.

The bill requires the 10-day minimum mandatory sentence for a second or subsequent violation of s. 796.07(2)(f), F.S., to be served consecutively to the 30-day minimum mandatory sentence established by the bill.

The bill also provides that “human trafficking” has the same meaning as defined in s. 787.06(2)(d), F.S.

The bill is effective October 1, 2019.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference has not yet determined the fiscal impact for this bill. The bill creates a new 30-day minimum mandatory period and requires the current 10-day minimum mandatory period to be served consecutively to that sentence, if applicable. This will likely result in a positive indeterminate fiscal impact to county jails (i.e. an increase in jail beds).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 796.07 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.