

By Senator Garcia

36-00706A-17

2017852__

1 A bill to be entitled
2 An act relating to human trafficking; amending s.
3 39.524, F.S.; requiring the Department of Children and
4 Families or a sheriff's office to conduct a
5 multidisciplinary staffing on child victims of
6 commercial sexual exploitation to determine the
7 child's service and placement needs; revising the date
8 by which the department or sheriff's office must
9 submit a report to the Legislature on child commercial
10 sexual exploitation and safe-harbor placements;
11 revising the contents of the report, including
12 recommendations by the Office of Program Policy
13 Analysis and Government Accountability study on
14 commercial sexual exploitation of children; requiring
15 the department to maintain certain data on the child
16 victims; amending s. 92.565, F.S.; adding commercial
17 sexual activity as a crime in which the defendant's
18 admission is admissible during trial; amending s.
19 409.016, F.S.; defining the term "commercial sexual
20 exploitation"; amending s. 409.1678, F.S.; deleting
21 the term "sexually exploited child"; removing an
22 obsolete date; conforming provisions to changes made
23 by the act; amending s. 409.1754, F.S.; requiring the
24 department or sheriff's office to conduct
25 multidisciplinary staffings for child victims;
26 requiring a service plan for all victims of child
27 commercial sexual exploitation; requiring the
28 department or sheriff's office to follow up on all
29 victims of child commercial sexual exploitation within
30 a specified timeframe; amending s. 907.041, F.S.;
31 adding human trafficking to the list of crimes
32 requiring pretrial detention of the defendant;

36-00706A-17

2017852__

reenacting s. 790.065(2)(c), F.S., relating to the sale and delivery of firearms to incorporate the amendment made to s. 907.041, F.S., in a reference thereto; providing an effective date.

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

Section 1. Section 39.524, Florida Statutes, is amended to read:

39.524 Safe-harbor placement.—

(1) Except as provided in s. 39.407 or s. 985.801, a dependent child 6 years of age or older who is suspected of being or has been found to be a victim of commercial sexual exploitation as defined in s. 409.016 ~~s. 39.01(70)(g)~~ must be assessed, and the department or a sheriff's office acting under s. 39.3065 must conduct a multidisciplinary staffing pursuant to s. 409.1754(2), to determine the child's need for services and his or her need for placement in a safe house or safe foster home as provided in s. 409.1678 using the initial screening and assessment instruments provided in s. 409.1754(1). If such placement is determined to be appropriate for the child as a result of this assessment, the child may be placed in a safe house or safe foster home, if one is available. However, the child may be placed in another setting, if the other setting is more appropriate to the child's needs or if a safe house or safe foster home is unavailable, as long as the child's behaviors are managed so as not to endanger other children served in that setting.

(2) The results of the assessment described in s.

36-00706A-17

2017852__

62 409.1754(1), the multidisciplinary staffing described in s.
63 409.1754(2), and the actions taken as a result of the assessment
64 must be included in the disposition hearing or next judicial
65 review of the child. At each subsequent judicial review, the
66 court must be advised in writing of the status of the child's
67 placement, with special reference regarding the stability of the
68 placement, any specialized services, and the permanency planning
69 for the child.

70 (3) (a) By October ~~December~~ 1 of each year, the department,
71 with information from community-based care agencies and certain
72 sheriff's offices acting under s. 39.3065, shall report to the
73 Legislature on the prevalence of child commercial sexual
74 exploitation; the specialized services provided and placement of
75 such children; the local service capacity assessed pursuant to
76 s. 409.1754; the placement of children in safe houses and safe
77 foster homes during the year, including the criteria used to
78 determine the placement of children;~~7~~ the number of children who
79 were evaluated for placement;~~7~~ the number of children who were
80 placed based upon the evaluation;~~7~~ and the number of children
81 who were not placed; and the department's response to the
82 findings and recommendations made by the Office of Program
83 Policy Analysis and Government Accountability in its annual
84 study on commercial sexual exploitation of children, as required
85 by s. 8 of chapter 2014-161, Laws of Florida.

86 (b) The department shall maintain data specifying the
87 number of children who were verified as victims of commercial
88 sexual exploitation, who were referred to nonresidential
89 services in the community, who were placed in a safe house or
90 safe foster home, and who were referred to a safe house or safe

36-00706A-17

2017852__

91 foster home for whom placement was unavailable, and shall
92 identify the counties in which such placement was unavailable.
93 The department shall include this data in its report under this
94 subsection so that the Legislature may consider this information
95 in developing the General Appropriations Act.

96 Section 2. Subsection (2) of section 92.565, Florida
97 Statutes, is amended to read:

98 92.565 Admissibility of confession in sexual abuse cases.-

99 (2) In any criminal action in which the defendant is
100 charged with a crime against a victim under s. 787.06(3),
101 involving commercial sexual activity; s. 794.011; s. 794.05; s.
102 800.04; s. 826.04; s. 827.03, involving sexual abuse; s. 827.04,
103 involving sexual abuse; s. 827.071; or s. 847.0135(5), or any
104 other crime involving sexual abuse of another, or with any
105 attempt, solicitation, or conspiracy to commit any of these
106 crimes, the defendant's memorialized confession or admission is
107 admissible during trial without the state having to prove a
108 corpus delicti of the crime if the court finds in a hearing
109 conducted outside the presence of the jury that the state is
110 unable to show the existence of each element of the crime, and
111 having so found, further finds that the defendant's confession
112 or admission is trustworthy. Factors which may be relevant in
113 determining whether the state is unable to show the existence of
114 each element of the crime include, but are not limited to, the
115 fact that, at the time the crime was committed, the victim was:

- 116 (a) Physically helpless, mentally incapacitated, or
117 mentally defective, as those terms are defined in s. 794.011;
118 (b) Physically incapacitated due to age, infirmity, or any
119 other cause; or

36-00706A-17

2017852__

120 (c) Less than 12 years of age.

121 Section 3. Present subsections (1), (2), and (3) of section
122 409.016, Florida Statutes, are redesignated as subsections (2),
123 (3), and (4), respectively, and a new subsection (1) is added to
124 that section, to read:

125 409.016 Definitions.—As used in this chapter:

126 (1) "Commercial sexual exploitation" means the use of any
127 person under the age of 18 years for sexual purposes in exchange
128 for money, goods, or services or the promise of money, goods, or
129 services.

130 Section 4. Section 409.1678, Florida Statutes, is amended
131 to read:

132 409.1678 Specialized residential options for children who
133 are victims of commercial sexual exploitation.—

134 (1) DEFINITIONS.—As used in this section, the term:

135 (a) "Safe foster home" means a foster home certified by the
136 department under this section to care for sexually exploited
137 children.

138 (b) "Safe house" means a group residential placement
139 certified by the department under this section to care for
140 sexually exploited children.

141 ~~(c) "Sexually exploited child" means a child who has~~
142 ~~suffered sexual exploitation as defined in s. 39.01(70)(g) and~~
143 ~~is ineligible for relief and benefits under the federal~~
144 ~~Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.~~

145 (2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

146 (a) A safe house and a safe foster home shall provide a
147 safe, separate, and therapeutic environment tailored to the
148 needs of commercially sexually exploited children who have

36-00706A-17

2017852__

149 endured significant trauma and are not eligible for relief and
150 benefits under the federal Trafficking Victims Protection Act,
151 22 U.S.C. ss. 7101 et seq. Safe houses and safe foster homes
152 shall use a model of treatment that includes strength-based and
153 trauma-informed approaches.

154 (b) A safe house or a safe foster home must be certified by
155 the department. A residential facility accepting state funds
156 appropriated to provide services to ~~sexually exploited children~~
157 ~~or~~ child victims of commercial sexual exploitation ~~sex~~
158 ~~trafficking~~ must be certified by the department as a safe house
159 or a safe foster home. An entity may not use the designation
160 "safe house" or "safe foster home" and hold itself out as
161 serving child victims of commercial sexual exploitation ~~sexually~~
162 ~~exploited children~~ unless the entity is certified under this
163 section.

164 (c) To be certified, a safe house must hold a license as a
165 residential child-caring agency, as defined in s. 409.175, and a
166 safe foster home must hold a license as a family foster home, as
167 defined in s. 409.175. A safe house or safe foster home must
168 also:

- 169 1. Use strength-based and trauma-informed approaches to
170 care, to the extent possible and appropriate.
- 171 2. Serve exclusively one sex.
- 172 3. Group child victims of commercial sexual exploitation
173 ~~sexually exploited children~~ by age or maturity level.
- 174 4. Care for child victims of commercial sexual exploitation
175 ~~sexually exploited children~~ in a manner that separates those
176 children from children with other needs. Safe houses and safe
177 foster homes may care for other populations if the children who

36-00706A-17

2017852__

178 have not experienced commercial sexual exploitation do not
179 interact with children who have experienced commercial sexual
180 exploitation.

181 5. Have awake staff members on duty 24 hours a day, if a
182 safe house.

183 6. Provide appropriate security through facility design,
184 hardware, technology, staffing, and siting, including, but not
185 limited to, external video monitoring or door exit alarms, a
186 high staff-to-client ratio, or being situated in a remote
187 location that is isolated from major transportation centers and
188 common trafficking areas.

189 7. Meet other criteria established by department rule,
190 which may include, but are not limited to, personnel
191 qualifications, staffing ratios, and types of services offered.

192 (d) Safe houses and safe foster homes shall provide
193 services tailored to the needs of child victims of commercial
194 sexual exploitation ~~sexually exploited children~~ and shall
195 conduct a comprehensive assessment of the service needs of each
196 resident. In addition to the services required to be provided by
197 residential child caring agencies and family foster homes, safe
198 houses and safe foster homes must provide, arrange for, or
199 coordinate, at a minimum, the following services:

- 200 1. Victim-witness counseling.
- 201 2. Family counseling.
- 202 3. Behavioral health care.
- 203 4. Treatment and intervention for sexual assault.
- 204 5. Education tailored to the child's individual needs,
205 including remedial education if necessary.
- 206 6. Life skills and workforce training.

36-00706A-17

2017852__

207 7. Mentoring by a survivor of commercial sexual
208 exploitation, if available and appropriate for the child.

209 8. Substance abuse screening and, when necessary, access to
210 treatment.

211 9. Planning services for the successful transition of each
212 child back to the community.

213 10. Activities structured in a manner that provides child
214 victims of commercial sexual exploitation ~~sexually exploited~~
215 ~~children~~ with a full schedule.

216 (e) The community-based care lead agencies shall ensure
217 that foster parents of safe foster homes and staff of safe
218 houses complete intensive training regarding, at a minimum, the
219 needs of child victims of commercial sexual exploitation
220 ~~sexually exploited children~~, the effects of trauma and sexual
221 exploitation, and how to address those needs using strength-
222 based and trauma-informed approaches. The department shall
223 specify the contents of this training by rule and may develop or
224 contract for a standard curriculum. The department may establish
225 by rule additional criteria for the certification of safe houses
226 and safe foster homes that shall address the security,
227 therapeutic, social, health, and educational needs of child
228 victims of commercial sexual exploitation ~~sexually exploited~~
229 ~~children~~.

230 (f) The department shall inspect safe houses and safe
231 foster homes before certification and annually thereafter to
232 ensure compliance with the requirements of this section. The
233 department may place a moratorium on referrals and may revoke
234 the certification of a safe house or safe foster home that fails
235 at any time to meet the requirements of, or rules adopted under,

36-00706A-17

2017852__

236 this section.

237 (g) The certification period for safe houses and safe
238 foster homes shall run concurrently with the terms of their
239 licenses.

240 (3) SERVICES WITHIN A RESIDENTIAL TREATMENT CENTER OR
241 HOSPITAL. ~~No later than July 1, 2015,~~ Residential treatment
242 centers licensed under s. 394.875, and hospitals licensed under
243 chapter 395 that provide residential mental health treatment,
244 shall provide specialized treatment for commercially sexually
245 exploited children in the custody of the department who are
246 placed in these facilities pursuant to s. 39.407(6), s.
247 394.4625, or s. 394.467. The specialized treatment must meet the
248 requirements of subparagraphs (2)(c)1. and 3.-7., paragraph
249 (2)(d), and the department's treatment standards adopted
250 pursuant to this section. The facilities shall ensure that
251 children are served in single-sex groups and that staff working
252 with such children are adequately trained in the effects of
253 trauma and sexual exploitation, the needs of child victims of
254 commercial sexual exploitation ~~sexually exploited children~~, and
255 how to address those needs using strength-based and trauma-
256 informed approaches.

257 (4) FUNDING FOR SERVICES; CASE MANAGEMENT.—

258 (a) This section does not prohibit any provider of services
259 for child victims of commercial sexual exploitation ~~sexually~~
260 ~~exploited children~~ from appropriately billing Medicaid for
261 services rendered, from contracting with a local school district
262 for educational services, or from obtaining federal or local
263 funding for services provided, as long as two or more funding
264 sources do not pay for the same specific service that has been

36-00706A-17

2017852__

265 provided to a child.

266 (b) The community-based care lead agency shall ensure that
267 all child victims of commercial sexual exploitation ~~sexually~~
268 ~~exploited children~~ residing in safe houses or safe foster homes
269 or served in residential treatment centers or hospitals pursuant
270 to subsection (3) have a case manager and a case plan, whether
271 or not the child is a dependent child.

272 (5) SCOPE OF AVAILABILITY OF SERVICES.—To the extent
273 possible provided by law and with authorized funding, the
274 services specified in this section may be available to all child
275 victims of commercial sexual exploitation who are not eligible
276 for relief and benefits under the federal Trafficking Victims
277 Protection Act, 22 U.S.C. ss. 7101 et seq., ~~sexually exploited~~
278 ~~children~~ whether such services are accessed voluntarily, as a
279 condition of probation, through a diversion program, through a
280 proceeding under chapter 39, or through a referral from a local
281 community-based care or social service agency.

282 (6) LOCATION INFORMATION.—

283 (a) Information about the location of a safe house, safe
284 foster home, or other residential facility serving child victims
285 of commercial sexual exploitation ~~victims of sexual~~
286 ~~exploitation~~, as defined in s. 409.016 ~~s. 39.01(70)(g)~~, which is
287 held by an agency, as defined in s. 119.011, is confidential and
288 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
289 Constitution. This exemption applies to such confidential and
290 exempt information held by an agency before, on, or after the
291 effective date of the exemption.

292 (b) Information about the location of a safe house, safe
293 foster home, or other residential facility serving child victims

36-00706A-17

2017852__

294 of commercial sexual exploitation victims of sexual
295 exploitation, as defined in s. 409.016 ~~s. 39.01(70)(g)~~, may be
296 provided to an agency, as defined in s. 119.011, as necessary to
297 maintain health and safety standards and to address emergency
298 situations in the safe house, safe foster home, or other
299 residential facility.

300 (c) The exemptions from s. 119.07(1) and s. 24(a), Art. I
301 of the State Constitution provided in this subsection do not
302 apply to facilities licensed by the Agency for Health Care
303 Administration.

304 (d) This subsection is subject to the Open Government
305 Sunset Review Act in accordance with s. 119.15 and shall stand
306 repealed on October 2, 2020, unless reviewed and saved from
307 repeal through reenactment by the Legislature.

308 Section 5. Section 409.1754, Florida Statutes, is amended
309 to read:

310 409.1754 Commercial sexual exploitation of children
311 ~~Sexually exploited children~~; screening and assessment; training;
312 multidisciplinary staffings; service plans ~~case management; task~~
313 ~~forces.~~

314 (1) SCREENING AND ASSESSMENT.—

315 (a) The department shall develop or adopt one or more
316 initial screening and assessment instruments to identify,
317 determine the needs of, plan services for, and determine the
318 appropriate placement for child victims of commercial sexual
319 exploitation who are not eligible for relief and benefits under
320 the federal Trafficking Victims Protection Act, 22 U.S.C. ss.
321 7101 et seq ~~sexually exploited children~~. The department shall
322 consult state and local agencies, organizations, and individuals

36-00706A-17

2017852__

323 involved in the identification and care of such ~~sexually~~
324 ~~exploited~~ children when developing or adopting initial screening
325 and assessment instruments. Initial screening and assessment
326 instruments shall assess the appropriate placement of child
327 victims of commercial sexual exploitation ~~a sexually exploited~~
328 ~~child~~, including whether placement in a safe house or safe
329 foster home as provided in s. 409.1678 is appropriate, and shall
330 consider, at a minimum, the following factors:

- 331 1. Risk of the child running away.
- 332 2. Risk of the child recruiting other children into the
333 commercial sex trade.
- 334 3. Level of the child's attachment to his or her exploiter.
- 335 4. Level and type of trauma that the child has endured.
- 336 5. Nature of the child's interactions with law enforcement.
- 337 6. Length of time that the child was a victim of commercial
338 sexual exploitation ~~sexually exploited~~.
- 339 7. Extent of any substance abuse by the child.

340 (b) The initial screening and assessment instruments shall
341 be validated, if possible, and must be used by the department,
342 juvenile assessment centers as provided in s. 985.135, and
343 community-based care lead agencies.

344 (c) The department shall adopt rules that specify the
345 initial screening and assessment instruments to be used and
346 provide requirements for their use and for the reporting of data
347 collected through their use.

348 (d) The department, or a sheriff's office acting under s.
349 39.3065, the Department of Juvenile Justice, and community-based
350 care lead agencies may use additional assessment instruments in
351 the course of serving sexually exploited children.

36-00706A-17

2017852__

352 (2) MULTIDISCIPLINARY STAFFINGS AND SERVICE PLANS.—

353 (a) The department, or a sheriff's office acting under s.
354 39.3065, shall conduct a multidisciplinary staffing for each
355 child that is a suspected or verified victim of commercial
356 sexual exploitation. The department or sheriff's office shall
357 coordinate the staffing and invite individuals involved in the
358 child's care, including, but not limited to, the child, if
359 appropriate; the child's family or legal guardian; the child's
360 guardian ad litem; Department of Juvenile Justice staff; school
361 district staff; local health and human services providers;
362 victim advocates; and any other persons who may be able to
363 assist the child.

364 (b) The staffing must use the assessment, local services,
365 and local protocols required by this section to develop a
366 service plan. The service plan must identify the needs of the
367 child and his or her family, the local services available to
368 meet those needs, and whether placement in a safe house or safe
369 foster home is needed. If the child is dependent, the case plan
370 required by s. 39.6011 may meet the requirement for a service
371 plan, but must be amended to incorporate the results of the
372 multidisciplinary staffing. If the child is not dependent, the
373 service plan is voluntary and the department or sheriff's office
374 shall provide the plan to the victim and his or her family or
375 legal guardian and offer to make any needed referrals to local
376 service providers.

377 (c) The services identified in the service plan should be
378 provided in the least restrictive environment and may include,
379 but need not be limited to, the following:

380 1. Emergency shelter and runaway center services;

36-00706A-17

2017852__

381 2. Outpatient individual or group counseling for the victim
382 and the victim's family or legal guardian;

383 3. Substance use disorder treatment services;

384 4. Drop-in centers or mentoring programs;

385 5. Commercial sexual exploitation treatment programs;

386 6. Child advocacy center services pursuant to s. 39.3035;

387 7. Prevention services such as those provided by the
388 Florida Network of Youth and Family Services and the PACE Center
389 for Girls;

390 8. Family foster care;

391 9. Therapeutic foster care;

392 10. Safe houses or safe foster homes;

393 11. Residential treatment programs; and

394 12. Employment or workforce training.

395 (d) The department, or a sheriff's office acting under s.
396 39.3065, shall follow up with all verified victims of commercial
397 sexual exploitation who are dependent within 6 months of the
398 completion of the child abuse investigation, and such
399 information must be included in the report required under s.
400 39.524. The followup must determine the following:

401 1. Whether a referral was made for the services recommended
402 in the service plan;

403 2. Whether the services were received and, if not, the
404 reasons why;

405 3. Whether the services or treatments were completed and,
406 if not, the reasons why;

407 4. Whether the victim has experienced commercial sexual
408 exploitation since the verified report;

409 5. Whether the victim has run away since the verified

36-00706A-17

2017852__

410 report;

411 6. The type and number of placements, if applicable;

412 7. The educational status of the child;

413 8. The employment status of the child; and

414 9. Whether the child has been involved in the juvenile or
415 criminal justice system.

416 (e) The department, or a sheriff's office acting under s.
417 39.3065, shall follow up with all verified victims of commercial
418 sexual exploitation who are not dependent within 6 months after
419 the child abuse investigation is completed and the information
420 must be used in the report required under s. 39.524. The
421 followup for nondependent victims and their families is
422 voluntary, and the victim, family, or legal guardian is not
423 required to respond. The followup must attempt to determine the
424 following:

425 1. Whether a referral was made for the services recommended
426 in the service plan;

427 2. Whether the services were received and, if not, the
428 reasons why;

429 3. Whether the services or treatments were completed and,
430 if not, the reasons why;

431 4. Whether the victim has experienced commercial sexual
432 exploitation since the verified report;

433 5. Whether the victim has run away since the verified
434 report;

435 6. The educational status of the child;

436 7. The employment status of the child; and

437 8. Whether the child has been involved in the juvenile or
438 criminal justice system.

36-00706A-17

2017852__

439 ~~(3)(2) TRAINING; LOCAL PROTOCOLS CASE MANAGEMENT; TASK~~
440 ~~FORCES.-~~

441 ~~(a)1.~~ The department, or a sheriff's office acting under s.
442 39.3065, and community-based care lead agencies shall ensure
443 that cases in which a child is alleged, suspected, or known to
444 be a victim of commercial sexual exploitation ~~have been sexually~~
445 ~~exploited~~ are assigned to child protective investigators and
446 case managers who have specialized intensive training in
447 handling cases involving a sexually exploited child. The
448 department, sheriff's office, and lead agencies shall ensure
449 that child protective investigators and case managers receive
450 this training before accepting a case involving a commercially
451 sexually exploited child.

452 ~~(b)2.~~ The Department of Juvenile Justice shall ensure that
453 juvenile probation staff or contractors administering the
454 detention risk assessment instrument pursuant to s. 985.14
455 receive specialized intensive training in identifying and
456 serving commercially sexually exploited children.

457 ~~(b) The department and community-based care lead agencies~~
458 ~~shall conduct regular multidisciplinary staffings relating to~~
459 ~~services provided for sexually exploited children to ensure that~~
460 ~~all parties possess relevant information and services are~~
461 ~~coordinated across systems. The department or community-based~~
462 ~~care lead agency, as appropriate, shall coordinate these~~
463 ~~staffings and invite individuals involved in the child's care,~~
464 ~~including, but not limited to, the child's guardian ad litem,~~
465 ~~juvenile justice system staff, school district staff, service~~
466 ~~providers, and victim advocates.~~

467 ~~(c)1.~~ Each region of the department and each community-

36-00706A-17

2017852__

468 based care lead agency shall jointly assess local service
469 capacity to meet the specialized service needs of commercially
470 sexually exploited children and establish a plan to develop the
471 necessary capacity. Each plan shall be developed in consultation
472 with community-based care lead agencies, local law enforcement
473 officials, local school officials, runaway and homeless youth
474 program providers, local probation departments, children's
475 advocacy centers, guardians ad litem, public defenders, state
476 attorneys' offices, safe houses, and child advocates and service
477 providers who work directly with commercially sexually exploited
478 children.

479 (d)2. Each region of the department and each community-
480 based care lead agency shall establish local protocols and
481 procedures for working with commercially sexually exploited
482 children which are responsive to the individual circumstances of
483 each child. The protocols and procedures shall take into account
484 the varying types and levels of trauma endured; whether the
485 commercial sexual exploitation is actively occurring, occurred
486 in the past, or is inactive but likely to recur; and the
487 differing community resources and degrees of familial support
488 that are available. Child protective investigators and case
489 managers must use these protocols and procedures when working
490 with a victim of commercial sexual exploitation ~~sexually~~
491 ~~exploited child~~.

492 (4)(3) LOCAL RESPONSE TO HUMAN TRAFFICKING; TRAINING; TASK
493 FORCE.—

494 (a) To the extent that funds are available, the local
495 regional director may provide training to local law enforcement
496 officials who are likely to encounter child victims of

36-00706A-17

2017852__

497 commercial sexual exploitation ~~sexually exploited children~~ in
498 the course of their law enforcement duties. Training must ~~shall~~
499 address ~~the provisions of~~ this section and how to identify and
500 obtain appropriate services for such ~~sexually exploited~~
501 children. The local circuit administrator may contract with a
502 not-for-profit agency with experience working with commercially
503 sexually exploited children to provide the training. Circuits
504 may work cooperatively to provide training, which may be
505 provided on a regional basis. The department shall assist
506 circuits to obtain available funds for the purpose of conducting
507 law enforcement training from the Office of Juvenile Justice and
508 Delinquency Prevention of the United States Department of
509 Justice.

510 (b) Circuit administrators or their designees, chief
511 probation officers of the Department of Juvenile Justice or
512 their designees, and the chief operating officers of community-
513 based care lead agencies or their designees shall participate in
514 any task force, committee, council, advisory group, coalition,
515 or other entity in their service area that is involved in
516 coordinating responses to address human trafficking or
517 commercial sexual exploitation of children. If such entity does
518 not exist, the circuit administrator for the department shall
519 initiate one.

520 Section 6. Subsection (4) of section 907.041, Florida
521 Statutes, is amended to read:

522 907.041 Pretrial detention and release.—

523 (4) PRETRIAL DETENTION.—

524 (a) As used in this subsection, "dangerous crime" means any
525 of the following:

36-00706A-17

2017852__

- 526 1. Arson;
- 527 2. Aggravated assault;
- 528 3. Aggravated battery;
- 529 4. Illegal use of explosives;
- 530 5. Child abuse or aggravated child abuse;
- 531 6. Abuse of an elderly person or disabled adult, or
- 532 aggravated abuse of an elderly person or disabled adult;
- 533 7. Aircraft piracy;
- 534 8. Kidnapping;
- 535 9. Homicide;
- 536 10. Manslaughter;
- 537 11. Sexual battery;
- 538 12. Robbery;
- 539 13. Carjacking;
- 540 14. Lewd, lascivious, or indecent assault or act upon or in
- 541 presence of a child under the age of 16 years;
- 542 15. Sexual activity with a child, who is 12 years of age or
- 543 older but less than 18 years of age, by or at solicitation of
- 544 person in familial or custodial authority;
- 545 16. Burglary of a dwelling;
- 546 17. Stalking and aggravated stalking;
- 547 18. Act of domestic violence as defined in s. 741.28;
- 548 19. Home invasion robbery;
- 549 20. Act of terrorism as defined in s. 775.30;
- 550 21. Manufacturing any substances in violation of chapter
- 551 893; ~~and~~
- 552 22. Attempting or conspiring to commit any such crime; and
- 553 23. Human trafficking.
- 554 (b) No person charged with a dangerous crime shall be

36-00706A-17

2017852__

555 granted nonmonetary pretrial release at a first appearance
556 hearing; however, the court shall retain the discretion to
557 release an accused on electronic monitoring or on recognizance
558 bond if the findings on the record of facts and circumstances
559 warrant such a release.

560 (c) The court may order pretrial detention if it finds a
561 substantial probability, based on a defendant's past and present
562 patterns of behavior, the criteria in s. 903.046, and any other
563 relevant facts, that any of the following circumstances exist:

564 1. The defendant has previously violated conditions of
565 release and that no further conditions of release are reasonably
566 likely to assure the defendant's appearance at subsequent
567 proceedings;

568 2. The defendant, with the intent to obstruct the judicial
569 process, has threatened, intimidated, or injured any victim,
570 potential witness, juror, or judicial officer, or has attempted
571 or conspired to do so, and that no condition of release will
572 reasonably prevent the obstruction of the judicial process;

573 3. The defendant is charged with trafficking in controlled
574 substances as defined by s. 893.135, that there is a substantial
575 probability that the defendant has committed the offense, and
576 that no conditions of release will reasonably assure the
577 defendant's appearance at subsequent criminal proceedings;

578 4. The defendant is charged with DUI manslaughter, as
579 defined by s. 316.193, and that there is a substantial
580 probability that the defendant committed the crime and that the
581 defendant poses a threat of harm to the community; conditions
582 that would support a finding by the court pursuant to this
583 subparagraph that the defendant poses a threat of harm to the

36-00706A-17

2017852__

584 community include, but are not limited to, any of the following:

585 a. The defendant has previously been convicted of any crime
586 under s. 316.193, or of any crime in any other state or
587 territory of the United States that is substantially similar to
588 any crime under s. 316.193;

589 b. The defendant was driving with a suspended driver
590 license when the charged crime was committed; or

591 c. The defendant has previously been found guilty of, or
592 has had adjudication of guilt withheld for, driving while the
593 defendant's driver license was suspended or revoked in violation
594 of s. 322.34;

595 5. The defendant poses the threat of harm to the community.
596 The court may so conclude, if it finds that the defendant is
597 presently charged with a dangerous crime, that there is a
598 substantial probability that the defendant committed such crime,
599 that the factual circumstances of the crime indicate a disregard
600 for the safety of the community, and that there are no
601 conditions of release reasonably sufficient to protect the
602 community from the risk of physical harm to persons;

603 6. The defendant was on probation, parole, or other release
604 pending completion of sentence or on pretrial release for a
605 dangerous crime at the time the current offense was committed;

606 7. The defendant has violated one or more conditions of
607 pretrial release or bond for the offense currently before the
608 court and the violation, in the discretion of the court,
609 supports a finding that no conditions of release can reasonably
610 protect the community from risk of physical harm to persons or
611 assure the presence of the accused at trial; or

612 8.a. The defendant has ever been sentenced pursuant to s.

36-00706A-17

2017852__

613 775.082(9) or s. 775.084 as a prison releasee reoffender,
614 habitual violent felony offender, three-time violent felony
615 offender, or violent career criminal, or the state attorney
616 files a notice seeking that the defendant be sentenced pursuant
617 to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,
618 habitual violent felony offender, three-time violent felony
619 offender, or violent career criminal;

620 b. There is a substantial probability that the defendant
621 committed the offense; and

622 c. There are no conditions of release that can reasonably
623 protect the community from risk of physical harm or ensure the
624 presence of the accused at trial.

625 (d) When a person charged with a crime for which pretrial
626 detention could be ordered is arrested, the arresting agency
627 shall promptly notify the state attorney of the arrest and shall
628 provide the state attorney with such information as the
629 arresting agency has obtained relative to:

630 1. The nature and circumstances of the offense charged;

631 2. The nature of any physical evidence seized and the
632 contents of any statements obtained from the defendant or any
633 witness;

634 3. The defendant's family ties, residence, employment,
635 financial condition, and mental condition; and

636 4. The defendant's past conduct and present conduct,
637 including any record of convictions, previous flight to avoid
638 prosecution, or failure to appear at court proceedings.

639 (e) When a person charged with a crime for which pretrial
640 detention could be ordered is arrested, the arresting agency may
641 detain such defendant, prior to the filing by the state attorney

36-00706A-17

2017852__

642 of a motion seeking pretrial detention, for a period not to
643 exceed 24 hours.

644 (f) The pretrial detention hearing shall be held within 5
645 days of the filing by the state attorney of a complaint to seek
646 pretrial detention. The defendant may request a continuance. No
647 continuance shall be for longer than 5 days unless there are
648 extenuating circumstances. The defendant may be detained pending
649 the hearing. The state attorney shall be entitled to one
650 continuance for good cause.

651 (g) The state attorney has the burden of showing the need
652 for pretrial detention.

653 (h) The defendant is entitled to be represented by counsel,
654 to present witnesses and evidence, and to cross-examine
655 witnesses. The court may admit relevant evidence without
656 complying with the rules of evidence, but evidence secured in
657 violation of the United States Constitution or the Constitution
658 of the State of Florida shall not be admissible. No testimony by
659 the defendant shall be admissible to prove guilt at any other
660 judicial proceeding, but such testimony may be admitted in an
661 action for perjury, based upon the defendant's statements made
662 at the pretrial detention hearing, or for impeachment.

663 (i) The pretrial detention order of the court shall be
664 based solely upon evidence produced at the hearing and shall
665 contain findings of fact and conclusions of law to support it.
666 The order shall be made either in writing or orally on the
667 record. The court shall render its findings within 24 hours of
668 the pretrial detention hearing.

669 (j) A defendant convicted at trial following the issuance
670 of a pretrial detention order shall have credited to his or her

36-00706A-17

2017852__

671 sentence, if imprisonment is imposed, the time the defendant was
672 held under the order, pursuant to s. 921.161.

673 (k) The defendant shall be entitled to dissolution of the
674 pretrial detention order whenever the court finds that a
675 subsequent event has eliminated the basis for detention.

676 (l) The Legislature finds that a person who manufactures
677 any substances in violation of chapter 893 poses a threat of
678 harm to the community and that the factual circumstances of such
679 a crime indicate a disregard for the safety of the community.
680 The court shall order pretrial detention if the court finds that
681 there is a substantial probability that a defendant charged with
682 manufacturing any substances in violation of chapter 893
683 committed such a crime and if the court finds that there are no
684 conditions of release reasonably sufficient to protect the
685 community from the risk of physical harm to persons.

686 Section 7. For the purpose of incorporating the amendment
687 made by this act to section 907.041(4)(a), Florida Statutes, in
688 a reference thereto, paragraph (c) of subsection (2) of section
689 790.065, Florida Statutes, is reenacted to read:

690 790.065 Sale and delivery of firearms.—

691 (2) Upon receipt of a request for a criminal history record
692 check, the Department of Law Enforcement shall, during the
693 licensee's call or by return call, forthwith:

694 (c)1. Review any records available to it to determine
695 whether the potential buyer or transferee has been indicted or
696 has had an information filed against her or him for an offense
697 that is a felony under either state or federal law, or, as
698 mandated by federal law, has had an injunction for protection
699 against domestic violence entered against the potential buyer or

36-00706A-17

2017852__

700 transferee under s. 741.30, has had an injunction for protection
701 against repeat violence entered against the potential buyer or
702 transferee under s. 784.046, or has been arrested for a
703 dangerous crime as specified in s. 907.041(4)(a) or for any of
704 the following enumerated offenses:

- 705 a. Criminal anarchy under ss. 876.01 and 876.02.
- 706 b. Extortion under s. 836.05.
- 707 c. Explosives violations under s. 552.22(1) and (2).
- 708 d. Controlled substances violations under chapter 893.
- 709 e. Resisting an officer with violence under s. 843.01.
- 710 f. Weapons and firearms violations under this chapter.
- 711 g. Treason under s. 876.32.
- 712 h. Assisting self-murder under s. 782.08.
- 713 i. Sabotage under s. 876.38.
- 714 j. Stalking or aggravated stalking under s. 784.048.

715

716 If the review indicates any such indictment, information, or
717 arrest, the department shall provide to the licensee a
718 conditional nonapproval number.

719 2. Within 24 working hours, the department shall determine
720 the disposition of the indictment, information, or arrest and
721 inform the licensee as to whether the potential buyer is
722 prohibited from receiving or possessing a firearm. For purposes
723 of this paragraph, "working hours" means the hours from 8 a.m.
724 to 5 p.m. Monday through Friday, excluding legal holidays.

725 3. The office of the clerk of court, at no charge to the
726 department, shall respond to any department request for data on
727 the disposition of the indictment, information, or arrest as
728 soon as possible, but in no event later than 8 working hours.

36-00706A-17

2017852__

729 4. The department shall determine as quickly as possible
730 within the allotted time period whether the potential buyer is
731 prohibited from receiving or possessing a firearm.

732 5. If the potential buyer is not so prohibited, or if the
733 department cannot determine the disposition information within
734 the allotted time period, the department shall provide the
735 licensee with a conditional approval number.

736 6. If the buyer is so prohibited, the conditional
737 nonapproval number shall become a nonapproval number.

738 7. The department shall continue its attempts to obtain the
739 disposition information and may retain a record of all approval
740 numbers granted without sufficient disposition information. If
741 the department later obtains disposition information which
742 indicates:

743 a. That the potential buyer is not prohibited from owning a
744 firearm, it shall treat the record of the transaction in
745 accordance with this section; or

746 b. That the potential buyer is prohibited from owning a
747 firearm, it shall immediately revoke the conditional approval
748 number and notify local law enforcement.

749 8. During the time that disposition of the indictment,
750 information, or arrest is pending and until the department is
751 notified by the potential buyer that there has been a final
752 disposition of the indictment, information, or arrest, the
753 conditional nonapproval number shall remain in effect.

754 Section 8. This act shall take effect October 1, 2017.