

**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.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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**BILL:** CS/CS/CS/SB 796

**INTRODUCER:** Fiscal Policy Committee; Criminal Justice Committee; Governmental Oversight and Accountability Committee; and Senators Avila and Yarborough

**SUBJECT:** Anti-human Trafficking

**DATE:** February 23, 2024

**REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Limonas-Borja</u>	<u>McVane</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Wyant</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
3.	<u>Limonas-Borja</u>	<u>Yeaman</u>	<u>FP</u>	<u>Fav/CS</u>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/CS/SB 796 makes several updates that relate to combatting human trafficking in Florida. The bill extends the repeal date of the direct-support organization (DSO) for the Statewide Council on Human Trafficking to October 1, 2029.

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

The bill also extends the date by which:

- A person licensed or certified under several chapters must post a human trafficking public awareness sign.
- A massage establishment must implement a procedure for reporting suspected human trafficking to the Florida Human Trafficking Hotline.
- A public lodging establishment must post a human trafficking public awareness sign.

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 prohibits a minor from being employed by an adult entertainment establishment in any role.

The bill provides that an owner, manager, employee, or contractor of an adult entertainment establishment who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work in an adult entertainment establishment, commits a first degree misdemeanor.<sup>1</sup> An owner, manager, employee or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work nude in an adult entertainment establishment, commits a second degree felony.<sup>2</sup>

The bill also provides that an owner, manager, employee, or contractor of an adult entertainment establishment, that permits a person to perform as an entertainer or work in any capacity shall carefully check the person's driver license or an identification card issued by this state or another state of the United States, a passport, or a United States Uniformed Services Identification Card presented by the person and act in good faith and in reliance upon the representation and appearance of the person in the belief that the person is 21 years of age or older.

The bill provides that a person's ignorance of a person's age or a person's misrepresentation of his or her age cannot be used a defense in a prosecution for certain violations.

The bill has an indeterminate fiscal impact on the private sector. The bill may increase the need for prison beds.

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.<sup>3</sup> Under federal law, the term "severe forms of trafficking in persons" includes labor<sup>4</sup> and sex trafficking.<sup>5,6</sup> 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.<sup>7</sup> In 2021, a total of 2,027 persons were referred to U.S. attorneys for

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<sup>1</sup> A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year, as provided in s. 775.082 or s. 775.083, F.S.

<sup>2</sup> A second degree felony is punishable by a term of imprisonment of fifteen years, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

<sup>3</sup> Section 787.06 (2)(d), F.S.

<sup>4</sup>The 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.

<sup>5</sup> 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.

<sup>6</sup> 22 USCA § 7102.

<sup>7</sup> 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).

human trafficking offenses.<sup>8</sup> Victims of sex trafficking are frequently recruited to work in strip clubs across the United States. Such persons may be recruited to work in strip clubs as hostesses, servers or dancers but are then required to perform sex acts with customers. Such strip clubs may be designed to provide the space and environment in which buyers may purchase commercial sex.<sup>9</sup>

***Human Trafficking in Florida***

Florida is ranked the third highest state of reported human trafficking cases in the United States.<sup>10</sup> Reports of commercially exploited children to the Florida Abuse Hotline for 2022 totaled 3,408 and 3,182 in 2021.<sup>11</sup> 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,<sup>12</sup> services,<sup>13</sup> or commercial sexual activity,<sup>14</sup> commits a crime.<sup>15</sup> 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 <sup>16</sup> for labor or services of an adult	First	Level 7
787.06(3)(b)	Using coercion for commercial sexual activity of an adult	First	Level 8

<sup>8</sup> 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).

<sup>9</sup> National Human Trafficking Hotline, *Hostess/Strip Club-Based*, available at, <https://humantraffickinghotline.org/en/sex-trafficking-venuesindustries/hostessstrip-club-based> (last visited Feb. 22, 2024).

<sup>10</sup> Florida Alliance to End Human Trafficking, *The Issue*, available at <https://www.floridaallianceendht.com/the-issue/> (last visited February 2, 2024).

<sup>11</sup> 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).

<sup>12</sup> Section 787.06(2)(e), F.S., defines “labor” as: work of economic or financial value.

<sup>13</sup> 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.

<sup>14</sup> 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.

<sup>15</sup> Section 787.06(3), F.S.

<sup>16</sup> The term “coercion” means:

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.

Statute	Description of Offense	Level of Felony	Offense Severity Ranking
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

**Soliciting or Purchasing Prostitution**

Section 796.07, F.S., defines prostitution as the giving or receiving of the body for sexual activity for hire.<sup>17</sup>

Under s. 796.07(2)(a)-(e) and (g)-(i), F.S., it is a second-degree misdemeanor:<sup>18</sup>

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness,<sup>19</sup> assignation,<sup>20</sup> or prostitution;
- To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act;
- To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose;
- To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation;

<sup>17</sup> This definition excludes sexual activity between spouses. s. 796.07(1)(b), F.S.

<sup>18</sup> A second-degree misdemeanor is punishable by up to 60 days in county jail and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S

<sup>19</sup> “Lewdness” means any indecent or obscene act. Section 796.07(1)(c), F.S

<sup>20</sup> “Assignation” means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(d), F.S.

- For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation;
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation;
- To aid, abet, or participate in any of the acts or things listed above; or
- To purchase the services of any person engaged in prostitution.<sup>21</sup>

Additionally, under s. 796.07(2)(f), F.S., a person who solicits, induces, entices, or procures another person to commit prostitution, lewdness, or assignation commits a first-degree misdemeanor for a first violation, a third-degree felony for a second violation, and a second-degree felony for a third or subsequent violation.<sup>22</sup> An offender convicted for soliciting another person to commit prostitution is also subject to additional penalties including:

- One hundred hours of community service;<sup>23</sup>
- Being required to pay for and attend an educational program about the negative effects of prostitution and human trafficking, such as a sexual violence prevention education program, including such programs offered by faith-based providers, if such a program is offered in the circuit in which the offender is sentenced;<sup>24</sup>
- A 10-day mandatory minimum jail sentence for a second or subsequent violation;<sup>25</sup>
- Vehicle impoundment up to 60 days if the offender used a car to commit the violation;<sup>26</sup>
- Inclusion of the offender's name on the Soliciting for Prostitution Public Database in certain situations;<sup>27</sup> and
- A \$5,000 civil fine.<sup>28</sup>

### **Commercial Sexual Activity**

Strip clubs are considered adult entertainment establishments under Florida law. Section 847.001, F.S., defines "adult entertainment establishment," to include adult bookstores, adult theaters, special cabaret, and unlicensed massage establishments.

- An adult bookstore is any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock book, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.
- Adult theaters are enclosed buildings or enclosed spaces within a building used for presenting either film, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults, or any business that features a person who engages in specific sexual activities for observation by a patron, and which restricts or purports to restrict admission to only adults.

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<sup>21</sup> Section 796.07(2), F.S.

<sup>22</sup> Section 796.07(2)(f) and (5)(a), F.S.

<sup>23</sup> Section 796.07(5)(b)1., F.S.

<sup>24</sup> Section 796.07(5)(b)2., F.S.

<sup>25</sup> Section 796.07(5)(c), F.S.

<sup>26</sup> Section 796.07(5)(d), F.S.

<sup>27</sup> Section 796.07(5)(e), F.S.

<sup>28</sup> Section 796.07(6), F.S.

- Special cabaret is any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.
- An unlicensed massage establishment is any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. This term does not include an establishment licensed under s. 480.043, F.S.

Several states have enacted laws prohibiting persons under 21 years of age from working or performing in certain adult entertainment establishments. These laws have been challenged, and courts have found that the state has a compelling interest in protecting victims from human trafficking, and that there is often a link between human trafficking and certain adult entertainment establishments. In *Jane Doe I v. Landry*, the United States Court of Appeals, Fifth Circuit upheld a Louisiana law that prohibited establishments licensed to serve alcohol from employing nearly nude entertainers younger than 21 years of age on the grounds that the law furthered the state's interests in curbing human trafficking and prostitution.<sup>29</sup>

The Court found that the State of Louisiana sufficiently demonstrated its reasonable belief that there was a link between Louisiana statutes that prohibited women aged 18 to 21 years old from nude erotic dancing in establishments that served alcohol and curbing the secondary effects of human trafficking and prostitution such that the statutes furthered substantial governmental interest, as required for statutes to survive intermediate scrutiny on erotic dancers' First Amendment free speech challenge.<sup>30</sup>

In *Valadez v. Paxton*, the United States District Court, W.D. Texas, Austin Division held that the State of Texas sufficiently demonstrated that it held reasonable belief that the law prohibiting all working relationships between persons between the ages of 18 and 20 years old and sexually-oriented businesses would serve to curb harmful secondary effects of sexually-oriented businesses, including trafficking and sexual exploitation.<sup>31</sup>

The United States District Court denied a motion for a preliminary injunction against the enforcement of the Texas bill prohibiting "all working relationships between 18-20 year olds and sexually-oriented businesses" because the plaintiff's failed to show that the age restrictions were not rationally related to the state's interest in curbing human trafficking.<sup>32</sup>

In *DC Operating, LLC v. Paxton*, the United States District Court, W.D. Texas, Austin Division, denied a motion for a preliminary injunction in part, finding that the state's recently enacted bill relating to restrictions on the age of person employed by or allowed on the premises of a sexually oriented business is rationally related to the state's interest in curbing human trafficking.<sup>33</sup> The Court ruled that the plaintiff's failed to establish a likelihood of success on the merits of their

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<sup>29</sup> *Doe I v. Landry*, 909 F.3d 99, 109 (5th Cir. 2018).

<sup>30</sup> *Id.*

<sup>31</sup> *Valadez v. Paxton*, 553 F. Supp.3d 387 (W.D. Tex. 2021).

<sup>32</sup> *Id.*

<sup>33</sup> *Dc Operating, LLC v. Paxton*, 586 F.Supp.3d 554, 572 (W.D. Tex. 2022).

claims under the First Amendment, Fourteenth Amendment Due Process and Equal Protection Clauses of the United States Constitution, and Texas Constitution's equivalent provisions.<sup>34</sup>

In *Wacko's Too, Inc. v. City of Jacksonville*, the United States District Court, M.D. Florida upheld age restrictions in a City of Jacksonville ordinance requiring performers at adult entertainment establishments to be at least 21 years of age based, at least in part, on evidence that there was a reasonable basis to believe that the age restrictions would further the City's interest in preventing human and sex trafficking.<sup>35</sup> The city ordinance provisions forbid anyone under age 21 from receiving the requisite license to perform at adult entertainment establishments in the city. The Eleventh Circuit upheld the requirement that adult entertainment establishments maintain rosters as a "permissible way to keep track of licensed performers, secondary to combating human trafficking."<sup>36</sup> The performer disclosure requirement under the ordinance also relates to preventing human trafficking by allowing law enforcement to keep track of performers.

### **Criminal Punishment Code**

In 1997, the Legislature enacted the Criminal Punishment Code<sup>37</sup> (Code) as Florida's "primary sentencing policy."<sup>38</sup> 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.<sup>39</sup> Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).<sup>40</sup> Points are assigned and accrue based upon the level ranking 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.<sup>41</sup>

### **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.<sup>42</sup> 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.<sup>43</sup>

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-

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<sup>34</sup> *Id.*

<sup>35</sup> *Wacko's Too Inc. v. City of Jacksonville*, 658 F.Supp.3d 1086 (11th Cir. 2023).

<sup>36</sup> *Id.* at 1127.

<sup>37</sup> Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.

<sup>38</sup> *See* chs. 97-194 and 98-204, L.O.F

<sup>39</sup> Section 921.0022, F.S.

<sup>40</sup> 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.

<sup>41</sup> Section 921.0024, F.S.

<sup>42</sup> *See, e.g.*, ss. 16.618, 413.0111, and 1009.983, F.S.

<sup>43</sup> *See, e.g.*, 14.29(9), F.S.

Support Organizations (DSOs).<sup>44</sup> Specifically, the law requires CSOs and DSOs to annually submit the following information to the appropriate agency by August 1 of each year.<sup>45</sup>

- The name, mailing address, telephone number, and website address of the organization;<sup>46</sup>
- The statutory authority or executive order that created the organization;<sup>47</sup>
- A brief description of the mission of, and results obtained by, the organization;<sup>48</sup>
- A brief description of the organization's plans for the next three fiscal years;<sup>49</sup>
- A copy of the organization's ethics code;<sup>50</sup>
- A copy of the organization's most recent Internal Revenue Service (IRS) Form 990;<sup>51</sup> and
- An attestation, under penalty of perjury, stating that the organization has complied with subsection (4).<sup>52</sup>

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.<sup>53</sup> The agencies must also make such information available to the public through their websites.<sup>54</sup>

### ***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).<sup>55</sup> 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.<sup>56</sup> The Alliance operates under a written contract with the Department of Legal Affairs.<sup>57</sup> The Alliance is set to repeal October 1, 2024, unless saved from repeal by the Legislature.<sup>58</sup>

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;

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<sup>44</sup> Ch. 2014-96, L.O.F.

<sup>45</sup> Section 20.058(1), F.S.

<sup>46</sup> Section 20.058(1)(a), F.S.

<sup>47</sup> Section 20.058(1)(b), F.S.

<sup>48</sup> Section 20.058(1)(c), F.S.

<sup>49</sup> Section 20.058(1)(d), F.S.

<sup>50</sup> Section 20.058(1)(e), F.S.

<sup>51</sup> Section 20.058(1)(f), F.S.

<sup>52</sup> Section 20.058(1)(g), F.S.

<sup>53</sup> Section 20.058(3), F.S.

<sup>54</sup> Section 20.058(2), F.S.

<sup>55</sup> See s. 16.618, F.S.

<sup>56</sup> Section 16.618(1)(b), F.S.

<sup>57</sup> Section 16.618(1)(c), F.S.

<sup>58</sup> Section 16.618(12), F.S.

- Hosted a webinar for Human Trafficking Awareness Month; and
- Fundraised \$583,949 in private contributions.<sup>59</sup>

<b>Financial Information for the Alliance to End Human Trafficking</b>			
<i>Tax year 2020-2021<sup>60</sup></i>		<i>Tax year 2021-2022<sup>61</sup></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

**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.<sup>62</sup> The duties of the Council include:<sup>63</sup>

- 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.

<sup>59</sup> 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).

<sup>60</sup> 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).

<sup>61</sup> 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).

<sup>62</sup> Section 16.617(1), F.S.

<sup>63</sup> Office of Attorney General, Florida Statewide Council on Human Trafficking, available at <https://www.myfloridalegal.com/human-trafficking/council> (last visited February 2, 2024).

- 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.<sup>64</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 16.618, F.S., to extend the repeal date of the direct-support organization (DSO) for the Statewide Council on Human Trafficking to October 1, 2029.

**Section 3** extends the date by which a person licensed or certified under several chapters must post a human trafficking public awareness sign.

**Section 4** extends the date by which a massage establishment must implement a procedure for reporting suspected human trafficking to the Florida Human Trafficking Hotline.

**Section 5** extends the date by which a public lodging establishment must post a human trafficking public awareness sign.

**Sections 2, 3, 4, 5, and 8** amend ss. 394.875, 456.0341, 480.043, 509.096, and 787. 29, F.S., respectively, to replace references to the national human trafficking hotline requirement with the Florida human trafficking hotline. Sections 3, 4, and 5 require that all of the new requirements be met by January 1, 2025.

**Section 6** amends s. 562.13, F.S., to prohibit a minor from being employed by an adult entertainment establishment. Section 563.13, F.S., which provides a list of exceptions that allows a minor to be employed by alcohol vendors, does not apply to adult entertainment establishments.

**Section 7** 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.<sup>65</sup>

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<sup>64</sup> Section 16.617(5), F.S.

<sup>65</sup> 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.

**Section 9** creates s. 787.30, F.S., to prohibit a person under the age of 21 from working in an adult entertainment establishment. “Adult entertainment establishment” is defined to have the same meaning as provided in s. 847.001, F.S., which includes adult bookstores, adult theaters, special cabarets, and unlicensed massage establishments as defined by statute. Specifically, the section provides that an owner, manager, employee, or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work in an adult entertainment establishment, commits a first degree misdemeanor.<sup>66</sup>

Furthermore, this section provides that an owner, manager, employee or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work nude in an adult entertainment establishment, commits a second degree felony.<sup>67</sup> The term “nude” is defined to mean the showing of the human male or female genitals, pubic area, or buttock with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother’s breastfeeding of her baby does not under any circumstance constitute nudity, irrespective of whether or not the nipple is covered during or incidental to feeding.

**Section 10** 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.

<sup>66</sup> A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year, as provided in s. 775.082 or s. 775.083, F.S.

<sup>67</sup> A second degree felony is punishable by a term of imprisonment of fifteen years, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

E. Other Constitutional Issues:

The **Florida** Constitution expressly provides that:<sup>68</sup>

*All natural persons are equal before the law and have inalienable rights, among which are the **right to** enjoy and defend life and liberty, to pursue happiness, to be **rewarded for industry**, and to acquire, possess and protect property....*

In evaluating claims of statutory discrimination, a statute will be regarded as inherently “suspect” and subject to “heightened” judicial scrutiny if it impinges too greatly on fundamental constitutional rights flowing either from the federal or Florida constitutions, or if it primarily burdens certain groups that have been the traditional targets of irrational, unfair, and unlawful discrimination.<sup>69</sup> A court generally reviews classifications based on age, income, and employment status under the rational basis standard, upholding the classification unless it is wholly arbitrary—that is, unless it bears no rational relationship to a legitimate government interest.<sup>70</sup>

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 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

<sup>68</sup> Art. I, s. 2, FLA. CONST.

<sup>69</sup> *De Ayala v. Fla. Farm Bureau Cas. Ins. Co.*, 543 So.2d 204 (Fla. 1989).

<sup>70</sup> *Gregory v. Ashcroft*, 501 U.S. 452 (1991). *See also, Jackson v. State*, 191 So. 3d 423 at 426 (Fla. 2016). Under the rational basis test, a court generally grants great deference to legislative goals and objectives. Where the Legislature’s objective is not clear, a court may search for any conceivable objective that might have motivated enactment of the law. *U.S. R.R. Ret. Bd. v. Fritz*, 449 U.S. 166 (1980) and *McDonald v. Bd. of Election*, 394 U.S. 802 (1969).

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, 562.13, 787.06, and 787.29.

The bill creates section 787.30 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 February 22, 2024:**

The committee substitute retains all of the provisions of the bill, but adds two new sections. Specifically, the committee substitute:

- Clarifies that a minor who qualifies for one of the exceptions relating to employment of a minor by a vendor licensed under the Beverage Law may not be employed as, or perform as, a professional entertainer or otherwise if such employment involves nudity, or be employed by an adult entertainment establishment.
- Prohibits the employment of an individual under the age of 21, as either an employee or performer, in an adult entertainment establishment.
- Establishes criminal penalties for an owner, manager, employee, or contractor of an adult entertainment establishment that knowingly employs, contracts, or permits an individual younger than 21 years of age to person or work in an adult entertainment establishment.
- Provides that a person's ignorance of another person's age or misrepresentation of his or her age be raised as a defense in a prosecution for a violation of this section.

**CS/CS by Criminal Justice on February 6, 2024:**

The committee substitute:

- Removes language increasing the members of the direct-support organization.
- Removes language requiring all employees of establishments who are on the premises and regularly interact with guests to receive training on human trafficking awareness.

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**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.

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

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