

By Senator Berman

31-00326B-22

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1 A bill to be entitled
2 An act relating to human trafficking; amending s.
3 787.06, F.S.; revising the definition of the term
4 "coercion"; providing criminal penalties for engaging
5 in human trafficking or benefiting financially by
6 receiving value from human trafficking using the labor
7 or services or commercial sexual activity of an adult;
8 amending s. 796.07, F.S.; prohibiting facilitating or
9 enabling the receiving of persons in any place,
10 structure, building, or conveyance for the purpose of
11 prostitution, lewdness, or assignation, or
12 facilitating or enabling any person to remain there
13 for such purposes; providing increased criminal
14 penalties for specified prohibited acts relating to
15 prostitution, lewdness, or assignation; amending ss.
16 456.074, 480.041, and 943.0433, F.S.; conforming
17 cross-references; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Subsections (2) and (3) of section 787.06,
22 Florida Statutes, are amended to read:

23 787.06 Human trafficking.—

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

25 (a) "Coercion" includes, but is not limited to ~~means~~:

26 1. Using or threatening to use physical force against any
27 person;

28 2. Restraining, isolating, or confining, or threatening to
29 restrain, isolate, or confine, any person without lawful

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30 authority and against her or his will;

31 3. Using lending or other credit methods to establish a
32 debt by any person when labor or services are pledged as a
33 security for the debt, if the value of the labor or services as
34 reasonably assessed is not applied toward the liquidation of the
35 debt, the length and nature of the labor or services are not
36 respectively limited and defined;

37 4. Destroying, concealing, removing, confiscating,
38 withholding, or possessing any actual or purported passport,
39 visa, or other immigration document, or any other actual or
40 purported government identification document, of any person;

41 5. Causing or threatening to cause financial harm to any
42 person or withholding income from a person which he or she
43 earned;

44 6. Enticing or luring any person by fraud or deceit; or

45 7. Providing a controlled substance ~~as outlined in Schedule~~
46 ~~I or Schedule II of s. 893.03,~~ alcohol, or any other drug to any
47 person for the purpose of exploitation of that person.

48 (b) "Commercial sexual activity" means any violation of
49 chapter 796 or an attempt to commit any such offense, and
50 includes sexually explicit performances and the production of
51 pornography.

52 (c) "Financial harm" includes extortionate extension of
53 credit, loan sharking as defined in s. 687.071, or employment
54 contracts that violate the statute of frauds as provided in s.
55 725.01.

56 (d) "Human trafficking" means transporting, soliciting,
57 recruiting, harboring, providing, enticing, maintaining,
58 purchasing, patronizing, procuring, or obtaining another person

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59 for the purpose of exploitation of that person.

60 (e) "Labor" means work of economic or financial value.

61 (f) "Maintain" means, in relation to labor or services, to
62 secure or make possible continued performance thereof,
63 regardless of any initial agreement on the part of the victim to
64 perform such type service.

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

68 (h) "Services" means any act committed at the behest of,
69 under the supervision of, or for the benefit of another. The
70 term includes, but is not limited to, forced marriage,
71 servitude, or the removal of organs.

72 (i) "Sexually explicit performance" means an act or show,
73 whether public or private, that is live, photographed, recorded,
74 or videotaped and intended to arouse or satisfy ~~the~~ sexual
75 desires or appeal to a ~~the~~ prurient interest.

76 (j) "Unauthorized alien" means an alien who is not
77 authorized under federal law to be employed in the United
78 States, as provided in 8 U.S.C. s. 1324a(h)(3). The term shall
79 be interpreted consistently with that section and any applicable
80 federal rules or regulations.

81 (k) "Venture" means any group of two or more individuals
82 associated in fact, whether or not a legal entity.

83 (3) Any person who knowingly, or in reckless disregard of
84 the facts, engages in human trafficking, or attempts to engage
85 in human trafficking, or benefits financially by receiving
86 anything of value from participation in a venture that has
87 subjected a person to human trafficking:

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88 (a)1. For labor or services of any child younger than 18
89 years of age or an adult believed by the person to be a child
90 younger than 18 years of age commits a felony of the first
91 degree, punishable as provided in s. 775.082, s. 775.083, or s.
92 775.084.

93 2. Using coercion for labor or services of an adult commits
94 a felony of the first degree, punishable as provided in s.
95 775.082, s. 775.083, or s. 775.084.

96 3. For labor or services of an adult commits a felony of
97 the second degree, punishable as provided in s. 775.082, s.
98 775.083, or s. 775.084.

99 (b)1. Using coercion for commercial sexual activity of an
100 adult commits a felony of the first degree, punishable as
101 provided in s. 775.082, s. 775.083, or s. 775.084.

102 2. For commercial sexual activity of an adult commits a
103 felony of the second degree, punishable as provided in s.
104 775.082, s. 775.083, or s. 775.084.

105 (c)1. For labor or services of any child younger than 18
106 years of age or an adult believed by the person to be a child
107 younger than 18 years of age who is an unauthorized alien
108 commits a felony of the first degree, punishable as provided in
109 s. 775.082, s. 775.083, or s. 775.084.

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

113 (d) Using coercion for commercial sexual activity of an
114 adult who is an unauthorized alien commits a felony of the first
115 degree, punishable as provided in s. 775.082, s. 775.083, or s.
116 775.084.

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117 (e)1. For labor or services who does so by the transfer or
118 transport of any child younger than 18 years of age or an adult
119 believed by the person to be a child younger than 18 years of
120 age from outside this state to within this state commits a
121 felony of the first degree, punishable as provided in s.
122 775.082, s. 775.083, or s. 775.084.

123 2. Using coercion for labor or services who does so by the
124 transfer or transport of an adult from outside this state to
125 within this state commits a felony of the first degree,
126 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

127 (f)1. For commercial sexual activity who does so by the
128 transfer or transport of any child younger than 18 years of age
129 or an adult believed by the person to be a child younger than 18
130 years of age from outside this state to within this state
131 commits a felony of the first degree, punishable by imprisonment
132 for a term of years not exceeding life, or as provided in s.
133 775.082, s. 775.083, or s. 775.084.

134 2. Using coercion for commercial sexual activity who does
135 so by the transfer or transport of an adult from outside this
136 state to within this state commits a felony of the first degree,
137 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

138 (g) For commercial sexual activity in which any child
139 younger than 18 years of age or an adult believed by the person
140 to be a child younger than 18 years of age, or in which any
141 person who is mentally defective or mentally incapacitated as
142 those terms are defined in s. 794.011(1), is involved commits a
143 life felony, punishable as provided in s. 775.082(3)(a)6., s.
144 775.083, or s. 775.084.

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146 For each instance of human trafficking of any individual under
147 this subsection, a separate crime is committed and a separate
148 punishment is authorized.

149 Section 2. Present subsections (5), (6), and (7) of section
150 796.07, Florida Statutes, are redesignated as subsections (6),
151 (7), and (8), respectively, a new subsection (5) is added to
152 that section, and subsections (2) and (4) of that section are
153 amended, to read:

154 796.07 Prohibiting prostitution and related acts.—

155 (2) It is unlawful:

156 (a) To own, establish, maintain, or operate any place,
157 structure, building, or conveyance for the purpose of lewdness,
158 assignation, or prostitution.

159 (b) To offer, or to offer or agree to secure, another for
160 the purpose of prostitution or for any other lewd or indecent
161 act.

162 (c) To receive, or to offer or agree to receive, or
163 facilitate or enable the receiving of any person into any place,
164 structure, building, or conveyance for the purpose of
165 prostitution, lewdness, or assignation, or to facilitate,
166 enable, or permit any person to remain there for such purpose.

167 (d) To direct, take, or transport, or to offer or agree to
168 direct, take, or transport, any person to any place, structure,
169 or building, or to any other person, with knowledge or
170 reasonable cause to believe that the purpose of such directing,
171 taking, or transporting is prostitution, lewdness, or
172 assignation.

173 (e) For a person 18 years of age or older to offer to
174 commit, or to commit, or to engage in, prostitution, lewdness,

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175 or assignation.

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

178 (g) To reside in, enter, or remain in, any place,
179 structure, or building, or to enter or remain in any conveyance,
180 for the purpose of prostitution, lewdness, or assignation.

181 (h) To aid, abet, or participate in any of the acts or
182 things enumerated in this subsection.

183 (i) To purchase the services of any person engaged in
184 prostitution.

185 (4) (a) A person who violates any provision of this section,
186 other than paragraph (2) (a) or paragraph (2) (f), commits:

187 1. A misdemeanor of the second degree for a first
188 violation, punishable as provided in s. 775.082 or s. 775.083.

189 2. A misdemeanor of the first degree for a second
190 violation, punishable as provided in s. 775.082 or s. 775.083.

191 3. A felony of the third degree for a third or subsequent
192 violation, punishable as provided in s. 775.082, s. 775.083, or
193 s. 775.084.

194 (b) A person who is charged with a third or subsequent
195 violation of this section, other than paragraph (2) (a) or
196 paragraph (2) (f), shall be offered admission to a pretrial
197 intervention program or a substance abuse treatment program as
198 provided in s. 948.08.

199 (5) (a) A person who violates paragraph (2) (a) commits a
200 felony of the second degree, punishable as provided in s.
201 775.082, s. 775.083, or s. 775.084.

202 (b) 1. A person who violates paragraph (2) (d) commits a
203 felony of the second degree for a first violation, punishable as

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204 provided in s. 775.082, s. 775.083, or s. 775.084.

205 2. A person who violates paragraph (2)(d) commits a felony
206 of the first degree for a second or subsequent violation,
207 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

208 Section 3. Subsection (4) of section 456.074, Florida
209 Statutes, is amended to read:

210 456.074 Certain health care practitioners; immediate
211 suspension of license.—

212 (4) The department shall issue an emergency order
213 suspending the license of a massage therapist or establishment
214 as defined in chapter 480 upon receipt of information that the
215 massage therapist, a person with an ownership interest in the
216 establishment, or, for a corporation that has more than \$250,000
217 of business assets in this state, the owner, officer, or
218 individual directly involved in the management of the
219 establishment has been convicted or found guilty of, or has
220 entered a plea of guilty or nolo contendere to, regardless of
221 adjudication, a violation of s. 796.07(2)(a) which is
222 reclassified under s. 796.07(8) ~~s. 796.07(7)~~ or a felony offense
223 under any of the following provisions of state law or a similar
224 provision in another jurisdiction:

225 (a) Section 787.01, relating to kidnapping.

226 (b) Section 787.02, relating to false imprisonment.

227 (c) Section 787.025, relating to luring or enticing a
228 child.

229 (d) Section 787.06, relating to human trafficking.

230 (e) Section 787.07, relating to human smuggling.

231 (f) Section 794.011, relating to sexual battery.

232 (g) Section 794.08, relating to female genital mutilation.

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233 (h) Former s. 796.03, relating to procuring a person under
234 the age of 18 for prostitution.

235 (i) Former s. 796.035, relating to the selling or buying of
236 minors into prostitution.

237 (j) Section 796.04, relating to forcing, compelling, or
238 coercing another to become a prostitute.

239 (k) Section 796.05, relating to deriving support from the
240 proceeds of prostitution.

241 (l) Section 796.07(4)(a)3., relating to a felony of the
242 third degree for a third or subsequent violation of s. 796.07,
243 relating to prohibiting prostitution and related acts.

244 (m) Section 800.04, relating to lewd or lascivious offenses
245 committed upon or in the presence of persons less than 16 years
246 of age.

247 (n) Section 825.1025(2)(b), relating to lewd or lascivious
248 offenses committed upon or in the presence of an elderly or
249 disabled person.

250 (o) Section 827.071, relating to sexual performance by a
251 child.

252 (p) Section 847.0133, relating to the protection of minors.

253 (q) Section 847.0135, relating to computer pornography.

254 (r) Section 847.0138, relating to the transmission of
255 material harmful to minors to a minor by electronic device or
256 equipment.

257 (s) Section 847.0145, relating to the selling or buying of
258 minors.

259 Section 4. Subsection (7) of section 480.041, Florida
260 Statutes, is amended to read:

261 480.041 Massage therapists; qualifications; licensure;

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262 endorsement.—

263 (7) The board shall deny an application for a new or
264 renewal license if an applicant has been convicted or found
265 guilty of, or enters a plea of guilty or nolo contendere to,
266 regardless of adjudication, a violation of s. 796.07(2)(a) which
267 is reclassified under s. 796.07(8) ~~s. 796.07(7)~~ or a felony
268 offense under any of the following provisions of state law or a
269 similar provision in another jurisdiction:

270 (a) Section 787.01, relating to kidnapping.

271 (b) Section 787.02, relating to false imprisonment.

272 (c) Section 787.025, relating to luring or enticing a
273 child.

274 (d) Section 787.06, relating to human trafficking.

275 (e) Section 787.07, relating to human smuggling.

276 (f) Section 794.011, relating to sexual battery.

277 (g) Section 794.08, relating to female genital mutilation.

278 (h) Former s. 796.03, relating to procuring a person under
279 the age of 18 for prostitution.

280 (i) Former s. 796.035, relating to the selling or buying of
281 minors into prostitution.

282 (j) Section 796.04, relating to forcing, compelling, or
283 coercing another to become a prostitute.

284 (k) Section 796.05, relating to deriving support from the
285 proceeds of prostitution.

286 (l) Section 796.07(4)(a)3., relating to a felony of the
287 third degree for a third or subsequent violation of s. 796.07,
288 relating to prohibiting prostitution and related acts.

289 (m) Section 800.04, relating to lewd or lascivious offenses
290 committed upon or in the presence of persons less than 16 years

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291 of age.

292 (n) Section 825.1025(2)(b), relating to lewd or lascivious
293 offenses committed upon or in the presence of an elderly or
294 disabled person.

295 (o) Section 827.071, relating to sexual performance by a
296 child.

297 (p) Section 847.0133, relating to the protection of minors.

298 (q) Section 847.0135, relating to computer pornography.

299 (r) Section 847.0138, relating to the transmission of
300 material harmful to minors to a minor by electronic device or
301 equipment.

302 (s) Section 847.0145, relating to the selling or buying of
303 minors.

304 Section 5. Subsection (1) and paragraphs (a) and (b) of
305 subsection (2) of section 943.0433, Florida Statutes, are
306 amended to read:

307 943.0433 Soliciting for Prostitution Public Database.—

308 (1) The department shall create and administer the
309 Soliciting for Prostitution Public Database. The clerk of the
310 court shall forward to the department the criminal history
311 record of a person in accordance with s. 796.07(6)(e) ~~s.~~
312 ~~796.07(5)(e)~~, and the department shall add the criminal history
313 record to the database.

314 (2)(a) The department shall automatically remove the
315 criminal history record of a person from the database if, after
316 5 years following the commission of an offense that meets the
317 criteria set forth in s. 796.07(6)(e) ~~s. 796.07(5)(e)~~, such
318 person has not subsequently committed a violation that meets
319 such criteria or any other offense within that time that would

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320 constitute a sexual offense, including, but not limited to,
321 human trafficking, or an offense that would require registration
322 as a sexual offender.

323 (b) The department may not remove a criminal history record
324 from the database if a person commits a violation that meets the
325 criteria set forth in s. 796.07(6)(e) ~~s. 796.07(5)(e)~~ a second
326 or subsequent time.

327 Section 6. This act shall take effect October 1, 2022.