

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 338

INTRODUCER: Senator Osgood and others

SUBJECT: Trust Fund for Victims of Human Trafficking/Department of Legal Affairs

DATE: April 3, 2023

REVISED: _____

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

I. Summary:

SB 338 creates the Trust Fund for Victims of Human Trafficking within the Department of Legal Affairs of the Office of the Attorney General.

The Trust Fund will obtain funding from penalties imposed by the courts under s. 787.06, F.S.,¹ and funds received from any other source, including legislative appropriations.

As required by the Florida Constitution, the Trust Fund for Victims of Human Trafficking terminates on July 1, 2027, unless terminated sooner or re-created by the Legislature. Additionally, the trust fund is required to be reviewed as provided in s. 215.3206, F.S., before its schedule termination.

The bill is effective July 1, 2023.

II. Present Situation:

Trust Funds

Establishment of Trust Funds

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only. Except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:

¹ It appears that any additional court costs that could be related to a violation of s. 787.06, F.S., are currently dedicated to funding the Department of Children and Families' Grants and Donations Trust Fund for disbursement to the Office of the Statewide Guardian Ad Litem, and for disbursement to the Florida Network of Children's Advocacy Centers, Inc., (s. 938.10, F.S.); and to the Rape Crisis Program Trust Fund established within the Department of Health (s. 938.085, F.S.).

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.
- The requirements or purposes that the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.²

Florida Constitution Requirement for Trust Funds

The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.³ By law the Legislature may set a shorter time period for which any trust fund is authorized.⁴

Review of Trust Funds

The Legislature must review all state trust funds at least once every 4 years,⁵ prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,⁶ or such earlier date as the Legislature may specify.⁷

The agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.⁸ Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.⁹ A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.¹⁰

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.¹¹ The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.¹²

² Section 215.3207, F.S.

³ Art. III, s. 19(f)(2), Fla. Const.

⁴ *Id.*

⁵ Section 215.3208(1), F.S.

⁶ Art. III, s. 19(f), Fla. Const.

⁷ Section 215.3206(1), F.S.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 215.3208(2)(a), F.S.

¹² Section 215.3208(b), F.S.

Human Trafficking

Human trafficking is a form of modern-day slavery.¹³ Human trafficking victims are young children, teenagers, and adults who may be citizens that are trafficked domestically within the borders of the United States or smuggled across international borders worldwide.¹⁴ Many human trafficking victims are induced with false promises of financial or emotional security, but are forced or coerced into commercial sex, domestic servitude, or other types of forced labor.¹⁵ Any minor who is younger than 18 years old and who is induced to perform a commercial sex act is a human trafficking victim even if there is no forced fraud or coercion.¹⁶ Increasingly, criminal organizations, such as gangs, are enticing local school children into commercial sexual exploitation or trafficking.¹⁷ The average ages of youth who are trafficked are 11-13 years old.¹⁸

Florida is ranked the third highest state of reported human trafficking cases in the United States.¹⁹ The National Human Trafficking Hotline reports that in 2021, 781 cases were identified in Florida with 1,253 victims in those cases.²⁰ The 14th Judicial Circuit Human Trafficking Task Force serves six Panhandle counties. Board member, Dr. Laurie Lawrence, indicates that human trafficking is on the rise in the Panhandle with the highest rate per capita of child victims in the state (201), an increase of 40 percent in 2021.²¹

Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining another person for the purpose of exploitation of that person.²² In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking for labor or services, or commercial sexual activity, commits a first degree felony or a life felony.²³ “Coercion,” is an element in proving the crime of human trafficking of adult victims, but is not an element if the victim is under the age of 18 years.

¹³ Section 787.06(1)(a), F.S.

¹⁴ *Id.*

¹⁵ The Department of Education (DOE), *Healthy Schools – Human Trafficking*, available at <http://www.fldoe.org/schools/healthy-schools/human-trafficking.stml> (last visited March 26, 2023).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ The DOE, *Child Trafficking Prevention Education*, p. 3, September 20, 2019, available at <http://www.fldoe.org/core/fileparse.php/5575/urlt/ChildTraffickingPres.pdf> (last visited March 26, 2023).

¹⁹ The DOE, *Child Trafficking Prevention Education*, p. 3., available at <https://www.fldoe.org/core/fileparse.php/5575/urlt/ChildTraffickingPres.pdf>, (last visited March 26, 2023).

²⁰ National Human Trafficking Hotline, Statistics, Florida, available at <https://humantraffickinghotline.org/en/statistics/florida>, (last visited March 25, 2023).

²¹ WMBB News, Tess Rowland, Statistics show human trafficking is on the rise in the Panhandle, January 5, 2022, available at <https://www.mypanhandle.com/news/local-news/bay-county/statistics-show-human-trafficking-is-on-the-rise-in-the-panhandle/>, (last visited March 25, 2023).

²² Section 787.06(2)(d), F.S.

²³ Section 787.06(3), F.S. A first degree felony is punishable by up to 30 years imprisonment and a fine of \$10,000. Sections 775.082 and 775.083, F.S. A violation of s. 787.06(3)(g), F.S., commercial sexual activity in which any child younger than 18 years of age or an adult believed by the person to be a child younger than 18 years of age, or in which any person who is mentally defective or mentally incapacitated as those terms are defined in s. 794.011(1), F.S., is involved, is a life felony. This life felony is punishable by imprisonment for life. Section 787.06(3)(g), F.S., and ss. 775.082 and 775.083, F.S.

III. Effect of Proposed Changes:

The bill creates the Trust Fund for Victims of Human Trafficking within the Department of Legal Affairs of the Office of the Attorney General.

The Trust Fund for Victims of Human Trafficking may be used for “at least” all of the following purposes:

- Educating the public about the recruitment, trafficking, and exploitation of persons through human trafficking.
- Assisting in the prevention of recruitment in Florida schools of minors for exploitation.
- Establishing a survivors’ resource center to make available to survivors of human trafficking information about services and resources, including legal services, social services, safe harbors, safe houses, and language services.
- Assisting in the coordination between law enforcement agencies and service providers.
- Providing information concerning a petition for expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed while the person was a victim of human trafficking which is filed pursuant to s. 943.0583, F.S.
- Providing financial assistance for the cost of expunction of a criminal history record.
- Providing financial assistance for the cost of legal services to defend against criminal charges resulting from the arrest or filing of charges for an offense committed or reported to have been committed while the person was a victim of human trafficking.

The Trust Fund will obtain funding from penalties imposed by the courts under s. 787.06, F.S., and funds received from any other source, including legislative appropriations.

As required by the Florida Constitution, the Trust Fund for Victims of Human Trafficking terminates on July 1, 2027, unless terminated sooner or re-created by the Legislature. Additionally, the trust fund is required to be reviewed as provided in s. 215.3206, F.S., before its schedule termination.

This Trust Fund for Victims of Human Trafficking may be created by a three-fifths vote of the membership of each house of the Legislature.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Article III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Article III, s. 19(f)(2) of the Florida Constitution specifies that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The trust fund will receive funding from penalties imposed by the courts under s. 787.06, F.S., and funds received from legislative appropriations. Court assessment revenue from these penalties are currently deposited in the Department of Children and Families' Grants and Donations Trust Fund for disbursement to the Office of the Statewide Guardian Ad Litem, and for disbursement to the Florida Network of Children's Advocacy Centers, Inc.,²⁴ and to the Rape Crisis Program Trust Fund established within the Department of Health.²⁵ As a result, these existing trust funds will experience an indeterminate negative fiscal impact associated with the creation of this new trust fund.

VI. Technical Deficiencies:

None.

²⁴ Section 938.10, F.S.

²⁵ Section 938.085, F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 787.062 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
