

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 Fiscal Policy

BILL: CS/CS/CS/SB 1690

INTRODUCER: Committee on Fiscal Policy; Appropriations Committee on Health and Human Services; Committee on Children, Families, and Elder Affairs; and Senator Ingoglia

SUBJECT: Sexual Exploitation and Human Trafficking

DATE: April 21, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tuszynski</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Money</u>	<u>AHS</u>	<u>Fav/CS</u>
3.	<u>Tuszynski</u>	<u>Yeatman</u>	<u>FP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1690 creates s. 402.88, F.S., to require the Department of Children and Families (DCF) to certify adult safe houses, and inspect and recertify the safe houses annually. The bill defines an adult safe house as a group residential facility that provides care and housing for adults who have been sexually exploited or trafficked, and requires adult safe houses to:

- Receive and shelter victims of human trafficking and their minor children or other dependents.
- Provide certain services.
- Participate in providing certain orientation and training programs.
- Provide a safe and therapeutic environment.
- Receive an annual written endorsement from local law enforcement agencies.
- File certain information regarding human trafficking employees or volunteers who may claim privilege under s. 90.5037, F.S., to refuse to disclose certain information.

The bill allows the DCF to deny, suspend, or revoke the certification of an adult safe house that fails to comply with the requirements of the bill and outlines the training of adult safe house staff and requires the DCF to ensure that staff has completed the training. The bill allows the DCF to exempt the hotline, professional training, or community education requirements for a new adult safe house if already provided by another adult safe house within the same service area.

The bill amends s. 409.1678, F.S., related to specialized residential options for children who are victims of CSE, to:

- Require age-appropriate educational programming for children regarding the signs and dangers of, and how to report, human trafficking.
- Ensure security for safe houses and safe foster homes provides for, at a minimum, the detection of possible trafficking activity, coordination with law enforcement, and be part of the emergency response to search for absent or missing children.

The bill requires certain facilities to display signs to warn youth of the dangers of human trafficking and to encourage the reporting of individuals observed attempting to engage in human trafficking activity.

The bill amends s. 509.096, F.S., to shorten the time that a public lodging establishment has to correct training deficiencies from 90 to 45 days and makes the establishment ineligible for any correction period for a second or subsequent violation of the training and awareness requirements if the violation occurred after July 1, 2023.

The bill also amends s. 943.0583, F.S., to modify the eligibility criteria for who may petition for expunction of a criminal history record that is related to an enumerated offense on the habitual violent felony offender list. The bill allows human trafficking victims to expunge such records if the disposition was not a conviction. The bill defines the term “conviction”.

The bill will have a significant negative fiscal impact on state government. See Section V of this analysis.

The bill takes effect July 1, 2023.

II. Present Situation:

Human Trafficking

The Florida Legislature recognizes human trafficking as a form of modern-day slavery whose victims include 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.¹ While victims of human trafficking are forced to work in prostitution or sexual entertainment, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, factory work, and agricultural work.² Many human trafficking

¹ Section 787.06, F.S.

² *Id.*

victims are induced with false promises of financial or emotional security, but are forced or coerced³ into commercial sexual activity,⁴ domestic servitude, or other types of forced labor.⁵

Human Trafficking in Florida

Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,⁶ purchasing, patronizing, procuring, or obtaining⁷ another person for the purpose of exploitation of that person.⁸ 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 crime.⁹ Florida law sets out several circumstances which give rise to specified penalties including, in part:

- Labor or services of any child under the age of 18 commits a first degree felony;¹⁰
- Labor or services of any child under the age of 18 who is an unauthorized alien¹¹ commits a first degree felony;¹²
- Labor or services who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;¹³
- Commercial sexual activity¹⁴ who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;¹⁵ or

³ Section 787.06(2)(a), F.S., defines “coercion” in the context of human trafficking as using or threatening physical force; restraining, isolating, or confining or threatening the same without lawful authority and against his or her will; using lending or other credit methods to establish a debt when labor or services are pledged as a security for the debt, if the reasonably assessed value of the labor or services is not applied toward liquidation of the debt, and the length and nature of the labor or service and not limited and defined; destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document of any person; causing or threatening to cause financial harm, enticing or luring by fraud or deceit; or providing controlled substances to any person for the purpose of exploitation.

⁴ Section 787.06(2)(b), F.S., defines “commercial sexual activity” as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.

⁵ The Department of Education, *Healthy Schools – Human Trafficking*, available at <http://www.fldoe.org/schools/healthy-schools/human-trafficking.stml> (last visited March 19, 2023).

⁶ Section 787.06(2)(f), F.S., provides “maintain” means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. 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, including forced marriage, servitude, or the removal of organs.

⁷ Section 787.06(2)(g), F.S., provides “obtain” means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides “labor” means work of economic or financial value.

⁸ Section 787.06(2)(d), F.S.

⁹ Section 787.06(3), F.S.

¹⁰ Section 787.06(3)(a)1., F.S. A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

¹¹ Section 787.06(2)(j), F.S., defines “unauthorized alien” as an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3).

¹² Section 787.06(3)(c)1., F.S.

¹³ Section 787.06(3)(e)1., F.S.

¹⁴ Section 787.06(2)(b), F.S., defines “commercial sexual activity” as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography. Section 787.06(2)(i), F.S., defines “sexual explicit performance” as an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

¹⁵ Section 787.06(3)(f)1., F.S., provides that an offense committed under these circumstances is punishable by a term of imprisonment not exceeding life or as provided in ss. 775.082, 775.083, or 775.084, F.S.

- Commercial sexual activity in which any child under the age of 18, or in which any person who is mentally defective¹⁶ or mentally incapacitated¹⁷ is involved commits a life felony.¹⁸

First-degree felonies are reclassified as a life felony if a person causes great bodily harm, permanent disability, or permanent disfigurement to another person during the commission of the offense.¹⁹ Ignorance of the human trafficking victim's age, the victim's misrepresentation of his or her age, or a bona fide belief of the victim's age cannot be raised as a defense by a defendant.²⁰

Florida is ranked the third highest state of reported human trafficking cases in the United States.²¹ Reports of commercially exploited children to the Florida Abuse Hotline (hotline) for 2020 totaled 3,181 and 3,182 in 2021.²²

Child Sexual Exploitation in Florida

It is difficult to obtain an accurate count of commercial sexual exploitation (CSE) victims who are children because these victims are not readily identifiable.²³ CSE victims do not have immediately recognizable characteristics, many do not have identification, and they are often physically or psychologically controlled by adult traffickers; as such, they rarely disclose or provide information on exploitation.²⁴

In 2021, the DCF verified 377 child victims of commercial sexual exploitation from 3,182 reports alleging commercial sexual exploitation made to the hotline.²⁵ Of the reports that were referred for investigation, most came from the Department of Juvenile Justice (DJJ), the Department of Corrections, or criminal justice personnel and law enforcement.²⁶ Of the 377 verified commercially sexually exploited children, 25 percent were in out-of-home care,

¹⁶ Section 794.011(1)(c), F.S., defines "mentally defective" as a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

¹⁷ Section 794.011(1)(d), F.S., defines "mental incapacitated" as temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

¹⁸ A life felony is punishable by a term of life imprisonment, \$15,000 fine, or both as provided in s. 775.082(3)(a)6., F.S., s. 775.083, F.S., or s. 775.084, F.S.

¹⁹ Section 787.06(8)(b), F.S.

²⁰ Section 787.06(9), F.S.

²¹ Florida Alliance to End Human Trafficking, *The Issue*, available at <https://floridaallianceendht.com/the-issue/> (last visited March 19, 2023).

²² The Office of Program Policy Analysis and Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida*, 2022, p. 2, July 2022, available at <https://oppaga.fl.gov/Documents/Reports/22-05.pdf> (last visited March 19, 2023).

²³ Office of Program Policy Analysis & Government Accountability, *Placement Challenges Persist for Child Victims of Commercial Sexual Exploitation; Questions Regarding Effective Interventions and Outcomes Remain*, (Jul. 2016), available at <https://oppaga.fl.gov/Products/ReportDetail?rn=16-04> (last visited March 22, 2023).

²⁴ U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Commercial Sexual Exploitation of Children and Sex Trafficking*, available at <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/commercial-sexual-exploitation-of-children-and-sex-trafficking.pdf> (last visited March 22, 2023).

²⁵ Office of Program Policy Analysis & Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida*, 2022, Report 22-05, July 2022, pp. i and 2, available at <https://oppaga.fl.gov/Products/ReportDetail?rn=22-05> (last viewed March 22, 2023).

²⁶ *Id.*

including the care of relatives or in foster homes, residential group care, or residential treatment centers.²⁷

Safe Houses and Safe Foster Homes for Child-victims of Human Trafficking

Current law defines and provides for the certification of specialized residential options for children who are victims of human trafficking or commercial sexual exploitation (CSE).²⁸ The law defines a “safe foster home” to mean a foster home certified by the DCF to care for sexually exploited children and a “safe house” to mean a group residential placement certified by the DCF to care for sexually exploited children.²⁹ To be certified, a safe house or safe foster home must:

- Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.
- Serve exclusively one sex.
- Group child victims of CSE by age or maturity level.
- Care for child victims of CSE in a manner that separates those children from children with other needs. Safe houses and safe foster homes may care for other populations if the children who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.
- Have awake staff members on duty 24 hours a day, if a safe house.
- Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.
- Meet other criteria established by department rule,³⁰ including personnel qualifications, staffing ratios, and types of services offered.³¹

At-Risk Houses

At-risk houses are group care homes that are certified to serve children considered to be at-risk for sex trafficking. Children are deemed to be “at risk of sex trafficking” if they have experienced trauma such as abuse, neglect, and/or maltreatment, and present one or more of the accompanying risk factors: history of running away and/or homelessness; history of sexual abuse and/or sexually acting out behavior; inappropriate interpersonal and/or social media boundaries; family history of or exposure to human trafficking; or out-of-home placement instability demonstrated by repeated moves from less restrictive levels of care. There are currently 157 at-risk houses licensed by DCF that provide services to youth who are at risk of sex trafficking.³²

²⁷ *Id.*, p. 4.

²⁸ Section 409.1678, F.S.

²⁹ Section 409.1678(1), F.S.

³⁰ Rule 65C-46.020, F.A.C.

³¹ Section 409.1678(2)(c), F.S.

³² The DCF, 2023 Agency Legislative Bill Analysis, SB 1690, *Human Trafficking*, p. 3 (on file with Committee on Children, Families, and Elder Affairs Staff). (hereinafter cited as DCF Bill Analysis)

Safe Houses for Adult Survivors of Human Trafficking

There are currently 13 adult safe houses in Florida that serve adult survivors of human trafficking.³³ Of these, two allow for the survivor’s minor children to also reside in the home.³⁴

The DCF does not regulate or monitor any of these adult safe houses³⁵ and current law provides no framework for any agency to do so.

Privileged Communication between Human Trafficking Victims and Others

Section 90.5037, F.S., creates a privilege to refuse to disclose confidential communications or records between human trafficking victims and human trafficking victim advocates or trained volunteers made in the course of advising, counseling, or providing services. The law gives a human trafficking victim the power to not personally disclose and also prevent disclosure by any other person.³⁶

This privilege may be claimed by:

- The victim of human trafficking.
- The guardian or conservator of a victim.
- The personal representative of a deceased victim.
- The human trafficking victim advocate or trained volunteer, but only on behalf of the human trafficking victim. The authority to claim this privilege is presumed in the absence of evidence to the contrary.³⁷

Human Trafficking Victim Expunction

In 2013, the Legislature created a process authorizing a victim of human trafficking to petition a court for the expunction³⁸ of a criminal history record resulting from his or her arrest or filing of charges for an offense committed or reported to have been committed while he or she was a victim of human trafficking.³⁹

For purposes of human trafficking victim expunction, “victim of human trafficking” means a person subjected to coercion⁴⁰ for the purpose of being used in human trafficking, a child under

³³ DCF Bill Analysis, p. 2.

³⁴ *Id.*

³⁵ *Id.*

³⁶ Section 90.5037(3), F.S.

³⁷ Section 90.5037(4), F.S.

³⁸ When a criminal history record is ordered to be expunged, the record must be physically destroyed by any criminal justice agency possessing such record, except that any criminal history record in the custody of the Florida Department of Law Enforcement (FDLE) must be retained. *See* s. 943.045(16), F.S.

³⁹ Chapter 2013-98 s. 2, L.O.F.; codified as s.943.0583(3), F.S.

⁴⁰ Section 787.06, F.S., defines “coercion” as “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 against his or her 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

18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.⁴¹

To be eligible for expunction, the criminal offense must be related to a human trafficking scheme of which the person was a victim or the offense must have been committed at the direction of an operator of the scheme and must *not* be one of the following offenses under s. 775.084(1)(b)1., related to the designation as a “habitual violent felony offender,” including:

- Arson;
- Sexual battery;
- Robbery;
- Kidnapping;
- Aggravated child abuse;
- Aggravated abuse of an elderly person or disabled adult;
- Aggravated assault with a deadly weapon;
- Murder;
- Manslaughter;
- Aggravated manslaughter of an elderly person or disabled adult;
- Aggravated manslaughter of a child;
- Unlawful throwing, placing, or discharging of a destructive device or bomb;
- Armed burglary; or
- Aggravated stalking.⁴²

The human trafficking victim is eligible to receive the expunction regardless of the disposition of the arrest or of any charges unless the criminal history record sought to be expunged is related to one of the above-listed offenses.

The court with original jurisdiction over the crime that the human trafficking victim seeks to expunge is the court designated to hear the victim’s petition.⁴³ A petition must be initiated by the petitioner with due diligence after he or she is no longer a victim of human trafficking or has sought human trafficking services.⁴⁴ The petition must be accompanied by the following:

- A sworn statement attesting that the petitioner is eligible for an expunction to the best of his or her knowledge and does not have other petitions to expunge or seal pending before any court; and
- Official documentation of the petitioner’s status as a human trafficking victim, if any exists.⁴⁵

In contrast to other expunctions made under s. 943.0585, F.S., a court is required to treat a petition seeking to expunge more than one eligible case as a single petition.⁴⁶ Florida’s clerks of

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.”

⁴¹ Section 943.0583(1)(c), F.S.

⁴² Section 943.0583(3), F.S. This subsection provides that expunction is not permitted if the offense is related to an offense enumerated in s. 775.084(1)(b)1., F.S., related to habitual violent felony offenders.

⁴³ Section 943.0583(2), F.S.

⁴⁴ Section 943.0583(4), F.S.

⁴⁵ Section 943.0583(6), F.S.

⁴⁶ Section 943.0583(2), F.S.

court are prohibited from charging a filing fee, service charge, or copy fee or any other charge for a petition for a human trafficking victim expunction.⁴⁷

When a criminal history record is ordered to be expunged, the record must be physically destroyed by any criminal justice agency possessing such record, except that any criminal history record in the custody of the Florida Department of Law Enforcement (FDLE) must be retained.⁴⁸ A human trafficking victim may lawfully deny or fail to acknowledge any expunged record unless he or she is applying for a job with a criminal justice agency or is a defendant in a subsequent criminal prosecution.⁴⁹ The criminal history record that has been expunged is considered confidential and exempt⁵⁰ from public records requirements.⁵¹

Current law also provides that criminal intelligence⁵² and criminal investigative information⁵³ is confidential and exempt from public records requirements. Such information includes:⁵⁴

- Any information that reveals the identity of a person under the age of 18 who is the victim of human trafficking for labor or services;⁵⁵
- Any information that may reveal the identity of a person who is the victim of human trafficking for commercial sexual activity;⁵⁶ and
- A photograph, videotape, or image of any part of the body of a victim of human trafficking involving commercial sexual activity.⁵⁷

Human Trafficking in Public Lodging Establishments

The Division of Hotels and Restaurants (Division) is a division within the Department of Business and Professional Regulation (DBPR) that licenses, inspects, and regulates public lodging and food service establishments pursuant to ch. 509, F.S.⁵⁸ The term “public lodging

⁴⁷ Section 943.0583(2), F.S.

⁴⁸ Section 943.045(16), F.S.

⁴⁹ Section 943.0583(8)(b), F.S.

⁵⁰ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute. *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004). Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances. *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

⁵¹ Section 119.071(2)(h), F.S.

⁵² Section 119.011(3)(a), F.S., defines “criminal intelligence information” as information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

⁵³ Section 119.011(3)(b), F.S., defines “criminal investigative information” as information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

⁵⁴ Chapter 2015-146, L.O.F.

⁵⁵ See s. 787.06(3)(a), F.S.

⁵⁶ See s. 787.06(3)(b), (d), (f), and (g), F.S.

⁵⁷ *Id.*

⁵⁸ Sections 509.013 and 509.032, F.S.

establishment” includes both transient⁵⁹ and nontransient⁶⁰ public lodging establishments. There are currently 63,690 public lodging establishments that are licensed by the Division.⁶¹ The following are classified as public lodging establishments:⁶²

- Hotel;
- Motel;
- Vacation rental;
- Nontransient apartment;
- Transient apartment;
- Bed and breakfast inn; and
- Vacation rentals.⁶³

Public lodging establishments must be licensed and inspected by the Division, and are subject to sanitary standards, staff training and test requirements, administrative rules, and immediate closure upon a finding that continued operation presents a severe and immediate threat to the public health.⁶⁴ Public lodging establishments can be attractive locations for human traffickers, due to the privacy and anonymity afforded.⁶⁵

Sex trafficking operations are often set up in public lodging establishments via online advertising, without the establishment operator’s knowledge.⁶⁶ The use of websites to communicate and arrange meeting times and locations enable those involved in the operation to remain anonymous.⁶⁷ In a 10 year review, from December 2007 to December 2017, the National Human Trafficking Hotline (HT Hotline) recorded 3,596 cases of human trafficking involving a hotel or motel. Additionally, 75 percent of human trafficking survivors reported coming into contact with hotels at some point while being trafficked.⁶⁸

⁵⁹ “Transient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests. Section 509.013(4)(a)1., F.S.

⁶⁰ “Nontransient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month. Section 509.013(4)(a)2., F.S.

⁶¹ The Department of Business and Professional Regulation (DBPR), *Division of Hotels & Restaurants Annual Report 2021-22*, p. 8, available at http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2021_22.pdf (last visited April 20, 2023).

⁶² Section 509.242(1)(a)-(g), F.S., sets out criteria that must be met in order for an establishment to be classified as a public lodging establishment pursuant to ch. 509, F.S.

⁶³ *Id.*

⁶⁴ See ss. 509.032 and 509.035, F.S.

⁶⁵ The Department of Homeland Security, Blue Campaign, *Human Trafficking Response Guide*, p. 2, available at https://www.dhs.gov/sites/default/files/2022-10/Hospitality%20Toolkit%20508c%2009_29_2022.pdf (last visited April 20, 2023).

⁶⁶ The DBPR, Division of Hotels and Restaurants, *Human Trafficking Information Sheet*, (March 22, 2016) available at http://www.myfloridalicense.com/dbpr/hr/forms/documents/5022_104.pdf (last visited April 20, 2023).

⁶⁷ National Human Trafficking Hotline, *Hotel/Motel-Based*, available at <https://humantraffickinghotline.org/sex-trafficking-venuesindustries/hotelmotel-based> (last visited April 20, 2023).

⁶⁸ Polaris, *On-Ramps, Intersections, and Exit Routes: A Roadmap for Systems and Industries to Prevent and Disrupt Human Trafficking*, (July 2018) available at <https://polarisproject.org/resources/on-ramps-intersections-and-exit-routes-a-roadmap-for-systems-and-industries-to-prevent-and-disrupt-human-trafficking/> (last visited April 20, 2023).

The Division has emphasized the importance in educating staff at public lodging establishments on signs of trafficking activity. The following are ways to identify a victim of human trafficking:

- Signs of physical abuse or malnourishment;
- Person seems coached or controlled;
- Victim rarely left alone;
- Suspicious tattoos or branding on victim;
- Living conditions unsuitable;
- Victim demeaned or treated aggressively;
- Accompanied by older male;
- Avoids interaction with others;
- “Do not Disturb” sign used constantly;
- Receives lots of visitors;
- Pays for room with cash;
- Dresses inappropriately or provocatively;
- Few personal belongings;
- Refuses cleaning services;
- Room smells of bodily fluids and musk;
- Lots of cash in room;
- Alcohol and/or drugs in room; and
- Room monitored outside or in hallway.⁶⁹

Human Trafficking Awareness in Public Lodging Establishments

In 2019, the Legislature required a public lodging establishment to create and implement human trafficking awareness training and policies for employees of the establishment who perform housekeeping duties in the rental units or who work at the front desk or reception area where guests ordinarily check-in or check out.⁷⁰

A public lodging establishment must:

- Provide annual training regarding human trafficking awareness to employees who perform housekeeping duties or work at the front desk within 60 days after beginning employment, or by January 1, 2021, whichever occurs later. Proof of such employee training must be provided to the Division upon request;
- Implement a procedure for the reporting of suspected human trafficking to the HT Hotline or to a local law enforcement agency by January 1, 2021; and
- Post a sign with the relevant provisions of the reporting procedure in a conspicuous place in the establishment that is accessible to employees by January 1, 2021.⁷¹

Such training must include:

- The definition of human trafficking and the differences between sex trafficking and labor trafficking;
- Guidance specific to the public lodging sector on how to identify individuals who may be victims of human trafficking; and

⁶⁹ *Supra*, note 66.

⁷⁰ Chapter 2019-152 s. 6, L.O.F.; codified as s. 509.096, F.S.

⁷¹ Section 509.096(1), F.S.

- Guidance on the role of the employees of a public lodging establishment in reporting and responding to suspected human trafficking.⁷²

The training must be submitted to and approved by the Division before being provided to employees. The Division must impose administrative fines of \$2,000 per day against a public lodging establishment that is not in compliance with statute, unless there are written assurances that each deficiency will be corrected within 90 days of the notice of violation.⁷³

III. Effect of Proposed Changes:

Adult Safe Houses

The bill creates s. 402.88, F.S., to require the DCF to develop and administer a certification process for adult safe houses that provide care for adults who have been sexually exploited or trafficked.

The bill requires the DCF to establish a process to certify adult safe houses that:

- Provides a facility that serves as an adult safe house to receive and house persons who are victims of human trafficking.
 - Minor children and other dependents of the victim when such dependents are partly or wholly dependent on the victim, may be sheltered with the victim in an adult safe house.
- Receives annual written endorsement of local law enforcement.
- Provides the following minimum services:
 - Information and referral;
 - Licensed counseling and case management;
 - Substance abuse screening and access or referral to treatment;
 - Temporary emergency shelter for more than 24 hours;
 - Operation of a 24-hour hotline;
 - Nonresidential outreach services;
 - Training for law enforcement personnel;
 - Assessment and appropriate referral of resident children; and
 - Educational services for community awareness, prevention, and services available for persons subject to human trafficking.
- Participates in providing orientation and training programs developed for law enforcement, social workers, and other professionals who work with human trafficking victims.
- Provides a safe, therapeutic environment tailored to the needs of CSE or trafficked adults who have endured significant trauma using strength-based and trauma-informed treatment models.
- Files with the DCF a list of human trafficking advocates employed or volunteering at the adult safe house who may claim privilege under s. 90.5037, F.S.,⁷⁴ to refuse to disclose certain information. The list must include the title of the position held by the advocate and a description of the duties of his or her position.

⁷² Section 509.096(2), F.S.

⁷³ Section 509.096(3), F.S.

⁷⁴ Section 90.5037, F.S. makes certain communications between certain human trafficking victim's advocates and human trafficking victims confidential.

- Comply with rules adopted under the section.

The bill allows the DCF to exempt the hotline, professional training, or community education requirements for a new adult safe house if already provided by another adult safe house within the designated service area to avoid duplication of services.

The bill requires the DCF to inspect and annually certify adult safe houses to ensure compliance with the requirements of the section and allows the denial, suspension, or revocation of certification if an adult safe house fails to comply with those requirements.

The bill also outlines the training of adult safe house staff and requires the DCF to ensure that staff has completed said training, the contents of which are to be specified by rule.

The bill allows the DCF to adopt rules to implement the section, which must include, in part, rules related to health and safety provisions that protect minor children and other dependents of a victim that shelter in the adult safe house from recruitment, and to ensure that the minors do not become at risk of becoming, or become victims of human trafficking.

Education and Signage

The bill amends s. 409.1678, F.S., to require the DCF to develop age-appropriate educational programming for children regarding the signs and dangers of, and how to report, human trafficking. The educational programming must be developed for safe houses and safe foster homes.⁷⁵

The bill amends ss. 394.875, 409.1678, and 409.175, F.S., to require the following places to display signs to warn youth of the dangers of human trafficking and to encourage the reporting of individuals observed attempting to engage in human trafficking activity:

- Residential treatment centers for children and adolescents;
- Safe houses;
- Foster homes;
- Residential child-caring agencies; and
- Child-placing agencies.

The signs must be in conspicuous locations and must contain the telephone number for either the National Human Trafficking Resource Center or other number that the Florida Department of Law Enforcement uses to detect and stop human trafficking.

The DCF is required to specify the content of the signs by rule. For residential treatment centers for children and adolescents, the DCF is required to consult with the Agency for Health Care Administration on the content of such signs.

⁷⁵ Section 409.1678, F.S. defines “Safe foster home” as a foster home certified by the DCF to care for sexually exploited children and “Safe house” as a group residential placement certified by the DCF to care for sexually exploited children.

The bill amends s. 787.29, F.S., relocating a provision in current law that allows a county commission to adopt an ordinance to enforce human trafficking awareness signage into the subsection that requires the display of such signs.

Human Trafficking Awareness in Public Lodging Establishments

The bill amends s. 509.096(3), F.S., to shorten the time that a public lodging establishment has to correct training deficiencies from 90 to 45 days and makes the establishment ineligible for any correction period for a second or subsequent violation of the training and awareness requirements if the violation occurred after July 1, 2023.

Certification of Safe Houses

Section 409.1678, F.S., requires safe houses and safe foster homes to provide appropriate security through specified means. The bill amends s. 409.1678, F.S., to detail that appropriate security for Safe Houses must provide for, at a minimum, the detection of possible trafficking activity, coordination with law enforcement, and be part of the emergency response to search for absent or missing children. To be in compliance, the safe house must either:

- Employ or contract with a least one individual that has law enforcement, investigative, or other similar training; or
- Execute a contract or memorandum of understanding with a law enforcement agency to perform these functions.

Expunction of Certain Criminal History Records of Human Trafficking Victims

The bill amends s. 943.0583, F.S., to modify the eligibility criteria for who may petition for expunction of a criminal history record that is related to an enumerated offense in s. 775.084(1)(b)1., F.S., related to the designation as a “habitual violent felony offender.” A victim of human trafficking will now be authorized to have his or her criminal history record expunged related to any enumerated offense unless “convicted” for the offense.

The bill defines “conviction” as a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, or if the defendant was a minor, a finding that the defendant committed or pled guilty or nolo contendere to committing a delinquent act, regardless of whether adjudication of delinquency is withheld. This is the same provision that is in s. 943.0584, F.S., related to criminal history records ineligible for court-ordered expunction or court-ordered sealing.

Therefore, a victim may petition to have a record expunged when he or she is arrested for such an offense but charges are not filed by the state attorney or a no information is filed, or when the victim is found not guilty by a judge or a jury.

The bill takes effect July 1, 2023

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

The bill will result in an indeterminate negative fiscal impact for those public lodging establishments that are unable to correct human trafficking awareness training deficiencies within 45 days or that have repeat violations.

C. Government Sector Impact:

The DCF is requesting 4 FTE positions and technology development costs to fulfill the requirements of the bill. The total cost to implement the certification process is \$764,420. This will require recurring funds of \$360,145 and nonrecurring funds of \$404,275 from the General Revenue Fund.⁷⁶ Specifically, this includes:

- Three Operation Review Specialists FTEs to serve as regional certification specialists to complete pre-monitoring, travel, inspections, site monitoring and follow up, and administrative duties involved in the annual certification of adult safe houses. The total cost is estimated at \$301,420 (includes \$16,275 nonrecurring costs). Each position requires a base salary of \$50,192, plus travel and operating expenses.⁷⁷

⁷⁶ DCF Bill Analysis, p. 7.

⁷⁷ *Id.*

- Contract consulting services for the development of the technology platform to support adult safe house certification. These one-time development costs are estimated at \$388,000.
- One technology-related FTE to provide for ongoing maintenance and operations of the platform.⁷⁸ The recurring cost is \$75,000.⁷⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 394.875, 409.1678, 409.175, 509.096, and 787.29 of the Florida Statutes.

This bill creates section 402.88 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS/CS by Fiscal Policy on April 20, 2023:

The committee substitute shortens the time that a public lodging establishment has to correct training deficiencies from 90 to 45 days and makes the establishment ineligible for any correction period for a second or subsequent violation of the training and awareness requirements if the violation occurred after July 1, 2023.

CS/CS by Appropriations Committee on Health and Human Services on April 12, 2023:

The committee substitute allows the expunction of criminal history records for certain human trafficking victims charged with the offenses listed in s. 775.084(1)(b)1., F.S., if the victim was not convicted.

CS by Children, Families, and Elder Affairs on March 27, 2023:

The committee substitute moved certain provisions related to signage into the sections of statute related to relevant facility regulation, identified specific health and safety requirements to be considered for rulemaking, and clarified what is required to provide appropriate security in safe houses.

⁷⁸ *Id.* at pp. 8-9

⁷⁹ *Id.*

B. Amendments:

None.

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