

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 851 Human Trafficking

SPONSOR(S): Judiciary Committee, 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	18 Y, 0 N, As CS	Bruno	Poche

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

- Creating a direct-support organization within the Department of Legal Affairs to provide assistance, funding, and support to the Statewide Council on Human Trafficking.
- Requiring certain healthcare professionals to take a one hour educational course on human trafficking and conspicuously post a sign about the National Human Trafficking Hotline.
- Requiring a massage establishment to implement a procedure for reporting suspected human trafficking to the National Human Trafficking Hotline or law enforcement and conspicuously post a sign with relevant portions of the procedure by January 1, 2020.
- Requiring a massage establishment to designate an establishment manager to be responsible for operational rules compliance.
- Requiring the Department of Health (DOH) to deny an application for massage establishment license if an establishment owner or designated establishment manager has been convicted of a prostitution offense.
- Authorizing DOH to revoke or suspend a massage establishment's license if certain employees or owners have convictions or disciplinary action for prostitution.
- Prohibiting a massage establishment owner or designated establishment manager whose license is revoked from reapplying for a license or, for an owner, transferring the license.
- Requiring a certified law enforcement officer to complete a human trafficking training component within his or her first two years of service.

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. The bill provides an appropriation to implement certain provisions of the bill. See Fiscal Comments.

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

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0851e.JDC

DATE: 4/17/2019

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

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.⁶

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.⁷ While some employees consensually offer illicit sexual activity, many are trafficked, providing commercial sex under force, fraud, or coercion.⁸ Others may be victims of forced labor trafficking, not necessarily providing commercial sex but coerced and exploited to work in the industry.⁹

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 Apr. 17, 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 Apr. 17, 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 Apr. 17, 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 Apr. 17, 2019).

⁶ S. 480.033, F.S.

⁷ 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 Apr. 17, 2019).

⁸ Polaris, *Human Trafficking in Illicit Massage Businesses*, https://polarisproject.org/sites/default/files/Full_Report_Human_Trafficking_in_Illicit_Massage_Businesses.pdf (last visited Apr. 17, 2019).

⁹ *Id.*

Illicit massage trafficking schemes often target immigrants, particularly from China.¹⁰ 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.¹¹ 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.¹²

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.¹³

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.¹⁴

Healthcare Professional Licensure

The Division of Medical Quality Assurance (MQA), within the Department of Health (DOH), has general regulatory authority over health care practitioners.¹⁵ MQA works in conjunction with 22 boards and four councils to license and regulates seven types of health care facilities and more than 40 health care professions.¹⁶ Each profession is regulated by an individual practice act and by ch. 456, F.S., which provides general regulatory and licensure authority for MQA. There are general licensure provisions that apply to all licensure applications, regardless of profession.

¹⁰ *Id.*
¹¹ *Id.*
¹² 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 Apr. 17, 2019).
¹³ Polaris, *supra*.
¹⁴ S. 787.29, F.S.
¹⁵ Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dieticians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.
¹⁶ Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2017-2018*, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html> (last visited Apr. 17, 2019).

The “Massage Practice Act” (Act), governs the practice of massage in Florida.¹⁷ A significant portion of the Act is dedicated to regulating massage establishments, which are sites or premises, or portion hereof, wherein a massage therapist practices massage.¹⁸ Massage establishments must be licensed by DOH in accordance with rules adopted by Board of Massage Therapy.¹⁹ A massage establishment must:

- Have all individuals with an ownership interest, or for a corporation with more than \$250,000 in assets, the owner, officer, or management pass a background screening;
- Provide proof of property damage and bodily injury liability insurance coverage;
- Comply with local building code requirements;
- Provide a bathroom with at least one toilet and one sink with running water for its clients to use;
- Maintain toilet facilities in the common area of the establishment;
- Have a massage therapist on the premises if a client is in a treatment room for the purpose of receiving massage therapy;
- Maintain certain safety and sanitary requirements; and
- Pass initial and periodic inspections by DOH.²⁰

DOH must deny an application for a license or renewal of a license if a person with an ownership interest or is an officer, manager, or owner of a corporation has been convicted or found guilty of, or entered a plea of nolo contedere to a crime related to prostitution or a felony offense related to certain other crimes, such as human trafficking or kidnapping.²¹

The Board of Massage Therapy may revoke or suspend the license of a massage establishment, or deny the subsequent license of a massage establishment:

- Upon proof that a license has been obtained by fraud or misrepresentation; or
- Upon proof that the licenseholder is guilty of proof, fraud, deceit, gross negligence, incompetency, or misconduct in the operation of the licensed establishment.²²

Although the current law allows the Board of Massage to deny the subsequent licensure of the same establishment, it does not authorize the denial of a subsequent license to the same owner under a new name, even if it is being opened in the same location with the same employees.

Human Trafficking 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.²³ 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;²⁴
- With or of a child younger than 18;²⁵ or
- If for commercial sexual activity, with a mentally defective²⁶ or mentally incapacitated²⁷ person.²⁸

¹⁷ Ch. 480, F.S.

¹⁸ S. 480.033(7), F.S.

¹⁹ S. 480.043, F.S. Registration requirements do not apply to an allopathic, osteopathic, or chiropractic physician who employs a licensed massage therapist to perform massage on the physician’s patients at the physician’s practice location.

²⁰ *Id.*; rule 64B7-26.003, F.A.C.

²¹ S. 480.043(8), F.S.

²² S. 480.043(3), F.S.

²³ S. 787.06(2)(d), F.S.

²⁴ S. 787.06(3)(b), F.S.

²⁵ S. 787.06(3)(g), F.S.

²⁶ 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.

²⁷ 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.

Commercial sexual activity means any prostitution, lewdness, or assignment offense or attempt to commit such an offense, and includes a sexually explicit performance²⁹ and the production of pornography.³⁰

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.
- 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 substance³¹ to a person for the purpose of exploiting that person.³²

Human trafficking is a:

- First degree felony, punishable by up to 30 years in prison and a \$10,000 fine,³³ 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.³⁴

Additionally, transferring or transporting a victim from another state into Florida for human trafficking is a first degree felony,³⁵ which is punishable by life if the transfer or transport was for sexual activity with a child.³⁶ A person convicted of human trafficking for commercial sexual activity must register as a sexual offender.³⁷

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.³⁸ Among the Commission's responsibilities are establishing uniform minimum training standards and minimum curricular requirements for criminal justice training schools.³⁹ 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.⁴⁰ The basic recruit training program is 770 hours long, covering the following topics:

- Introduction to Law Enforcement;
- Legal;
- Interactions in a Diverse Community;

²⁸ *Id.*

²⁹ 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.

³⁰ S. 787.06(2)(b), F.S.

³¹ S. 893.03, F.S.

³² S. 787.06(2)(a), F.S.

³³ Ss. 775.082 and 775.083, F.S.

³⁴ S. 787.06(3)(g), F.S.

³⁵ S. 787.06(3)(f), F.S.

³⁶ S. 787.06(3)(f), F.S.

³⁷ S. 943.0435, F.S.

³⁸ S. 943.12, F.S.

³⁹ Ss. 943.12(5) and (8), F.S.

⁴⁰ S. 943.17, F.S.

- 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;
- Criminal Justice Defensive Tactics;
- Dart-Firing Stun Gun; and
- Criminal Justice Officer Physical Fitness Training.⁴¹

The Commission also offers advanced courses, including a 40-hour course on Advanced Investigative Techniques of Human Trafficking Offenses.⁴² Advanced courses are elective; however, an officer must complete 40 hours of continuing training or education every four years.⁴³

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.⁴⁴

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.⁴⁵

⁴¹ 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 Apr. 17, 2019).

⁴² Florida Department of Law Enforcement, *Active Courses*, <http://www.fdle.state.fl.us/CJSTC/Curriculum/Active-Courses.aspx> (last visited Apr. 17, 2019).

⁴³ S. 943.135, F.S.

⁴⁴ S. 16.617, F.S.

⁴⁵ *Id.*

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.⁴⁶

In 2014, the Legislature created s. 20.058, F.S., establishing transparency and reporting requirements for DSOs.⁴⁷ Specifically, the law requires each DSO to submit annually the following information to the agency it was created to support by August 1:⁴⁸

- 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 990.⁴⁹

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.⁵⁰ 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.⁵¹ 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.⁵² 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.⁵³

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.⁵⁴

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.⁵⁵ 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.⁵⁶

⁴⁶ 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 Apr. 17, 2019).

⁴⁷ Ch. 14-96, § 3, Laws of Fla.

⁴⁸ S. 20.058(1), F.S.

⁴⁹ 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.

⁵⁰ S. 20.058(2), F.S.

⁵¹ S. 20.058(4), F.S.

⁵² Ch. 17-75, Laws of Fla.

⁵³ S. 20.058(4), F.S.

⁵⁴ S. 20.058(3), F.S.

⁵⁵ 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.

⁵⁶ S. 11.45(3), F.S.

Effect of Proposed Changes

CS/CS/CS/HB 851 responds to the human trafficking problem through a wide range of policies. 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 requires the following licensed or certified healthcare professionals to complete a one hour educational course on human trafficking:

- Acupuncturists.
- Physicians.
- Doctors of Osteopathic Medicine.
- Chiropractors.
- Podiatrists.
- Optometrists.
- Pharmacists.
- Dental Professionals.
- Massage Therapists.
- Physical Therapists.
- Nursing Home Administrators.
- Occupational Therapists.
- Respiratory Therapists.
- Dietitians and Nutritionists.

The bill makes changes to massage establishment regulation by:

- Requiring a massage establishment to implement a procedure for reporting suspected human trafficking to the National Human Trafficking Hotline or law enforcement and conspicuously post a sign with relevant portions of the procedure by January 1, 2020.
- Requiring a massage establishment to designate an establishment manager to be responsible for operational rules compliance.
- Requiring the Department of Health (DOH) to deny an application for massage establishment license if an establishment owner or designated establishment manager has been convicted of a prostitution offense.
- Authorizing DOH to revoke or suspend a massage establishment's license if certain employees or owners have a conviction or disciplinary action for prostitution.
- Prohibiting a massage establishment owner or designated establishment manager whose license is revoked from reapplying for a license or, for an owner, transferring the license.

Other than signage requirements for human trafficking, the bill excludes a physician who practices acupuncture and massage from certain regulations specific to massage establishments.

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: Creates s. 456.0341, F.S., relating to requirements for instruction on human trafficking.

Section 3: Amends s. 480.033, F.S., relating to definitions.

Section 4: Amends s. 480.043, F.S., relating to massage establishments; requisites; licensure; inspection.

Section 5: Amends s. 480.046, F.S., relating to grounds for disciplinary action by the board.

Section 6: Creates s. 943.17297, F.S., relating to training in identifying and investigating human trafficking.

Section 7: Provides an appropriation.

Section 8: Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

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 to ensure compliance among massage establishments.

Specifically, the:

- FDLE estimates a cost to the department of \$19,910 to develop the human trafficking awareness training curriculum.⁵⁷
- Department of Legal Affairs estimates it will incur staff costs of \$225,257 for creation and oversight of the DSO.⁵⁸
- 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.⁵⁹

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

⁵⁷ Florida Department of Law Enforcement, 2019 FDLE Legislative Bill Analysis – CS/HB0851: Human Trafficking (April 1, 2019).

⁵⁸ Email from Sarah Nortelus, Office of the Attorney General, CS/HB 851, (April 4, 2019).

⁵⁹ 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 massage establishment employees being required *by* January 1, 2020.

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.

On April 16, 2019, the Judiciary Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Removed:
 - Requirements for human trafficking training and signage in public lodging establishments.
 - Immunity provisions for a massage establishment in compliance with certain requirements related to human trafficking training and signage.

- Added requirements for:
 - Health professionals, including acupuncturists, physicians, DOs, chiropractors, podiatrists, optometrists, pharmacists, dental professionals, massage therapists, physical therapists, and other professionals, to take a 1-hour educational course on human trafficking and conspicuously post a sign about the National Human Trafficking Hotline.
 - DOH to deny an application for a massage establishment license if an establishment owner or designated establishment manager has been convicted of any prostitution offense.
 - A massage establishment to designate an establishment manager who is responsible for complying with all occupational requirements.
- Prohibited:
 - An massage establishment owner subject to discipline from transferring or reapply for a license.
 - A designated establishment manager subject to discipline from reapplying for a license in certain circumstances.
- Provided authorization for:
 - DOH to revoke or suspend a massage establishment license if certain employees or owners have disciplinary action or a conviction for prostitution.
- Excluded a physician who practices acupuncture and massage from certain requirements related to massage establishments.
- Amended requirements for law enforcement human trafficking training.

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