

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 851 Human Trafficking

SPONSOR(S): Appropriations Committee, Criminal Justice Subcommittee, Fitzenhagen and others

TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	14 Y, 0 N, As CS	Bruno	Hall
2) Appropriations Committee	28 Y, 0 N, As CS	Jones	Pridgeon
3) Judiciary Committee			

SUMMARY ANALYSIS

Human trafficking is modern-day slavery involving exploitation of an adult by using fraud, force, or coercion, or exploitation of a minor. The International Labor Organization, the United Nations agency charged with addressing labor standards, employment, and social protection issues, estimates that as many as 27 million adults and children are subject to human trafficking at any given time. The federal government has estimated that the number of persons trafficked into the United States each year ranges from 14,500 to 17,500. Human trafficking may be for commercial sexual activity or labor, commonly in areas such as domestic work, agriculture, traveling sales, and food service.

CS/CS/HB 851 responds to the human trafficking problem through a wide range of policies by:

- Requiring a massage or public lodging establishment to provide human trafficking awareness training to employees within six months of hire, develop procedures for reporting suspected human trafficking, and conspicuously post human trafficking reporting procedures.
- Requiring the Board of Massage Therapy and the Division of Hotels and Restaurants to discipline massage and public lodging establishments, respectively, for violating the training and reporting procedure requirements.
- Immunizing a massage or public lodging establishment in compliance with the bill's requirements from liability for any harm resulting from an employee's failure to prevent, detect, or report suspected human trafficking.
- Requiring each certified law enforcement officer to complete four hours of training on identifying and investigating human trafficking, either during basic recruit training or as continuing education.
- Creating a direct-support organization within the Department of Legal Affairs to provide assistance, funding, and support to the Statewide Council on Human Trafficking.

The bill will have a fiscal impact on state government. The full fiscal impact of the bill may be delayed due to the human trafficking training requirements for public lodging and massage establishment employees being required by January 1, 2021. CS/CS/HB 851 provides an appropriation to implement certain provisions of the bill. See Fiscal Comments.

The bill provides an effective date of July 1, 2019.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Human Trafficking

Human trafficking is modern-day slavery involving exploitation of:

- An adult by using fraud, force, or coercion, or
- A minor.¹

The International Labor Organization, the United Nations agency charged with addressing labor standards, employment, and social protection issues, estimates that as many as 27 million adults and children are subject to human trafficking at any given time.² The federal government has estimated that the number of persons trafficked into the United States each year ranges from 14,500 to 17,500.³

Human trafficking may be for:

- Commercial sexual activity; or
- Labor, commonly in areas such as domestic work, agriculture, traveling sales,⁴ and food service.⁵

Hotels and Motels

Human trafficking schemes often rely on hotels and motels for their operations; for example, a hotel or motel may serve as a site for commercial sexual activity, board a traveling sales crew, or use a housekeeping subcontractor staffed by human trafficking victims.⁶ The United States Department of Homeland Security (DHS) has noted that hotel and motel employees are often in the best position to see potential signs of human trafficking.⁷ Housekeeping and maintenance staff access the rooms, while front-desk employees, valets, and bellhops interact with guests and see who comes in and out.

Hotels and motels can aid in preventing human trafficking by:

- Knowing the signs of human trafficking.
- Implementing procedures to report human trafficking.
- Partnering with agencies that provide services to human trafficking victims.
- Training employees.⁸

DHS has identified the following human trafficking indicators that housekeeping, maintenance, and other staff accessing hotel or motels rooms may encounter:

- Constant use of the “Do Not Disturb” sign.

¹ S. 787.06, F.S.

² U.S. Department of State, *The 2013 Trafficking in Persons (TIP) Report* (June 2013), <http://www.state.gov/j/tip/rls/tiprpt/2013/index.htm> (last visited Mar. 26, 2019).

³ Sonide Simon, *Human Trafficking and Florida Law Enforcement*, Florida Criminal Justice Executive Institute, pg. 2 (Mar. 2008), <http://www.fdle.state.fl.us/Content/getdoc/e77c75b7-e66b-40cd-ad6e-c7f21953b67a/Human-Trafficking.aspx> (last visited Mar. 26, 2019).

⁴ Traveling sales crews often sell products such as magazine subscriptions, trinkets, or cleaning products. National Human Trafficking Hotline, *Sales Crews, Peddling & Begging Rings*, <https://humantraffickinghotline.org/labor-trafficking-venuesindustries/sales-crews-peddling-begging-rings> (last visited Mar. 26, 2019).

⁵ Brittany Anthony, Jennifer Kimball Penrose, and Sarah Jakiel, *The Typology of Modern Slavery: Defining Sex and Labor Trafficking in the United States*, Polaris (Mar. 2017), <https://polarisproject.org/typology-report> (last visited Mar. 26, 2019).

⁶ Polaris, *Human Trafficking and Hotels & Motels*, <https://polarisproject.org/human-trafficking-and-hotels-motels> (last visited Mar. 26, 2019).

⁷ Blue Campaign, *Hospitality Toolkit*, U.S. Department of Homeland Security, <https://humantraffickinghotline.org/labor-trafficking-venuesindustries/sales-crews-peddling-begging-rings> (last visited Mar. 26, 2019).

⁸ *Id.*

- Requesting services such as additional towels and linens but denying staff entry into the room.
- Refusing cleaning service for multiple days.
- Excessive cash in the room.
- Smell of bodily fluids and musk.
- Presence of multiple computers, cell phones, pagers, credit card swipes, or other technology.
- The same person reserving multiple rooms.
- People leaving the room infrequently, not at all, or at odd hours.
- Children's items in the room with no children registered as guests.
- People loitering in the hallways or appearing to monitor the area.
- Excessive amounts of alcohol or illegal drugs in the room.
- Evidence of pornography.
- Minors left alone in the room for long periods of time.
- Excessive number of people staying in the room.
- Extended stay with few or no personal belongings.
- Provocative clothing and shoes.
- Constant flow of men into the room at all hours.
- Excessive amounts of sex paraphernalia, such as condoms and lubricant, in the room.
- Merchandise, luggage, mail packages, purses, and wallets with different names in the room.⁹

Signs of human trafficking that front-desk employees, valets, and bellhops may encounter include:

- A guest appears distressed or injured.
- The same person reserving multiple rooms.
- Few or no personal items when checking in.
- Room paid for with cash or a pre-loaded credit card.
- Excessively using hotel computers for adult-oriented or sexually explicit websites.
- Patrons not forthcoming about full names, home address, or vehicle registration when registering.
- A minor taking on adult roles or behaving older than his or her actual age, such as by paying bills or requesting services.
- A guest appears with a minor that he or she did not come with originally.
- Rentals of pornography when children are staying in the room.
- People dropped off at the hotel or visit repeatedly.
- People leaving the room frequently, not at all, or at odd hours.
- A minor with a patron late at night or during school hours.
- Guests have no identification when checking into the room.
- The room is rented hourly, less than a day, or for a long-term stay that does not appear normal.
- Guests request information or access to adult services or the sex industry.
- The room rented has fewer beds than guests.
- People selling items to or begging from guests or staff.
- People enter or exit through the side or rear entrances instead of the lobby.
- The guest's car is regularly parked backwards to conceal the license plate.¹⁰

The Florida Department of Business and Professional Regulation's Division of Hotels and Restaurants (Division) regulates public lodging establishments,¹¹ defined as hotels, motels, nontransient apartments, transient apartments, bed and breakfast inns, timeshare projects, or vacation rentals.¹² Under Florida law:¹³

- A hotel contains sleeping room accommodations for 25 or more guests, provides services generally provided by a hotel, and is recognized as a hotel in the community or by the industry.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Ch. 509, F.S.

¹² S. 509.242, F.S.

¹³ *Id.*

- A motel offers rental units with an exit to the outside of each rental unit, daily or weekly rates, offstreet parking for each unit, a central office on the property with specified hours of operation, a bathroom or connecting bathroom for each rental unit, and at least six rental units. It must be recognized as a motel in the community or by the industry.
- A vacation rental is any unit or group of units in a condominium or cooperative or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but that is not a timeshare project.
- A nontransient apartment is a building or complex of buildings in which 75 percent or more of the units are available for rent to nontransient tenants.
- A transient apartment is a building or complex of buildings in which more than 25 percent of the units are advertised or held out to the public as available for transient occupancy.
- A timeshare project is a timeshare property, as defined in chapter 721, that is located in this state and that is also a transient public lodging establishment.

The Division also publishes a human trafficking information sheet for hotels and motels listing various signs of potential human trafficking.¹⁴

Massage Establishments

Under Florida law, a massage establishment is the site or premises wherein a massage therapist practices massage, which is:

- The manipulation of the soft tissues of the human body with:
 - The hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; or
 - Any electrical or mechanical device; or
- The application to the human body of a chemical or herbal preparation.¹⁵

Unlike legitimate massage establishments, illicit massage businesses offer patrons commercial sexual activity under the guise of massage therapy services. Law enforcement estimates that there are 9,000 illicit massage parlors in the United States.¹⁶ While some employees consensually offer illicit sexual activity, many are trafficked, providing commercial sex under force, fraud, or coercion.¹⁷ Others may be victims of forced labor trafficking, not necessarily providing commercial sex but coerced and exploited to work in the industry.¹⁸

Illicit massage trafficking schemes often target immigrants, particularly from China.¹⁹ The coercion often comes in the form of indebted servitude, beginning with an expensive broker handling the victim's visa application process and travel arrangements, often fraudulently; the trafficker may then exploit the victim upon her arrival in the U.S., withholding her passport and other documents and forcing her to work in illicit massage.²⁰ In February 2019, law enforcement uncovered a multimillion-dollar human trafficking ring based out of illicit massage businesses in Florida, leading to hundreds of arrest warrants, including for prominent businessmen.²¹

¹⁴ Florida Department of Business and Professional Regulations, *Human Trafficking Information Sheet* (Mar. 22, 2016), http://www.myfloridalicense.com/DBPR/HR/forms/documents/5022_104.pdf (last visited Mar. 26, 2019).

¹⁵ S. 480.033, F.S.

¹⁶ Nicholas Kulish, Frances Robles, and Patricia Mazzei, *Behind Illicit Massage Parlors Lie a Vast Crime Network and Modern Indentured Servitude*, *The New York Times* (Mar. 2, 2019), <https://www.nytimes.com/2019/03/02/us/massage-parlors-human-trafficking.html> (last visited Mar. 26, 2019).

¹⁷ Polaris, *Human Trafficking in Illicit Massage Businesses*, https://polarisproject.org/sites/default/files/Full_Report_Human_Trafficking_in_Illicit_Massage_Businesses.pdf (last visited Mar. 26, 2019).

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Joe Mario Pedersen, *'Dozens of arrests yet to come' in sex-trafficking ring, Florida sheriff says*, *Orlando Sentinel* (Feb. 22, 2019), <https://www.orlandosentinel.com/news/breaking-news/os-ne-sex-trafficking-asian-spa-20190221-story.html> (last visited Mar. 26, 2019).

The following signs may indicate an illicit massage business engaging in human trafficking:

- Prices below market level.
- Workers expressing a need for a large tip.
- Excessive hours or on-call scheduling.
- Workers living in the business or in a trafficker-controlled secondary site.
- Serving only or primarily male clientele.
- Locked front door or back entrances.
- Covered windows.
- Regular rotation of workers and high turnover.
- Advertising on suspect webpages.²²

Florida law requires a massage establishment that is not owned by a healthcare practitioner to post a public awareness sign regarding human trafficking in a conspicuous location visible to the public and employees of the establishment that reads:

If you or someone you know is being forced to engage in an activity and cannot leave--whether it is prostitution, housework, farm work, factory work, retail work, restaurant work, or any other activity--call the National Human Trafficking Resource Center at 1-888-373-7888 or text INFO or HELP to 233-733 to access help and services. Victims of slavery and human trafficking are protected under United States and Florida law.²³

Criminal Penalties

Under Florida law, human trafficking is transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploiting that person.²⁴ A person may not knowingly, or in reckless disregard of the facts, engage in human trafficking, attempt to engage in human trafficking, or benefit financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking for commercial sexual activity, labor, or services:

- By using coercion;²⁵
- With or of a child younger than 18;²⁶ or
- If for commercial sexual activity, with a mentally defective²⁷ or mentally incapacitated²⁸ person.²⁹

Commercial sexual activity means any prostitution, lewdness, or assignation offense or attempt to commit such an offense, and includes a sexually explicit performance³⁰ and the production of pornography.³¹

Coercion includes:

- Using or threatening to use force against a person.
- Restraining, isolating, or confining a person without lawful authority and against his or her will, or threatening to do so.

²² Polaris, *supra*.

²³ S. 787.29, F.S.

²⁴ S. 787.06(2)(d), F.S.

²⁵ S. 787.06(3)(b), F.S.

²⁶ S. 787.06(3)(g), F.S.

²⁷ Mentally defective means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct. S. 794.011(1)(a), F.S.

²⁸ Mentally incapacitated means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent. S. 794.011(1)(b), F.S.

²⁹ *Id.*

³⁰ A sexually explicit performance is an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy sexual desires or appeal to the prurient interest. S. 787.06(2)(i), F.S.

³¹ S. 787.06(2)(b), F.S.

- Using lending or other credit methods to establish a debt by a person when labor or services are pledged as a security for the debt, if the reasonably assessed value of the labor or is not applied toward the liquidation of the debt.
- Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, other immigration document, or government identification document.
- Causing or threatening to cause financial harm.
- Enticing or luring a person by fraud or deceit.
- Providing a Schedule I or II controlled substance³² to a person for the purpose of exploiting that person.³³

Human trafficking is a:

- First degree felony, punishable by up to 30 years in prison and a \$10,000 fine,³⁴ if the trafficking is of an adult by coercion or a child for labor or services.
- Life felony, punishable by up to life in prison, if the trafficking is for commercial sexual activity with a child or mentally defective or incapacitated person.³⁵

Additionally, transferring or transporting a victim from another state into Florida for human trafficking is a first degree felony,³⁶ which is punishable by life if the transfer or transport was for sexual activity with a child.³⁷ A person convicted of human trafficking for commercial sexual activity must register as a sexual offender.³⁸

Law Enforcement Training

The Criminal Justice Standards and Training Commission (Commission), as part of FDLE, establishes, implements, and evaluates criminal justice standards and training for all law enforcement, correctional, and correctional probation officers.³⁹ Among the Commission's responsibilities are establishing uniform minimum training standards and minimum curricular requirements for criminal justice training schools.⁴⁰ The Commission is required to design, implement, maintain, evaluate, and revise entry requirements and job-related curricula and performance standards for the basic recruit training program.⁴¹ The basic recruit training program is 770 hours long, covering the following topics:

- Introduction to Law Enforcement;
- Legal;
- Interactions in a Diverse Community;
- Interviewing and Report Writing;
- Fundamentals of Patrol;
- Calls for Service;
- Criminal Investigations;
- Crime Scene to Courtroom;
- Critical Incidents;
- Traffic Stops;
- DUI Traffic Stops;
- Traffic Crash Investigations;
- Law Enforcement Vehicle Operations;
- First Aid for Criminal Justice Officers;
- Criminal Justice Firearms;

³² S. 893.03, F.S.

³³ S. 787.06(2)(a), F.S.

³⁴ Ss. 775.082 and 775.083, F.S.

³⁵ S. 787.06(3)(g), F.S.

³⁶ S. 787.06(3)(f), F.S.

³⁷ S. 787.06(3)(f), F.S.

³⁸ S. 943.0435, F.S.

³⁹ S. 943.12, F.S.

⁴⁰ Ss. 943.12(5) and (8), F.S.

⁴¹ S. 943.17, F.S.

- Criminal Justice Defensive Tactics;
- Dart-Firing Stun Gun; and
- Criminal Justice Officer Physical Fitness Training.⁴²

The Commission also offers advanced courses, including a 40-hour course on Advanced Investigative Techniques of Human Trafficking Offenses.⁴³ Advanced courses are elective; however, an officer must complete 40 hours of continuing training or education every four years.⁴⁴

Statewide Council on Human Trafficking

The Statewide Council on Human Trafficking (Council), within the Department of Legal Affairs, is tasked with:

- Developing recommendations for human trafficking victim programs and services, including certification criteria for safe houses and foster homes.
- Making recommendations for apprehending and prosecuting traffickers.
- Annually holding a statewide policy summit.
- Working with the Department of Children and Families to create and maintain an inventory of human trafficking programs and services in each county.
- Developing policy recommendations.⁴⁵

Membership on the Council includes:

- The Attorney General, or a designee, serving as chair.
- The Secretary of Children and Families, or a designee, serving as vice chair.
- The State Surgeon General, or a designee.
- The Secretary of Health Care Administration, or a designee.
- The executive director of the Department of Law Enforcement, or a designee.
- The Secretary of Juvenile Justice, or a designee.
- The Commissioner of Education, or a designee.
- One member of the Senate appointed by the President of the Senate.
- One member of the House of Representatives appointed by the Speaker of the House of Representatives.
- An elected sheriff appointed by the Attorney General.
- An elected state attorney appointed by the Attorney General.⁴⁶

Direct-Support Organizations

A direct-support organization (DSO) is a non-profit organization authorized by statute to carry out specific tasks in support of a public entity or public cause. The function and purpose of a DSO is detailed in its enacting statute and the contract with the agency the DSO was created to support.⁴⁷

⁴² Florida Department of Law Enforcement, *Florida Law Enforcement Academy (Version 2018.07) #2000*, <http://www.fdle.state.fl.us/CJSTC/Curriculum/Active-Courses/2000.aspx> (last visited Mar. 21, 2019).

⁴³ Florida Department of Law Enforcement, *Active Courses*, <http://www.fdle.state.fl.us/CJSTC/Curriculum/Active-Courses.aspx> (last visited Mar. 26, 2019).

⁴⁴ S. 943.135, F.S.

⁴⁵ S. 16.617, F.S.

⁴⁶ *Id.*

⁴⁷ Ss. 14.29(9)(a), 16.616(1), and 258.015(1), F.S. See also Rules of the Florida Auditor General, *Audits of Certain Nonprofit Organizations* (effective June 30, 2017), Rule 10.720(1)(b) and (d), https://flauditor.gov/pages/pdf_files/10_700.pdf (last visited Mar. 26, 2019).

In 2014, the Legislature created s. 20.058, F.S., establishing transparency and reporting requirements for DSOs.⁴⁸ Specifically, the law requires each DSO to submit annually the following information to the agency it was created to support by August 1:⁴⁹

- The name, mailing address, telephone number, and website address of the organization;
- The statutory authority or executive order that created the organization;
- A brief description of the mission of, and results obtained by, the organization;
- A brief description of the organization's plans for the next three fiscal years;
- A copy of the organization's code of ethics; and
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990.⁵⁰

Additionally, the information submitted annually by a DSO must be available on the agency's website and include a link to the DSO's website, if one exists.⁵¹ A contract between an agency and a DSO must be contingent upon the DSO submitting the required information to the agency and posting the information on the agency's website.⁵² The contract must include a provision for ending operations and returning state-issued funds if the authorizing statute is repealed, the contract is terminated, or the organization is dissolved.⁵³ If a DSO fails to submit the required information to the agency for two consecutive years, the agency head must terminate its contract with the DSO.⁵⁴

By August 15 of each year, the agency must report to the Governor, President of the Senate, Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information submitted by each DSO, along with the agency's recommendation and supporting rationale to continue, terminate, or modify the agency's association with the DSO.⁵⁵

Any law creating or authorizing a DSO must provide that the authorization is repealed on October 1 of the fifth year after enactment, unless reviewed and reenacted by the Legislature.

Section 215.981, F.S., requires each DSO with annual expenditures in excess of \$100,000 to conduct an annual financial audit of its accounts and records.⁵⁶ The audit must be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General and the state agency that created, approved, or administers the DSO. The audit report must be submitted within nine months after the end of the fiscal year to the Auditor General and to the state agency the DSO supports. Additionally, the Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements of DSO accounts and records.⁵⁷

Effect of Proposed Changes

CS/CS/HB 851 requires a massage establishment to:

- Provide human trafficking awareness training to massage therapists and employees who ordinarily interact with guests within six months of hire or by January 1, 2021.
- Implement a procedure for reporting suspected human trafficking to the National Human Trafficking Hotline or local law enforcement by January 1, 2021.

⁴⁸ Ch. 14-96, § 3, Laws of Fla.

⁴⁹ S. 20.058(1), F.S.

⁵⁰ The IRS Form 990 is an annual information return required to be filed with the IRS by most organizations exempt from federal income tax under 26 U.S.C. § 501. 26 C.F.R. § 1.6033-2.

⁵¹ S. 20.058(2), F.S.

⁵² S. 20.058(4), F.S.

⁵³ Ch. 17-75, Laws of Fla.

⁵⁴ S. 20.058(4), F.S.

⁵⁵ S. 20.058(3), F.S.

⁵⁶ The independent audit requirement does not apply to a DSO for a university, district board of trustees of a community college, or district school board. Additionally, the expenditure threshold for an independent audit is \$300,000 for a DSO for the Department of Environmental Protection and the Department of Agriculture and Consumer Services.

⁵⁷ S. 11.45(3), F.S.

- Conspicuously post a sign outlining the human trafficking reporting procedures by January 1, 2021.

The bill also requires a public lodging establishment to:

- Provide human trafficking awareness training to employees who perform housekeeping duties or who work at the front desk or reception area within six months of hire or by January 1, 2021.
- Implement a procedure for reporting suspected human trafficking to the National Human Trafficking Hotline or local law enforcement by January 1, 2021.
- Conspicuously post a sign outlining the human trafficking reporting procedures by January 1, 2021.

The bill requires the required human trafficking awareness training be approved by the Department of Health (for massage establishments) or the Division of Hotels and Restaurants (for public lodging establishments), and include:

- The definition of human trafficking, including the difference between sex- and labor-trafficking.
- Guidance specific to the industry concerning how to identify human trafficking victims.
- Guidance concerning employees' roles in reporting and responding to suspected human trafficking.

The bill requires the Board of Massage Therapy and the Division of Hotels and Restaurants to discipline massage and public lodging establishments, respectively, for violating the training and reporting procedure requirements. The bill also explicitly provides that it does not create a private cause of action and immunizes an establishment in compliance with the bill's requirements from liability for any harm resulting from an employee's failure to prevent, detect, or report suspected human trafficking.

The bill requires each certified law enforcement officer to complete four hours of training on identifying and investigating human trafficking, either during basic recruit training or as continuing education before July 1, 2022. An officer who fails to complete the training loses his or her certification until he or she completes the course. The Commission must develop the law enforcement training in consultation with the Department of Children and Families and the Statewide Council on Human Trafficking.

The bill requires the Department of Legal Affairs to establish a direct-support organization to provide assistance, funding, and support to the Statewide Council on Human Trafficking. The DSO board of directors must be seven members, including:

- Four members appointed by the Attorney General, to include a human trafficking survivor and a mental health expert.
- One member appointed by the Governor.
- One member appointed by the President of the Senate.
- One member appointed by the Speaker of the House of Representatives.

The bill provides an effective date of July 1, 2019.

B. SECTION DIRECTORY:

Section 1: Creates s. 16.618, F.S., relating to direct-support organization.

Section 2: Amends s. 480.043, F.S., relating to massage establishments; requisites; licensure; inspection.

Section 3: Creates s. 509.096, F.S., relating to human trafficking awareness training and policies for employees of public lodging establishment; penalties.

Section 4: Creates s. 943.17297, F.S., relating to training in identifying and investigating human trafficking.

Section 5: Provides an appropriation.

Section 6: The bill provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill requires the Division of Hotels and Restaurants to take disciplinary action against public lodging establishments that violate the human trafficking awareness training requirements established in the bill. Pursuant to s. 509.261, F.S., disciplinary action may include a fine of up to \$1,000, which is deposited into the Division's Hotel and Restaurant Trust Fund to fund the Hospitality Education Program.

2. Expenditures:

The bill will have a negative fiscal impact on state expenditures due to costs involved in developing law enforcement training, creation and oversight of the DSO, and increased workload on the Board of Massage Therapy and the Division of Hotels and Restaurants to ensure compliance among public lodging and massage establishments.

Specifically, the:

- FDLE estimates a cost to the department of \$19,910 to develop the human trafficking awareness training curriculum.⁵⁸
- Department of Legal Affairs estimates it will incur staff costs of \$225,257 for creation and oversight of the DSO.⁵⁹
- Department of Business and Professional Regulation (Division of Hotels and Restaurants) estimates a workload increase due to requirements for compliance oversight of public lodging establishments, requiring four additional full-time equivalents and \$308,315 for the first year of implementation, of which \$238,732 is recurring.⁶⁰
- Department of Health (Board of Massage Therapy) estimates it will incur an indeterminate workload increase due to requirements for compliance oversight of massage establishments, which can likely be absorbed within existing resources.⁶¹

CS/CS/HB 851 provides \$19,910 in Fiscal Year 2019-2020 to the FDLE to develop the human trafficking awareness training curriculum, and provides \$213,659 in recurring funds and \$11,598 in nonrecurring funds to the Department of Legal Affairs for creation and oversight of the DSO.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A public lodging or massage establishment may have to expend funds on employee training, development of an employee protocol or code of conduct, and discipline for noncompliance.

⁵⁸ Florida Department of Law Enforcement, 2019 FDLE Legislative Bill Analysis – CS/HB0851: Human Trafficking (April 1, 2019).

⁵⁹ Email from Sarah Nortelus, Office of the Attorney General, CS/HB 851, (April 4, 2019).

⁶⁰ Department of Business & Professional Regulation, 2019 Agency Legislative Bill Analysis – CS/SB 540 (HB 851 similar): Human Trafficking (Mar. 8, 2019).

⁶¹ Phone call between House Appropriations Staff and Department of Health's Legislative Office (April 5, 2019).

D. FISCAL COMMENTS:

The full fiscal impact of the bill may be delayed due to the human trafficking awareness training requirements for public lodging and massage establishment employees being required *by* January 1, 2021. It is anticipated that the Department of Business and Professional Regulation will request additional resources in its Fiscal Year 2020-2021 Legislative Budget Request if this bill becomes law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 26, 2019, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Removed language:
 - Creating a solicitation of prostitution registry.
 - Allowing a human trafficking victim to expunge a kidnapping charge.
- Added requirements for massage therapy establishments to train employees within six months of hire and develop and post reporting procedures.
- Amended requirements for public lodging establishments to:
 - Require training of housekeeping and front desk or reception employees.
 - Allow training to be completed within six months of hire.
- Established criteria for employee training for massage and public lodging establishments.
- Authorized the Board of Massage Therapy and Division of Hotels and Restaurants to discipline massage and public lodging establishments, respectively, for violating training and procedures requirements.
- Provided immunity from liability for harm resulting from a massage or public lodging establishment employee's failure to prevent, detect, or report suspected human trafficking.
- Specified that law enforcement training must be four hours.

On April 9, 2019, the Appropriations Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provided an appropriation to the FDLE and Department of Legal Affairs to implement provisions of the bill.

This analysis is drafted to the committee substitute as passed by the Appropriations Committee.