

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: CS/SB 796

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Avila

SUBJECT: Combatting Human Trafficking

DATE: February 5, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limones-Borja</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Wyant</u>	<u>Stokes</u>	<u>CJ</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 796 makes several updates that relate to combatting human trafficking in Florida. First, the bill expands the membership for the board of directors of the direct-support organization (DSO) for the Statewide Council on Human Trafficking. The four new members will be appointed by the current board of directors. Second, the bill extends the repeal date of the DSO to October 1, 2029.

Third, the bill replaces the national human trafficking hotline with the Florida human trafficking hotline in several sections.

Fourth, the bill requires public lodging establishments to provide human trafficking awareness training to all employees who are on the premises and regularly interact with guests.

Fifth, the bill requires a nongovernmental entity that enters into, renews, or extends a contract with a governmental entity to provide the governmental entity with an affidavit attesting that the nongovernmental entity does not use coercion for labor or services.

The bill has an indeterminate fiscal impact on the private and government sector.

The bill takes effect July 1, 2024.

II. Present Situation:

Human Trafficking

Human trafficking means transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining another person for the purpose of exploitation of that person.¹ Under federal law, the term “severe forms of trafficking in persons” includes labor² and sex trafficking.^{3,4} Victims can be found in legal and illegal labor industries, including child care, elder care, the drug trade, massage parlors, nail and hair salons, restaurants, hotels, factories, and farms.⁵ In 2021, a total of 2,027 persons were referred to U.S. attorneys for human trafficking offenses.⁶

Human Trafficking in Florida

Florida is ranked the third highest state of reported human trafficking cases in the United States.⁷ Reports of commercially exploited children to the Florida Abuse Hotline for 2022 totaled 3,408 and 3,182 in 2021.⁸ In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, 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,⁹ services,¹⁰ or commercial sexual activity,¹¹ commits a crime.¹² The circumstances and associated level of offense are as follows:

Statute	Description of Offense	Level of Felony	Offense Severity Ranking
787.06(3)(a)1.	Using for labor or services of any child under the age of 18 or an adult believed by the person to be a child younger than 18 years of age	First	Level 8
787.06(3)(a)2.	Using coercion ¹³ for labor or services of an adult	First	Level 7

¹ Section 787.06 (2)(d), F.S.

²The term “labor trafficking” means the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjection to involuntary servitude, peonage, debt bondage, or slavery. 22 USCA § 7102.

³ The term “sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act. 22 USCA § 7102.

⁴ 22 USCA § 7102.

⁵ U.S. Department of Justice, *What is Human Trafficking?* (Jun. 26, 2023), available at <https://www.justice.gov/humantrafficking/what-is-human-trafficking> (last visited February 2, 2024).

⁶ U.S. Department of Justice, *Human Trafficking Data Collection Activities, 2023* (Oct. 2023), available at <https://bjs.ojp.gov/document/htdca23.pdf> (last visited February 2, 2024).

⁷ Florida Alliance to End Human Trafficking, *The Issue*, available at <https://www.floridaallianceendht.com/the-issue/> (last visited February 2, 2024).

⁸ The Office of Program Policy Analysis and Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida, 2023* (July 2023), available at <https://oppaga.fl.gov/Documents/Reports/23-08.pdf> (last visited February 2, 2023).

⁹ Section 787.06(2)(e), F.S., defines “labor” as: work of economic or financial value.

¹⁰ Section 787.06(2)(h), F.S., defines “services” as: any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.

¹¹ Section 787.06(2)(b), F.S., defines “commercial sexual activity” as any violation of ch. 796, F.S., relating to prostitution, or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.

¹² Section 787.06(3), F.S.

¹³ The term “coercion” means:

Statute	Description of Offense	Level of Felony	Offense Severity Ranking
787.06(3)(b)	Using coercion for commercial sexual activity of an adult	First	Level 8
787.06(3)(c)1.	For labor or services of 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 who is an unauthorized alien	First	Level 9
787.06(3)(c)2.	Using coercion for labor or services of an adult who is an unauthorized alien	First	Level 8
787.06(3)(d)	Using coercion for commercial sexual activity of an adult who is an unauthorized alien	First	Level 9
787.06(3)(e)1.	For labor or services who does so by the transfer or transport of 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 from outside this state to within this state	First	Level 8
787.06(3)(e)2.	Using coercion for labor or services who does so by the transfer or transport of an adult from outside this state to within this state	First	Level 7
787.06(3)(f)1.	For commercial sexual activity who does so by the transfer or transport of 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 from outside this state to within this state	First	Level 9
787.06(3)(f)2.	Using coercion for commercial sexual activity who does so by the transfer or transport of an adult from outside this state to within this state	First	Level 8
787.06(3)(g)	For 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	Life	Level 10

Criminal Punishment Code

In 1997, the Legislature enacted the Criminal Punishment Code¹⁴ (Code) as Florida’s “primary sentencing policy.”¹⁵ The offense severity ranking chart must be used with the Code worksheet to compute a sentence score for each felony offense who offense was committed on or after October 1, 1998.¹⁶ Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).¹⁷ Points are assigned and accrue based upon the level ranking

1. Using or threatening to use physical force against any person;
 2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
 3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
 4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
 5. Causing or threatening to cause financial harm to any person;
 6. Enticing or luring any person by fraud or deceit; or
 7. Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03, F.S., to any person for the purpose of exploitation of that person. Section. 787.06(2)(a), F.S.
¹⁴ Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.
¹⁵ See chs. 97-194 and 98-204, L.O.F
¹⁶ Section 921.0022, F.S.
¹⁷ Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may be added or multiplied for other factors such as victim injury, commission of certain drug trafficking offenses, and certain violent offenses committed against listed criminal justice professionals performing their duties.¹⁸

Direct-Support Organizations

Citizen-support organizations (CSOs) and direct-support organization (DSOs) are statutorily created non-profit organizations authorized to carry out specific tasks in support of public entities or public causes.¹⁹ The function and purpose of a CSO or DSO are prescribed by an enacting statute and a written contract with the agency the CSO or DSO supports.²⁰

In 2014, the Legislature created s. 20.058, F.S., which established a comprehensive set of transparency and reporting requirements for Citizen Support Organizations (CSOs) and Direct-Support Organizations (DSOs).²¹ Specifically, the law requires CSOs and DSOs to annually submit the following information to the appropriate agency by August 1 of each year:²²

- The name, mailing address, telephone number, and website address of the organization;²³
- The statutory authority or executive order that created the organization;²⁴
- A brief description of the mission of, and results obtained by, the organization;²⁵
- A brief description of the organization's plans for the next three fiscal years;²⁶
- A copy of the organization's ethics code;²⁷
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990;²⁸ and
- An attestation, under penalty of perjury, stating that the organization has complied with subsection (4).²⁹

By August 15 of each year, each agency must report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Office of Program Policy Analysis and Government Accountability the information provided by each CSO and DSO.³⁰ The agencies must also make such information available to the public through their websites.³¹

Florida Alliance to End Human Trafficking

The Florida Alliance to End Human Trafficking (Alliance) is the DSO established to provide assistance, fund, and support the Florida Statewide Council on Human Trafficking (Council).³²

¹⁸ Section 921.0024, F.S.

¹⁹ See, e.g., ss. 16.618, 413.0111, and 1009.983, F.S.

²⁰ See, e.g., 14.29(9), F.S.

²¹ Ch. 2014-96, L.O.F.

²² Section 20.058(1), F.S.

²³ Section 20.058(1)(a), F.S.

²⁴ Section 20.058(1)(b), F.S.

²⁵ Section 20.058(1)(c), F.S.

²⁶ Section 20.058(1)(d), F.S.

²⁷ Section 20.058(1)(e), F.S.

²⁸ Section 20.058(1)(f), F.S.

²⁹ Section 20.058(1)(g), F.S.

³⁰ Section 20.058(3), F.S.

³¹ Section 20.058(2), F.S.

³² See s. 16.618, F.S.

The purpose of the DSO is to solicit funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, property and funds; and make expenditures in support of the statewide effort to end human trafficking.³³ The Alliance operates under a written contract with the Department of Legal Affairs.³⁴ The Alliance is set to repeal October 1, 2024, unless saved from repeal by the Legislature.³⁵

In Fiscal Year 2022-2023, the Alliance:

- Trained over 26,000 individuals with its online human trafficking course;
- Obtained \$500,000 state appropriations to update its training course to include various languages and expand its awareness statewide;
- Provided 15 different awareness trainings for various organizations;
- Hosted a webinar for Human Trafficking Awareness Month; and
- Fundraised \$583,949 in private contributions.³⁶

Financial Information for the Alliance to End Human Trafficking			
<i>Tax year 2020-2021³⁷</i>		<i>Tax year 2021-2022³⁸</i>	
Expenses on salaries, other compensation, and employee benefits	\$21,719	Expenses on employee compensation and benefits	\$86,498
Expenses on professional fees and payments to independent contractors	\$59,500	Total on advertising, promotion, and travel	\$62,095
Total Expenses	\$123, 833	Total Expenses	\$203,279
Total Revenue	\$90,947	Revenue from fundraising events	\$277,237
		Revenue from government grants	\$25,000
		All other contributions	
		Total Revenue	\$371,710
Ending Cash Balance	-32, 886	Ending Cash Balance	\$168,431

³³ Section 16.618(1)(b), F.S.

³⁴ Section 16.618(1)(c), F.S.

³⁵ Section 16.618(12), F.S.

³⁶ Florida Alliance to End Human Trafficking, *2022-2023 Annual Report* (Jul. 27, 2023), available at <https://www.floridaallianceendht.com/wp-content/uploads/2023/10/2022-2023-Annual-Report.pdf> (last visited February 2, 2024).

³⁷ Email from Elizabeth Guzzo, Director of Legislative Affairs, Office of the Attorney General, to Amanda Stokes, Staff Director, Senate Criminal Justice Committee (Oct. 12, 2023, 11:14 EST) (on file with the Senate Committee on Governmental Oversight and Accountability).

³⁸ Email from Elizabeth Guzzo, Director of Legislative Affairs, Office of the Attorney General, to Amanda Stokes, Staff Director, Senate Criminal Justice Committee (Oct. 12, 2023, 11:14 EST) (on file with the Senate Committee on Governmental Oversight and Accountability).

Florida Statewide Council on Human Trafficking

The Florida Statewide Council on Human Trafficking (Council) is administratively housed within the Department of Legal Affairs. The purpose of the Council is to enhance the development and coordination of state and local law enforcement and social service responses to fight all forms of human trafficking and to support victims.³⁹ The duties of the Council include:⁴⁰

- Development of recommendations for comprehensive programs and services including recommendations for certification of safe houses and safe foster homes.
- Assess the frequency and extent to which social media platforms are used to assist, facilitate, or support human trafficking within Florida; establish a process to detect such use on a consistent basis; and make recommendations on how to stop, reduce, or prevent social media platforms from being used for such purposes.
- Make recommendations for apprehending and prosecuting traffickers and enhancing coordination of responses.
- Hold an annual statewide policy summit with an institution of higher learning.
- Work with the Department of Children and Families to create and maintain an inventory of human trafficking programs and services in our state.
- Develop overall policy recommendations.

The Council is also required to submit an annual report to the Legislature detailing the preceding fiscal year's accomplishments and recommendations regarding the development and coordination of state and local law enforcement and social services responses to fight human trafficking and support victims.⁴¹

III. Effect of Proposed Changes:

Section 1 amends s. 16.618, F.S., to add four more members to the board of directors of the Florida Alliance to End Human Trafficking (Alliance). The four new members must be appointed by the Alliance's board of directors. This section also removes obsolete language related to the initial creation of the Alliance. This section also extends the repeal date of the Alliance to October 1, 2029.

Sections 2, 3, 4, and 7 amend ss. 394.875, 456.0341, 480.043, and 787. 29, F.S., respectively, to replace references to the national human trafficking hotline requirement with the Florida human trafficking hotline. Section 3 and 4 require that all of the new requirements be met by January 1, 2025.

Section 5 amends s. 509.096, F.S., to require public lodging establishments to provide human trafficking awareness training to *all* employees who are on the premises and regularly interact with guests, rather than just housekeeping and front desk staff. The public lodging establishments are still required to maintain proof of compliance to provide to the Department of Business and Professional Regulation upon request.

³⁹ Section 16.617(1), F.S.

⁴⁰ Office of Attorney General, Florida Statewide Council on Human Trafficking, *available at* <https://www.myfloridalegal.com/human-trafficking/council> (last visited February 2, 2024).

⁴¹ Section 16.617(5), F.S.

Section 6 amends s. 787.06, F.S., to require a nongovernmental entity that enters into, renews, or extends a contract with a governmental entity to provide the governmental entity with an affidavit attesting that the nongovernmental entity does not use coercion for labor or services. The affidavit must be signed by an officer or representative of the nongovernmental entity under penalty of perjury. Section 837.06, F.S., provides that the penalty for perjury for knowingly making a false statement in writing, with the intent to mislead a public servant shall be guilty of a misdemeanor of the second degree.⁴²

Section 8 provides that the bill will take effect on July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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:

Public lodging and massage establishments may incur costs associated with the training required by this bill. There may also be minor costs to crisis stabilization units, residential treatment facilities, residential treatment centers for children and adolescents, massage establishments, public lodging establishments, and strip clubs or other adult

⁴² A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a \$500 fine, as provided in s. 775.082 and s. 775.083, F.S.

entertainment establishments associated with updating the human trafficking awareness signs to contain the Florida Human Trafficking Hotline number, instead of the national hotline. Each person licensed or certified under ch. 457, ch. 458, ch. 459, ch. 460, ch. 461, ch. 463, ch. 465, ch. 466, ch. 468, ch. 480, or ch. 486, F.S., may incur minor costs associated with updating the human trafficking awareness signs to include the Florida Human Trafficking Hotline number, instead of the national hotline.

C. Government Sector Impact:

The Department of Transportation may incur minor costs associated with updating the human trafficking awareness signs to include the Florida Human Trafficking Hotline number, instead of the national hotline in every rest area, turnpike service plaza, weigh station, primary airport, passenger rail station, and welcome center that is open to the public.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 16.618, 394.875, 456.0341, 480.043, 509.096, 787.06, and 787.29.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Governmental Oversight and Accountability on January 22, 2024:

The committee substitute specifies that the nongovernmental entities must attest that they do not use coercion *for* labor or services.

B. Amendments:

None.