



26 | specified human trafficking offense on or after a  
 27 | certain date; requiring a court to impose specified  
 28 | conditions on probationers or community controllees  
 29 | who are placed on community control or sex offender  
 30 | probation for committing a specified human trafficking  
 31 | offense on or after a certain date; providing an  
 32 | effective date.  
 33 |

34 | Be It Enacted by the Legislature of the State of Florida:  
 35 |

36 | Section 1. Section 90.5037, Florida Statutes, is created  
 37 | to read:

38 | 90.5037 Human trafficking victim advocate-victim  
 39 | privilege.-

40 | (1) For purposes of this section, the term:

41 | (a) "Anti-human trafficking organization" means a  
 42 | registered public or private agency that offers assistance to  
 43 | victims of the offense of human trafficking, as defined in s.  
 44 | 787.06(2).

45 | (b) "Human trafficking victim" means a person who consults  
 46 | a human trafficking victim advocate or a trained volunteer for  
 47 | the purpose of securing advice, counseling, or services  
 48 | concerning a need arising from an experience of human  
 49 | trafficking exploitation.

50 | (c) "Human trafficking victim advocate" means an employee

51 of an anti-human trafficking organization whose primary purpose  
52 is to provide advice, counseling, or services to human  
53 trafficking victims and who complies with the training  
54 requirements under subsection (5).

55 (d) "Trained volunteer" means a person who volunteers with  
56 an anti-human trafficking organization and who complies with the  
57 training requirements under subsection (5).

58 (2) A communication between a human trafficking victim  
59 advocate or trained volunteer and a human trafficking victim is  
60 confidential if it is not intended to be disclosed to third  
61 persons other than:

62 (a) Those persons present to further the interest of the  
63 human trafficking victim in the consultation, examination, or  
64 interview.

65 (b) Those persons necessary for the transmission of the  
66 communication.

67 (c) Those persons to whom disclosure is reasonably  
68 necessary to accomplish the purposes for which the human  
69 trafficking victim advocate or trained volunteer is consulted.

70 (3) A human trafficking victim has a privilege to refuse  
71 to disclose, and to prevent any other person from disclosing, a  
72 confidential communication made by the human trafficking victim  
73 to a human trafficking victim advocate or trained volunteer or a  
74 record made in the course of advising, counseling, or providing  
75 services to the human trafficking victim. Such confidential

76 communication or record may be disclosed only with the prior  
77 written consent of the human trafficking victim. This privilege  
78 includes any advice given by the human trafficking victim  
79 advocate or trained volunteer to the human trafficking victim in  
80 the course of that relationship.

81 (4) The privilege may be claimed by:

82 (a) The human trafficking victim or the human trafficking  
83 victim's attorney on his or her behalf.

84 (b) The guardian or conservator of the human trafficking  
85 victim.

86 (c) The personal representative of a deceased human  
87 trafficking victim.

88 (d) The human trafficking victim advocate or trained  
89 volunteer, but only on behalf of the human trafficking victim.  
90 The authority of a human trafficking victim advocate or trained  
91 volunteer to claim the privilege is presumed in the absence of  
92 evidence to the contrary.

93 (5) A human trafficking victim advocate or a trained  
94 volunteer shall:

95 (a) Complete 24 hours of human trafficking training  
96 delivered by the Office of the Attorney General, the Bureau of  
97 Criminal Justice Programs and Victim Services, and the Florida  
98 Crime Prevention Training Institute.

99 (b) Within 3 years after completing the training required  
100 under paragraph (a), complete an 8-hour human trafficking update

101 course.

102 Section 2. Paragraphs (d) and (g) of subsection (2) and  
103 paragraphs (a), (c), (e), (f), and (g) of subsection (3) of  
104 section 787.06, Florida Statutes, are amended, and subsection  
105 (12) is added to that section, to read:

106 787.06 Human trafficking.—

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

108 (d) "Human trafficking" means transporting, soliciting,  
109 recruiting, harboring, providing, enticing, maintaining,  
110 purchasing, patronizing, procuring, or obtaining another person  
111 for the purpose of exploitation of that person.

112 (g) "Obtain" means, in relation to labor, commercial  
113 sexual activity, or services, to receive, take possession of, or  
114 take custody of another person or secure performance thereof.

115 (3) Any person who knowingly, or in reckless disregard of  
116 the facts, engages in human trafficking, or attempts to engage  
117 in human trafficking, or benefits financially by receiving  
118 anything of value from participation in a venture that has  
119 subjected a person to human trafficking:

120 (a)1. For labor or services of any child younger than 18  
121 years of ~~under the~~ age or an adult believed by the person to be  
122 a child younger than ~~of~~ 18 years of age commits a felony of the  
123 first degree, punishable as provided in s. 775.082, s. 775.083,  
124 or s. 775.084.

125 2. Using coercion for labor or services of an adult

126 | commits a felony of the first degree, punishable as provided in  
 127 | s. 775.082, s. 775.083, or s. 775.084.

128 | (c)1. For labor or services of any child younger than 18  
 129 | years of ~~under the~~ age or an adult believed by the person to be  
 130 | a child younger than ~~of~~ 18 years of age who is an unauthorized  
 131 | alien commits a felony of the first degree, punishable as  
 132 | provided in s. 775.082, s. 775.083, or s. 775.084.

133 | 2. Using coercion for labor or services of an adult who is  
 134 | an unauthorized alien commits a felony of the first degree,  
 135 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

136 | (e)1. For labor or services who does so by the transfer or  
 137 | transport of any child younger than 18 years of ~~under the~~ age or  
 138 | an adult believed by the person to be a child younger than ~~of~~ 18  
 139 | years of age from outside this state to within this ~~the~~ state  
 140 | commits a felony of the first degree, punishable as provided in  
 141 | s. 775.082, s. 775.083, or s. 775.084.

142 | 2. Using coercion for labor or services who does so by the  
 143 | transfer or transport of an adult from outside this state to  
 144 | within this ~~the~~ state commits a felony of the first degree,  
 145 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

146 | (f)1. For commercial sexual activity who does so by the  
 147 | transfer or transport of any child younger than 18 years of  
 148 | ~~under the~~ age or an adult believed by the person to be a child  
 149 | younger than ~~of~~ 18 years of age from outside this state to  
 150 | within this ~~the~~ state commits a felony of the first degree,

151 punishable by imprisonment for a term of years not exceeding  
152 life, or as provided in s. 775.082, s. 775.083, or s. 775.084.

153 2. Using coercion for commercial sexual activity who does  
154 so by the transfer or transport of an adult from outside this  
155 state to within this ~~the~~ state commits a felony of the first  
156 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
157 775.084.

158 (g) For commercial sexual activity in which any child  
159 younger than 18 years of ~~under the~~ age or an adult believed by  
160 the person to be a child younger than ~~of~~ 18 years of age, or in  
161 which any person who is mentally defective or mentally  
162 incapacitated as those terms are defined in s. 794.011(1), is  
163 involved commits a life felony, punishable as provided in s.  
164 775.082(3)(a)6., s. 775.083, or s. 775.084.

165

166 For each instance of human trafficking of any individual under  
167 this subsection, a separate crime is committed and a separate  
168 punishment is authorized.

169 (12) The Legislature encourages each state attorney to  
170 adopt a pro-prosecution policy for human trafficking offenses,  
171 as provided in this section. After consulting the victim, or  
172 making a good faith attempt to consult the victim, the state  
173 attorney shall determine the filing, nonfiling, or diversion of  
174 criminal charges even in circumstances when there is no  
175 cooperation from a victim or over the objection of the victim,

176 if necessary.

177 Section 3. Subsections (2) and (3) and paragraph (a) of  
178 subsection (6) of section 943.0583, Florida Statutes, are  
179 amended to read:

180 943.0583 Human trafficking victim expunction.—

181 (2) Notwithstanding any other provision of law, upon the  
182 filing of a petition as provided in this section, any court in  
183 the circuit in which the petitioner was arrested, so long as the  
184 court has jurisdiction over the class of offense or offenses  
185 sought to be expunged, may order a criminal justice agency to  
186 expunge the criminal history record of a victim of human  
187 trafficking who complies with the requirements of this section.  
188 A petition need not be filed in the court where the petitioner's  
189 criminal proceeding or proceedings originally occurred. This  
190 section does not confer any right to the expunction of any  
191 criminal history record, and any request for expunction of a  
192 criminal history record may be denied at the discretion of the  
193 court. The clerk of court may not charge a filing fee, service  
194 charge, copy fee, or any other charge for a petition filed under  
195 this section. The clerk of court shall treat a petition seeking  
196 to expunge more than one eligible case as a single petition.

197 (3) A person who is a victim of human trafficking may  
198 petition for the expunction of a criminal history record  
199 resulting from the arrest or filing of charges for one or more  
200 offenses ~~an offense~~ committed or reported to have been committed

201 while the person was a victim of human trafficking, which  
202 offense was committed or reported to have been committed as a  
203 part of the human trafficking scheme of which the person was a  
204 victim or at the direction of an operator of the scheme,  
205 including, but not limited to, violations under chapters 796 and  
206 847, without regard to the disposition of the arrest or of any  
207 charges. However, this section does not apply to any offense  
208 listed in s. 775.084(1)(b)1. if the victim of human trafficking  
209 was found guilty of, or pled guilty or nolo contendere to, such  
210 an offense. Determination of the petition under this section  
211 should be by a preponderance of the evidence. A conviction  
212 expunged under this section is deemed to have been vacated due  
213 to a substantive defect in the underlying criminal proceedings.  
214 If a person is adjudicated not guilty by reason of insanity or  
215 is found to be incompetent to stand trial for any such charge,  
216 the expunction of the criminal history record may not prevent  
217 the entry of the judgment or finding in state and national  
218 databases for use in determining eligibility to purchase or  
219 possess a firearm or to carry a concealed firearm, as authorized  
220 in s. 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it  
221 prevent any governmental agency that is authorized by state or  
222 federal law to determine eligibility to purchase or possess a  
223 firearm or to carry a concealed firearm from accessing or using  
224 the record of the judgment or finding in the course of such  
225 agency's official duties.

226 (6) Each petition to a court to expunge a criminal history  
 227 record is complete only when accompanied by:

228 (a) The petitioner's sworn statement attesting that the  
 229 petitioner is eligible for such an expunction to the best of his  
 230 or her knowledge or belief ~~and does not have any other petition~~  
 231 ~~to expunge or any petition to seal pending before any court.~~

232  
 233 Any person who knowingly provides false information on such  
 234 sworn statement to the court commits a felony of the third  
 235 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 236 775.084.

237 Section 4. Subsections (1) and (2) of section 948.30,  
 238 Florida Statutes, are amended to read:

239 948.30 Additional terms and conditions of probation or  
 240 community control for certain sex offenses.—Conditions imposed  
 241 pursuant to this section do not require oral pronouncement at  
 242 the time of sentencing and shall be considered standard  
 243 conditions of probation or community control for offenders  
 244 specified in this section.

245 (1) Effective for probationers or community controllees  
 246 whose crime was committed on or after October 1, 1995, and who  
 247 are placed under supervision for a violation of chapter 794, s.  
 248 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, or whose  
 249 crime was committed on or after July 1, 2021, and who are placed  
 250 under supervision for a violation of s. 787.06(3)(b), (d), (f),

251 or (g), the court must impose the following conditions in  
252 addition to all other standard and special conditions imposed:

253 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court  
254 may designate another 8-hour period if the offender's employment  
255 precludes the above specified time, and the alternative is  
256 recommended by the Department of Corrections. If the court  
257 determines that imposing a curfew would endanger the victim, the  
258 court may consider alternative sanctions.

259 (b) If the victim was under the age of 18, a prohibition  
260 on living within 1,000 feet of a school, child care facility,  
261 park, playground, or other place where children regularly  
262 congregate, as prescribed by the court. The 1,000-foot distance  
263 shall be measured in a straight line from the offender's place  
264 of residence to the nearest boundary line of the school, child  
265 care facility, park, playground, or other place where children  
266 congregate. The distance may not be measured by a pedestrian  
267 route or automobile route. A probationer or community controllee  
268 who is subject to this paragraph may not be forced to relocate  
269 and does not violate his or her probation or community control  
270 if he or she is living in a residence that meets the  
271 requirements of this paragraph and a school, child care  
272 facility, park, playground, or other place where children  
273 regularly congregate is subsequently established within 1,000  
274 feet of his or her residence.

275 (c) Active participation in and successful completion of a

276 sex offender treatment program with qualified practitioners  
277 specifically trained to treat sex offenders, at the  
278 probationer's or community controllee's own expense. If a  
279 qualified practitioner is not available within a 50-mile radius  
280 of the probationer's or community controllee's residence, the  
281 offender shall participate in other appropriate therapy.

282 (d) A prohibition on any contact with the victim, directly  
283 or indirectly, including through a third person, unless approved  
284 by the victim, a qualified practitioner in the sexual offender  
285 treatment program, and the sentencing court.

286 (e) If the victim was under the age of 18, a prohibition  
287 on contact with a child under the age of 18 except as provided  
288 in this paragraph. The court may approve supervised contact with  
289 a child under the age of 18 if the approval is based upon a  
290 recommendation for contact issued by a qualified practitioner  
291 who is basing the recommendation on a risk assessment. Further,  
292 the sex offender must be currently enrolled in or have  
293 successfully completed a sex offender therapy program. The court  
294 may not grant supervised contact with a child if the contact is  
295 not recommended by a qualified practitioner and may deny  
296 supervised contact with a child at any time. When considering  
297 whether to approve supervised contact with a child, the court  
298 must review and consider the following:

299 1. A risk assessment completed by a qualified  
300 practitioner. The qualified practitioner must prepare a written

301 | report that must include the findings of the assessment and  
 302 | address each of the following components:

- 303 |       a. The sex offender's current legal status;
- 304 |       b. The sex offender's history of adult charges with  
 305 | apparent sexual motivation;
- 306 |       c. The sex offender's history of adult charges without  
 307 | apparent sexual motivation;
- 308 |       d. The sex offender's history of juvenile charges,  
 309 | whenever available;
- 310 |       e. The sex offender's offender treatment history,  
 311 | including consultations with the sex offender's treating, or  
 312 | most recent treating, therapist;
- 313 |       f. The sex offender's current mental status;
- 314 |       g. The sex offender's mental health and substance abuse  
 315 | treatment history as provided by the Department of Corrections;
- 316 |       h. The sex offender's personal, social, educational, and  
 317 | work history;
- 318 |       i. The results of current psychological testing of the sex  
 319 | offender if determined necessary by the qualified practitioner;
- 320 |       j. A description of the proposed contact, including the  
 321 | location, frequency, duration, and supervisory arrangement;
- 322 |       k. The child's preference and relative comfort level with  
 323 | the proposed contact, when age appropriate;
- 324 |       l. The parent's or legal guardian's preference regarding  
 325 | the proposed contact; and

326 m. The qualified practitioner's opinion, along with the  
327 basis for that opinion, as to whether the proposed contact would  
328 likely pose significant risk of emotional or physical harm to  
329 the child.

330

331 The written report of the assessment must be given to the court;

332 2. A recommendation made as a part of the risk assessment  
333 report as to whether supervised contact with the child should be  
334 approved;

335 3. A written consent signed by the child's parent or legal  
336 guardian, if the parent or legal guardian is not the sex  
337 offender, agreeing to the sex offender having supervised contact  
338 with the child after receiving full disclosure of the sex  
339 offender's present legal status, past criminal history, and the  
340 results of the risk assessment. The court may not approve  
341 contact with the child if the parent or legal guardian refuses  
342 to give written consent for supervised contact;

343 4. A safety plan prepared by the qualified practitioner,  
344 who provides treatment to the offender, in collaboration with  
345 the sex offender, the child's parent or legal guardian, if the  
346 parent or legal guardian is not the sex offender, and the child,  
347 when age appropriate, which details the acceptable conditions of  
348 contact between the sex offender and the child. The safety plan  
349 must be reviewed and approved by the court; and

350 5. Evidence that the child's parent or legal guardian

351 understands the need for and agrees to the safety plan and has  
352 agreed to provide, or to designate another adult to provide,  
353 constant supervision any time the child is in contact with the  
354 offender.

355

356 The court may not appoint a person to conduct a risk assessment  
357 and may not accept a risk assessment from a person who has not  
358 demonstrated to the court that he or she has met the  
359 requirements of a qualified practitioner as defined in this  
360 section.

361 (f) If the victim was under age 18, a prohibition on  
362 working for pay or as a volunteer at any place where children  
363 regularly congregate, including, but not limited to, schools,  
364 child care facilities, parks, playgrounds, pet stores,  
365 libraries, zoos, theme parks, and malls.

366 (g) Unless otherwise indicated in the treatment plan  
367 provided by a qualified practitioner in the sexual offender  
368 treatment program, a prohibition on viewing, accessing, owning,  
369 or possessing any obscene, pornographic, or sexually stimulating  
370 visual or auditory material, including telephone, electronic  
371 media, computer programs, or computer services that are relevant  
372 to the offender's deviant behavior pattern.

373 (h) Effective for probationers and community controllees  
374 whose crime is committed on or after July 1, 2005, a prohibition  
375 on accessing the Internet or other computer services until a

376 | qualified practitioner in the offender's sex offender treatment  
377 | program, after a risk assessment is completed, approves and  
378 | implements a safety plan for the offender's accessing or using  
379 | the Internet or other computer services.

380 |       (i) A requirement that the probationer or community  
381 | controllee must submit a specimen of blood or other approved  
382 | biological specimen to the Department of Law Enforcement to be  
383 | registered with the DNA data bank.

384 |       (j) A requirement that the probationer or community  
385 | controllee make restitution to the victim, as ordered by the  
386 | court under s. 775.089, for all necessary medical and related  
387 | professional services relating to physical, psychiatric, and  
388 | psychological care.

389 |       (k) Submission to a warrantless search by the community  
390 | control or probation officer of the probationer's or community  
391 | controllee's person, residence, or vehicle.

392 |       (2) Effective for a probationer or community controllee  
393 | whose crime was committed on or after October 1, 1997, and who  
394 | is placed on community control or sex offender probation for a  
395 | violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),  
396 | or s. 847.0145, or whose crime was committed on or after July 1,  
397 | 2021, and who is placed on community control or sex offender  
398 | probation for a violation of s. 787.06(3)(b), (d), (f), or (g),  
399 | in addition to any other provision of this section, the court  
400 | must impose the following conditions of probation or community

401 control:

402 (a) As part of a treatment program, participation at least  
403 annually in polygraph examinations to obtain information  
404 necessary for risk management and treatment and to reduce the  
405 sex offender's denial mechanisms. A polygraph examination must  
406 be conducted by a polygrapher who is a member of a national or  
407 state polygraph association and who is certified as a  
408 postconviction sex offender polygrapher, where available, and  
409 shall be paid for by the probationer or community controllee.  
410 The results of the polygraph examination shall be provided to  
411 the probationer's or community controllee's probation officer  
412 and qualified practitioner and shall not be used as evidence in  
413 court to prove that a violation of community supervision has  
414 occurred.

415 (b) Maintenance of a driving log and a prohibition against  
416 driving a motor vehicle alone without the prior approval of the  
417 supervising officer.

418 (c) A prohibition against obtaining or using a post office  
419 box without the prior approval of the supervising officer.

420 (d) If there was sexual contact, a submission to, at the  
421 probationer's or community controllee's expense, an HIV test  
422 with the results to be released to the victim or the victim's  
423 parent or guardian.

424 (e) Electronic monitoring when deemed necessary by the  
425 community control or probation officer and his or her

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426 | supervisor, and ordered by the court at the recommendation of  
427 | the Department of Corrections.

428 |       Section 5. This act shall take effect July 1, 2021.