

HB 535

2010

1 A bill to be entitled
2 An act relating to sexual exploitation; providing a short
3 title; amending s. 39.001, F.S.; providing legislative
4 intent and goals; conforming cross-references; amending s.
5 39.01, F.S.; revising the definitions of the terms
6 "abuse," "child who is found to be dependent," and "sexual
7 abuse of a child"; amending s. 39.401, F.S.; requiring
8 delivery of children alleged to be dependant and sexually
9 exploited to short-term safe houses; amending s. 39.402,
10 F.S.; providing for a presumption that placement of a
11 child alleged to have been sexually exploited in a short-
12 term safe house is necessary; providing requirements for
13 findings in a shelter hearing relating to placement of an
14 allegedly sexually exploited child in a short-term safe
15 house; amending s. 39.521, F.S.; providing for a
16 presumption that placement of children alleged to have
17 been sexually exploited in a safe house is necessary;
18 creating s. 39.524, F.S.; requiring assessment of certain
19 children for placement in a safe house; providing for use
20 of such assessments; providing requirements for safe
21 houses receiving such children; providing for placement of
22 other children in safe houses when appropriate; requiring
23 an annual report concerning safe-house placements;
24 providing requirements relating to appropriations for safe
25 houses; amending s. 322.28, F.S.; conforming a cross-
26 reference; creating s. 409.1678, F.S.; providing
27 legislative intent relating to safe houses; providing
28 definitions; requiring districts of the Department of

29 Children and Family Services to address child welfare
 30 service needs of sexually exploited children as a
 31 component of their master plans; providing for operation
 32 of safe houses; providing duties, responsibilities, and
 33 requirements for safe houses and their operators;
 34 providing for training for law enforcement officials who
 35 are likely to encounter sexually exploited children;
 36 amending s. 796.07, F.S.; revising prohibitions on
 37 prostitution and related acts; conforming a cross-
 38 reference; amending ss. 985.145 and 985.15, F.S.;
 39 providing a presumption against filing a delinquency
 40 petition for certain prostitution-related offenses in
 41 certain circumstances; providing an effective date.

42

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

44

45 Section 1. This act may be cited as the "Florida Safe
 46 Harbor Act."

47 Section 2. Subsections (4) through (12) of section 39.001,
 48 Florida Statutes, are renumbered as subsections (5) through
 49 (13), respectively, paragraph (c) of present subsection (7) and
 50 paragraph (b) of present subsection (9) are amended, and a new
 51 subsection (4) is added to that section, to read:

52 39.001 Purposes and intent; personnel standards and
 53 screening.—

54 (4) SEXUAL EXPLOITATION SERVICES.—

55 (a) The Legislature recognizes that child sexual
 56 exploitation is a serious problem nationwide and in this state.

57 The children at greatest risk of being sexually exploited are
58 runaways and throwaways. Many of these children have a history
59 of abuse and neglect. The vulnerability of these children starts
60 with isolation from family and friends. Traffickers maintain
61 control of child victims through psychological manipulation,
62 force, drug addiction, or the exploitation of economic,
63 physical, or emotional vulnerability. Children exploited through
64 the sex trade often find it difficult to trust adults because of
65 their abusive experiences. These children make up a population
66 that is hard to serve and harder to rehabilitate. Although
67 minors are by law unable to consent to sexual activity, they are
68 most often treated as perpetrators of crime rather than victims.
69 Moreover, the historical treatment of such children as
70 delinquents has too often resulted in the failure to
71 successfully prosecute the trafficker, who is the true wrongdoer
72 and threat to society.

73 (b) The Legislature establishes the following goals for
74 the state related to the status and treatment of sexually
75 exploited children in the dependency process:

76 1. To ensure the safety of children.

77 2. To provide for the treatment of such children as
78 dependent children rather than as delinquents.

79 3. To sever the bond between exploited children and
80 traffickers and to reunite these children with their families or
81 provide them with appropriate guardians.

82 4. To enable such children to be willing and reliable
83 witnesses in the prosecution of traffickers.

84 (c) The Legislature finds that sexually exploited children
 85 need special care and services in the dependency process, which
 86 include counseling, health care, substance abuse treatment,
 87 educational opportunities, and a safe environment secure from
 88 traffickers.

89 (d) The Legislature further finds that sexually exploited
 90 children need the special care and services described in
 91 paragraph (c) independent of their citizenship, residency,
 92 alien, or immigrant status. It is the intent of the Legislature
 93 that this state provide such care and services to all sexually
 94 exploited children in this state who are not otherwise receiving
 95 comparable services, such as those under the federal Trafficking
 96 Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

97 (8) ~~(7)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.—

98 (c) The office is authorized and directed to:

99 1. Oversee the preparation and implementation of the state
 100 plan established under subsection (9) ~~(8)~~ and revise and update
 101 the state plan as necessary.

102 2. Provide for or make available continuing professional
 103 education and training in the prevention of child abuse and
 104 neglect.

105 3. Work to secure funding in the form of appropriations,
 106 gifts, and grants from the state, the Federal Government, and
 107 other public and private sources in order to ensure that
 108 sufficient funds are available for the promotion of adoption,
 109 support of adoptive families, and child abuse prevention
 110 efforts.

111 4. Make recommendations pertaining to agreements or

112 | contracts for the establishment and development of:

113 | a. Programs and services for the promotion of adoption,

114 | support of adoptive families, and prevention of child abuse and

115 | neglect.

116 | b. Training programs for the prevention of child abuse and

117 | neglect.

118 | c. Multidisciplinary and discipline-specific training

119 | programs for professionals with responsibilities affecting

120 | children, young adults, and families.

121 | d. Efforts to promote adoption.

122 | e. Postadoptive services to support adoptive families.

123 | 5. Monitor, evaluate, and review the development and

124 | quality of local and statewide services and programs for the

125 | promotion of adoption, support of adoptive families, and

126 | prevention of child abuse and neglect and shall publish and

127 | distribute an annual report of its findings on or before January

128 | 1 of each year to the Governor, the Speaker of the House of

129 | Representatives, the President of the Senate, the head of each

130 | state agency affected by the report, and the appropriate

131 | substantive committees of the Legislature. The report shall

132 | include:

133 | a. A summary of the activities of the office.

134 | b. A summary of the adoption data collected and reported

135 | to the federal Adoption and Foster Care Analysis and Reporting

136 | System (AFCARS) and the federal Administration for Children and

137 | Families.

138 | c. A summary of the child abuse prevention data collected

139 | and reported to the National Child Abuse and Neglect Data System

140 (NCANDS) and the federal Administration for Children and
 141 Families.

142 d. A summary detailing the timeliness of the adoption
 143 process for children adopted from within the child welfare
 144 system.

145 e. Recommendations, by state agency, for the further
 146 development and improvement of services and programs for the
 147 promotion of adoption, support of adoptive families, and
 148 prevention of child abuse and neglect.

149 f. Budget requests, adoption promotion and support needs,
 150 and child abuse prevention program needs by state agency.

151 6. Work with the direct-support organization established
 152 under s. 39.0011 to receive financial assistance.

153 (10)~~(9)~~ FUNDING AND SUBSEQUENT PLANS.—

154 (b) The office and the other agencies and organizations
 155 listed in paragraph (9)~~(8)~~(a) shall readdress the state plan and
 156 make necessary revisions every 5 years, at a minimum. Such
 157 revisions shall be submitted to the Speaker of the House of
 158 Representatives and the President of the Senate no later than
 159 June 30 of each year divisible by 5. At least biennially, the
 160 office shall review the state plan and make any necessary
 161 revisions based on changing needs and program evaluation
 162 results. An annual progress report shall be submitted to update
 163 the state plan in the years between the 5-year intervals. In
 164 order to avoid duplication of effort, these required plans may
 165 be made a part of or merged with other plans required by either
 166 the state or Federal Government, so long as the portions of the
 167 other state or Federal Government plan that constitute the state

168 plan for the promotion of adoption, support of adoptive
 169 families, and prevention of child abuse, abandonment, and
 170 neglect are clearly identified as such and are provided to the
 171 Speaker of the House of Representatives and the President of the
 172 Senate as required above.

173 Section 3. Subsections (2) and (15) and paragraph (g) of
 174 subsection (67) of section 39.01, Florida Statutes, are amended
 175 to read:

176 39.01 Definitions.—When used in this chapter, unless the
 177 context otherwise requires:

178 (2) "Abuse" means any willful act or threatened act that
 179 results in any physical, mental, or sexual abuse or injury or
 180 harm that causes or is likely to cause the child's physical,
 181 mental, or emotional health to be significantly impaired. Abuse
 182 of a child includes acts or omissions. Corporal discipline of a
 183 child by a parent or legal custodian for disciplinary purposes
 184 does not in itself constitute abuse when it does not result in
 185 harm to the child.

186 (15) "Child who is found to be dependent" means a child
 187 who, pursuant to this chapter, is found by the court:

188 (a) To have been abandoned, abused, or neglected by the
 189 child's parent or parents or legal custodians;

190 (b) To have been surrendered to the department, the former
 191 Department of Health and Rehabilitative Services, or a licensed
 192 child-placing agency for purpose of adoption;

193 (c) To have been voluntarily placed with a licensed child-
 194 caring agency, a licensed child-placing agency, an adult
 195 relative, the department, or the former Department of Health and

196 Rehabilitative Services, after which placement, under the
 197 requirements of this chapter, a case plan has expired and the
 198 parent or parents or legal custodians have failed to
 199 substantially comply with the requirements of the plan;

200 (d) To have been voluntarily placed with a licensed child-
 201 placing agency for the purposes of subsequent adoption, and a
 202 parent or parents have signed a consent pursuant to the Florida
 203 Rules of Juvenile Procedure;

204 (e) To have no parent or legal custodians capable of
 205 providing supervision and care; ~~or~~

206 (f) To be at substantial risk of imminent abuse,
 207 abandonment, or neglect by the parent or parents or legal
 208 custodians; or

209 (g) To have been sexually exploited and to have no parent,
 210 legal custodian, or responsible adult relative currently known
 211 and capable of providing the necessary and appropriate
 212 supervision and care.

213 (67) "Sexual abuse of a child" means one or more of the
 214 following acts:

215 (g) The sexual exploitation of a child, which includes the
 216 act of a child offering to engage in or engaging in
 217 prostitution; or allowing, encouraging, or forcing a child to:

- 218 1. Solicit for or engage in prostitution; ~~or~~
- 219 2. Engage in a sexual performance, as defined by chapter
 220 827; or
- 221 3. Participate in the trade of sex trafficking as provided
 222 in s. 796.035.

223 Section 4. Paragraph (b) of subsection (2) and paragraph
 224 (b) of subsection (3) of section 39.401, Florida Statutes, are
 225 amended to read:

226 39.401 Taking a child alleged to be dependent into
 227 custody; law enforcement officers and authorized agents of the
 228 department.—

229 (2) If the law enforcement officer takes the child into
 230 custody, that officer shall:

231 (b) Deliver the child to an authorized agent of the
 232 department, stating the facts by reason of which the child was
 233 taken into custody and sufficient information to establish
 234 probable cause that the child is abandoned, abused, or
 235 neglected, or otherwise dependent. In the case of a child who is
 236 sexually exploited, the law enforcement officer shall deliver
 237 the child to the appropriate short-term safe house as provided
 238 for in s. 409.1678 if a short-term safe house is available.

239
 240 For cases involving allegations of abandonment, abuse, or
 241 neglect, or other dependency cases, within 3 days after such
 242 release or within 3 days after delivering the child to an
 243 authorized agent of the department, the law enforcement officer
 244 who took the child into custody shall make a full written report
 245 to the department.

246 (3) If the child is taken into custody by, or is delivered
 247 to, an authorized agent of the department, the agent shall
 248 review the facts supporting the removal with an attorney
 249 representing the department. The purpose of the review is to
 250 determine whether there is probable cause for the filing of a

251 shelter petition.

252 (b) If the facts are sufficient and the child has not been
 253 returned to the custody of the parent or legal custodian, the
 254 department shall file the petition and schedule a hearing, and
 255 the attorney representing the department shall request that a
 256 shelter hearing be held within 24 hours after the removal of the
 257 child. While awaiting the shelter hearing, the authorized agent
 258 of the department may place the child in licensed shelter care,
 259 or in a short-term safe house if the child is a sexually
 260 exploited child, or may release the child to a parent or legal
 261 custodian or responsible adult relative or the adoptive parent
 262 of the child's sibling who shall be given priority consideration
 263 over a licensed placement, or a responsible adult approved by
 264 the department if this is in the best interests of the child.
 265 Placement of a child which is not in a licensed shelter must be
 266 preceded by a criminal history records check as required under
 267 s. 39.0138. In addition, the department may authorize placement
 268 of a housekeeper/homemaker in the home of a child alleged to be
 269 dependent until the parent or legal custodian assumes care of
 270 the child.

271 Section 5. Subsection (2) and paragraphs (a), (d), and (h)
 272 of subsection (8) of section 39.402, Florida Statutes, are
 273 amended to read:

274 39.402 Placement in a shelter.—

275 (2) A child taken into custody may be placed or continued
 276 in a shelter only if one or more of the criteria in subsection
 277 (1) applies and the court has made a specific finding of fact
 278 regarding the necessity for removal of the child from the home

279 and has made a determination that the provision of appropriate
 280 and available services will not eliminate the need for
 281 placement. In the case of a child who is alleged to have been
 282 sexually exploited, there is a rebuttable presumption that
 283 placement in a short-term safe house is necessary.

284 (8) (a) A child may not be held in a shelter longer than 24
 285 hours unless an order so directing is entered by the court after
 286 a shelter hearing. In the interval until the shelter hearing is
 287 held, the decision to place the child in a shelter or release
 288 the child from a shelter lies with the protective investigator.
 289 In the case of a child who is alleged to have been sexually
 290 exploited, there is a rebuttable presumption that placement in a
 291 short-term safe house is necessary.

292 (d) At the shelter hearing, in order to continue the child
 293 in shelter care:

294 1. The department must establish probable cause that
 295 reasonable grounds for removal exist and that the provision of
 296 appropriate and available services will not eliminate the need
 297 for placement; ~~or~~

298 2. The department must establish probable cause for the
 299 belief that the child has been sexually exploited and,
 300 therefore, that placement in a short-term safe house is the most
 301 appropriate environment for the child; or

302 ~~3.2.~~ The court must determine that additional time is
 303 necessary, which may not exceed 72 hours, in which to obtain and
 304 review documents pertaining to the family in order to
 305 appropriately determine the risk to the child during which time
 306 the child shall remain in the department's custody, if so

307 ordered by the court.

308 (h) The order for placement of a child in shelter care
309 must identify the parties present at the hearing and must
310 contain written findings:

311 1. That placement in shelter care is necessary based on
312 the criteria in subsections (1) and (2).

313 2. That placement in shelter care is in the best interest
314 of the child.

315 3. That continuation of the child in the home is contrary
316 to the welfare of the child because the home situation presents
317 a substantial and immediate danger to the child's physical,
318 mental, or emotional health or safety which cannot be mitigated
319 by the provision of preventive services.

320 4. That based upon the allegations of the petition for
321 placement in shelter care, there is probable cause to believe
322 that the child is dependent or that the court needs additional
323 time, which may not exceed 72 hours, in which to obtain and
324 review documents pertaining to the family in order to
325 appropriately determine the risk to the child.

326 5. That the department has made reasonable efforts to
327 prevent or eliminate the need for removal of the child from the
328 home. A finding of reasonable effort by the department to
329 prevent or eliminate the need for removal may be made and the
330 department is deemed to have made reasonable efforts to prevent
331 or eliminate the need for removal if:

332 a. The first contact of the department with the family
333 occurs during an emergency;

334 b. The appraisal of the home situation by the department

HB 535

2010

335 indicates that the home situation presents a substantial and
336 immediate danger to the child's physical, mental, or emotional
337 health or safety which cannot be mitigated by the provision of
338 preventive services;

339 c. The child cannot safely remain at home, either because
340 there are no preventive services that can ensure the health and
341 safety of the child or because, even with appropriate and
342 available services being provided, the health and safety of the
343 child cannot be ensured; ~~or~~

344 d. The child has been sexually exploited; or

345 e.~~d.~~ The parent or legal custodian is alleged to have
346 committed any of the acts listed as grounds for expedited
347 termination of parental rights in s. 39.806(1)(f)-(i).

348 6. That the court notified the parents, relatives that are
349 providing out-of-home care for the child, or legal custodians of
350 the time, date, and location of the next dependency hearing and
351 of the importance of the active participation of the parents,
352 relatives that are providing out-of-home care for the child, or
353 legal custodians in all proceedings and hearings.

354 7. That the court notified the parents or legal custodians
355 of their right to counsel to represent them at the shelter
356 hearing and at each subsequent hearing or proceeding, and the
357 right of the parents to appointed counsel, pursuant to the
358 procedures set forth in s. 39.013.

359 8. That the court notified relatives who are providing
360 out-of-home care for a child as a result of the shelter petition
361 being granted that they have the right to attend all subsequent
362 hearings, to submit reports to the court, and to speak to the

363 court regarding the child, if they so desire.

364 Section 6. Paragraph (f) of subsection (1) and paragraph
 365 (d) of subsection (3) of section 39.521, Florida Statutes, are
 366 amended to read:

367 39.521 Disposition hearings; powers of disposition.—

368 (1) A disposition hearing shall be conducted by the court,
 369 if the court finds that the facts alleged in the petition for
 370 dependency were proven in the adjudicatory hearing, or if the
 371 parents or legal custodians have consented to the finding of
 372 dependency or admitted the allegations in the petition, have
 373 failed to appear for the arraignment hearing after proper
 374 notice, or have not been located despite a diligent search
 375 having been conducted.

376 (f) If the court places the child in an out-of-home
 377 placement, the disposition order must include a written
 378 determination that the child cannot safely remain at home with
 379 reunification or family preservation services and that removal
 380 of the child is necessary to protect the child. If the child is
 381 removed before the disposition hearing, the order must also
 382 include a written determination as to whether, after removal,
 383 the department made a reasonable effort to reunify the parent
 384 and child. Reasonable efforts to reunify are not required if the
 385 court finds that any of the acts listed in s. 39.806(1)(f)-(1)
 386 have occurred. The department has the burden of demonstrating
 387 that it made reasonable efforts.

388 1. For the purposes of this paragraph, the term
 389 "reasonable effort" means the exercise of reasonable diligence
 390 and care by the department to provide the services ordered by

391 the court or delineated in the case plan.

392 2. In support of its determination as to whether
393 reasonable efforts have been made, the court shall:

394 a. Enter written findings as to whether prevention or
395 reunification efforts were indicated.

396 b. If prevention or reunification efforts were indicated,
397 include a brief written description of what appropriate and
398 available prevention and reunification efforts were made.

399 c. Indicate in writing why further efforts could or could
400 not have prevented or shortened the separation of the parent and
401 child.

402 3. A court may find that the department made a reasonable
403 effort to prevent or eliminate the need for removal if:

404 a. The first contact of the department with the family
405 occurs during an emergency;

406 b. The appraisal by the department of the home situation
407 indicates a substantial and immediate danger to the child's
408 safety or physical, mental, or emotional health which cannot be
409 mitigated by the provision of preventive services;

410 c. The child cannot safely remain at home, because there
411 are no preventive services that can ensure the health and safety
412 of the child or, even with appropriate and available services
413 being provided, the health and safety of the child cannot be
414 ensured. There is a rebuttable presumption that a sexually
415 exploited child as defined in s. 39.01(67)(g) meets the terms of
416 this subparagraph; or

417 d. The parent is alleged to have committed any of the acts
418 listed as grounds for expedited termination of parental rights

HB 535

2010

419 under s. 39.806(1)(f)-(1).

420 4. A reasonable effort by the department for reunification
421 has been made if the appraisal of the home situation by the
422 department indicates that the severity of the conditions of
423 dependency is such that reunification efforts are inappropriate.
424 The department has the burden of demonstrating to the court that
425 reunification efforts were inappropriate.

426 5. If the court finds that the prevention or reunification
427 effort of the department would not have permitted the child to
428 remain safely at home, the court may commit the child to the
429 temporary legal custody of the department or take any other
430 action authorized by this chapter.

431 (3) When any child is adjudicated by a court to be
432 dependent, the court shall determine the appropriate placement
433 for the child as follows:

434 (d) If the child cannot be safely placed in a nonlicensed
435 placement, the court shall commit the child to the temporary
436 legal custody of the department. Such commitment invests in the
437 department all rights and responsibilities of a legal custodian.
438 The department shall not return any child to the physical care
439 and custody of the person from whom the child was removed,
440 except for court-approved visitation periods, without the
441 approval of the court. Any order for visitation or other contact
442 must conform to the provisions of s. 39.0139. There is a
443 rebuttable presumption that any child who has been found to be a
444 victim of sexual exploitation as defined in s. 39.01(67)(g) be
445 committed to a safe house as provided for in s. 409.1678. The
446 term of such commitment continues until terminated by the court

HB 535

2010

447 or until the child reaches the age of 18. After the child is
448 committed to the temporary legal custody of the department, all
449 further proceedings under this section are governed by this
450 chapter.

451
452 Protective supervision continues until the court terminates it
453 or until the child reaches the age of 18, whichever date is
454 first. Protective supervision shall be terminated by the court
455 whenever the court determines that permanency has been achieved
456 for the child, whether with a parent, another relative, or a
457 legal custodian, and that protective supervision is no longer
458 needed. The termination of supervision may be with or without
459 retaining jurisdiction, at the court's discretion, and shall in
460 either case be considered a permanency option for the child. The
461 order terminating supervision by the department shall set forth
462 the powers of the custodian of the child and shall include the
463 powers ordinarily granted to a guardian of the person of a minor
464 unless otherwise specified. Upon the court's termination of
465 supervision by the department, no further judicial reviews are
466 required, so long as permanency has been established for the
467 child.

468 Section 7. Section 39.524, Florida Statutes, is created to
469 read:

470 39.524 Safe-harbor placement.—

471 (1) Except as provided in s. 39.407, any dependent child 6
472 years of age or older who has been found to be a victim of
473 sexual exploitation as defined in s. 39.01(67)(g) must be
474 assessed for placement in a safe house as provided in s.

HB 535

2010

475 409.1678. The assessment shall be conducted by the department or
476 its agent and shall incorporate and address current and
477 historical information from any law enforcement reports;
478 psychological testing or evaluation that has occurred; current
479 and historical information from the guardian ad litem, if one
480 has been assigned; current and historical information from any
481 current therapist, teacher, or other professional who has
482 knowledge of the child and has worked with the child; and any
483 other information concerning the availability and suitability of
484 safe-house placement. If such placement is determined to be
485 appropriate as a result of this procedure, the child must be
486 placed in a safe house, if available.

487 (2) The results of the assessment described in subsection
488 (1) and the actions taken as a result of the assessment must be
489 included in the next judicial review of the child. At each
490 subsequent judicial review, the court must be advised in writing
491 of the status of the child's placement, with special reference
492 regarding the stability of the placement and the permanency
493 planning for the child.

494 (3) Any safe house that receives children under this
495 section shall establish special permanency teams dedicated to
496 overcoming the special permanency challenges presented by this
497 population of children. Each facility shall report to the
498 department its success in achieving permanency for children
499 placed by the department in its care at intervals that allow the
500 current information to be provided to the court at each judicial
501 review for the child.

502 (4) This section does not prohibit the department from
503 assessing and placing children who do not meet the criteria in
504 subsection (1) in a safe house if such placement is the most
505 appropriate placement for such children.

506 (5) (a) 1. By December 1 of each year, the department shall
507 report to the Legislature on the placement of children in safe
508 houses during the year, including the criteria used to determine
509 the placement of children, the number of children who were
510 evaluated for placement, the number of children who were placed
511 based upon the evaluation, and the number of children who were
512 not placed.

513 2. The department shall maintain data specifying the
514 number of children who were referred to a safe house for whom
515 placement was unavailable and the counties in which such
516 placement was unavailable. The department shall include this
517 data in its report under this paragraph, so that the Legislature
518 may consider this information in developing the General
519 Appropriations Act.

520 (b) As part of the report required in paragraph (a), the
521 department shall also provide a detailed account of the
522 expenditures incurred for "Special Categories: Grants and Aids-
523 Safe Houses" for the fiscal year immediately preceding the date
524 of the report. This section of the report must include whatever
525 supporting data is necessary to demonstrate full compliance with
526 paragraph (6) (c). The document must present the information by
527 district and must specify, at a minimum, the number of
528 additional beds, the average rate per bed, the number of

HB 535

2010

529 additional persons served, and a description of the enhanced and
530 expanded services provided.

531 (6) (a) The provisions of this section shall be implemented
532 to the extent of available appropriations contained in the
533 annual General Appropriations Act for such purpose.

534 (b) Each year, funds included in the General
535 Appropriations Act for safe houses and short-term safe houses as
536 provided in s. 409.1678 shall be appropriated in a separately
537 identified special category that is designated in the act as
538 "Special Categories: Grants and Aids-Safe Houses."

539 (c) Each fiscal year, all funding increases for safe
540 houses and short-term safe houses as provided in s. 409.1678
541 which are included in the General Appropriations Act shall be
542 appropriated in a lump-sum appropriation as defined in s.
543 216.011. In accordance with s. 216.181(6) (a), the Executive
544 Office of the Governor shall require the department to submit a
545 spending plan that identifies the safe-house capacity shortage
546 throughout the state and proposes a distribution formula by
547 district which addresses the reported deficiencies. The spending
548 plan must have as its first priority the reduction or
549 elimination of any bed shortage identified and must also provide
550 for program enhancements to ensure that safe houses and short-
551 term safe houses meet a minimum level of expected performance
552 and provide for expansion of services for sexually exploited
553 children described in s. 409.1678. Annual appropriation
554 increases appropriated in the lump-sum appropriation must be
555 used in accordance with the provisions of the spending plan.

HB 535

2010

556 (d) Funds from "Special Categories: Grants and Aids-Safe
557 Houses" may be used as one-time startup funding for safe-house
558 and short-term safe-house purposes that include, but are not
559 limited to, remodeling or renovation of existing facilities,
560 construction costs, leasing costs, purchase of equipment and
561 furniture, site development, and other necessary and reasonable
562 costs associated with the startup of facilities or programs upon
563 the recommendation of the lead community-based provider if one
564 exists and upon specific approval of the terms and conditions by
565 the secretary of the department.

566 Section 8. Subsection (7) of section 322.28, Florida
567 Statutes, is amended to read:

568 322.28 Period of suspension or revocation.—

569 (7) Following a second or subsequent violation of s.
570 796.07(2) (e) ~~(f)~~ which involves a motor vehicle and which results
571 in any judicial disposition other than acquittal or dismissal,
572 in addition to any other sentence imposed, the court shall
573 revoke the person's driver's license or driving privilege,
574 effective upon the date of the disposition, for a period of not
575 less than 1 year. A person sentenced under this subsection may
576 request a hearing under s. 322.271.

577 Section 9. Section 409.1678, Florida Statutes, is created
578 to read:

579 409.1678 Safe harbor for children who are victims of
580 sexual exploitation.—

581 (1) It is the intent of the Legislature to provide safe
582 houses and short-term safe houses for sexually exploited
583 children to give them a secure residential environment; to allow

584 them to be reintegrated into society as stable and productive
585 members; and, if appropriate, to enable them to testify as
586 witnesses in criminal proceedings related to their exploitation.
587 Such children require a full range of services in addition to
588 security, which include medical care, counseling, education, and
589 mentoring. These services are to be provided in a secure
590 residential setting by a not-for-profit corporation or a local
591 government entity under a contract with the department or by a
592 lead agency as described in s. 409.1671. These contracts should
593 be designed to provide an identified number of children with
594 access to a full array of services for a fixed price. Further,
595 it is the intent of the Legislature that the department and the
596 Department of Juvenile Justice establish an interagency
597 agreement by December 1, 2010, which describes respective agency
598 responsibilities for referral, placement, service provision, and
599 service coordination for dependent and delinquent youth who are
600 referred to these residential group care facilities. The
601 agreement must require interagency collaboration in the
602 development of terms, conditions, and performance outcomes for
603 safe-house contracts serving these children who have been
604 adjudicated dependent or delinquent.

605 (2) As used in this section, the term:

606 (a) "Child advocate" means an employee of a short-term
607 safe house who has been trained to work with and advocate for
608 the needs of sexually exploited children. The advocate shall
609 accompany the child to all court appearances, meetings with law
610 enforcement and the state attorney's office, and shall serve as
611 a liaison between the short-term safe house and the court.

612 (b) "Safe house" means a living environment that has set
613 aside gender-specific, separate, and distinct living quarters
614 for sexually exploited children who have been adjudicated
615 dependent or delinquent and need to reside in a secure
616 residential facility with 24-hour-awake staff. A safe house
617 shall be operated by a licensed family foster home or
618 residential child-caring agency as defined in s. 409.175,
619 including a runaway youth center as defined in s. 409.441. Each
620 facility must be appropriately licensed in this state as a
621 residential child-caring agency as defined in s. 409.175 and
622 must be accredited by July 1, 2011. A safe house serving
623 children who have been sexually exploited must have available
624 staff or contract personnel with the clinical expertise,
625 credentials, and training to provide services identified in
626 paragraph (3) (e).

627 (c) "Sexually exploited child" means a dependent child who
628 has suffered sexual abuse as defined in s. 39.01(67) (g) and is
629 ineligible for relief and benefits under the federal Trafficking
630 Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

631 (d) "Short-term safe house" means a shelter operated by a
632 licensed family foster home or residential child-caring agency
633 as defined in s. 409.175, including a runaway youth center as
634 defined in s. 409.441, that has set aside gender-specific,
635 separate, and distinct living quarters for sexually exploited
636 children. In addition to shelter, the house shall provide
637 services and care to sexually exploited children, including
638 food, clothing, medical care, counseling, and appropriate crisis

639 intervention services at the time they are taken into custody by
640 law enforcement or the department.

641 (3) (a) Notwithstanding any other provision of law,
642 pursuant to regulations of the department, every district of the
643 department shall address the child welfare service needs of
644 sexually exploited children as a component of the district's
645 master plan and, to the extent that funds are available, ensure
646 that preventive services, including a short-term safe house to
647 serve sexually exploited children, are available to children
648 residing in the district. The department or a lead agency that
649 has been established in accordance with s. 409.1671 shall
650 contract with an appropriate not-for-profit agency with
651 experience working with sexually exploited children to operate
652 such a short-term safe house. Nothing in this section shall
653 prohibit a district from using a homeless youth program or
654 services for victims of human trafficking for such purposes so
655 long as the staff members have received appropriate training
656 approved by the department regarding sexually exploited children
657 and the existing programs and facilities provide a safe, secure,
658 and appropriate environment for sexually exploited children.
659 Crisis intervention services, short-term safe-house care, and
660 community programming may, where appropriate, be provided by the
661 same not-for-profit agency. Districts may work cooperatively to
662 provide such short-term safe-house services and programming, and
663 access to such placement, services, and programming may be
664 provided on a regional basis, provided that every district
665 ensures, to the extent that funds are available, that such

666 placement, services, and programs are readily accessible to
667 sexually exploited children residing within the district.

668 (b) The capacity of the crisis intervention services and
669 community-based programs in subsection (1) shall be based on the
670 number of sexually exploited children in each district who are
671 in need of such services. A determination of such need shall be
672 made annually in every district by the local administrator of
673 the department and be included in the department's master plan.
674 This determination shall be made in consultation with local law
675 enforcement, runaway and homeless youth program providers, local
676 probation departments, local community-based care and social
677 services, local guardians ad litem, public defenders, state
678 attorney's offices, and child advocates and services providers
679 who work directly with sexually exploited youth.

680 (c) The department shall contract with an appropriate not-
681 for-profit agency with experience working with sexually
682 exploited children to operate at least one safe house in a
683 geographically appropriate area of the state, which shall
684 provide safe and secure long-term housing and specialized
685 services for sexually exploited children throughout the state.
686 The appropriateness of the geographic location shall be
687 determined taking into account the areas of the state with high
688 numbers of sexually exploited children and the need for sexually
689 exploited children to find shelter and long-term placement in a
690 secure and beneficial environment. The department shall
691 determine the need for more than one safe house based on the
692 numbers and geographical location of sexually exploited children
693 within the state.

694 (d) The department, in accordance with a specific
695 appropriation for this program, shall contract with a not-for-
696 profit corporation, a local government entity, or a lead agency
697 that has been established in accordance with s. 409.1671 for the
698 performance of short-term safe-house and safe-house services
699 described in this section. A lead agency that is currently
700 providing the equivalent of a safe house may provide this
701 service directly with the approval of the department. The
702 department or a lead agency may contract for more than one
703 short-term safe house in a district and more than one safe house
704 in the state if that is determined to be the most effective way
705 to achieve the goals of this section.

706 (e) The lead agency, the contracted not-for-profit
707 corporation, or the local government entity is responsible for
708 security, crisis intervention services, general counseling and
709 victim-witness counseling, a comprehensive assessment,
710 residential care, transportation, access to behavioral health
711 services, recreational activities, food, clothing, supplies,
712 infant care, and miscellaneous expenses associated with caring
713 for these children; for necessary arrangement for or provision
714 of educational services, including life skills services and
715 planning services to successfully transition residents back to
716 the community; and for ensuring necessary and appropriate health
717 and dental care.

718 (f) The department may transfer all casework
719 responsibilities for children served under this program to the
720 entity that provides the safe-house service, including case
721 management and development and implementation of a case plan in

722 accordance with current standards for child protection services.
723 When the department establishes this program in a community that
724 has a lead agency as described in s. 409.1671, the casework
725 responsibilities must be transferred to the lead agency.

726 (g) This section does not prohibit any provider of these
727 services from appropriately billing Medicaid for services
728 rendered, from contracting with a local school district for
729 educational services, or from obtaining federal or local funding
730 for services provided, as long as two or more funding sources do
731 not pay for the same specific service that has been provided to
732 a child.

733 (h) The lead agency, not-for-profit corporation, or local
734 government entity has the legal authority for children served in
735 a safe-house program, as provided in chapter 39 or this chapter,
736 as appropriate, to enroll the child in school, to sign for a
737 driver's license for the child, to cosign loans and insurance
738 for the child, to sign for medical treatment of the child, and
739 to authorize other such activities.

740 (i) The department shall provide technical assistance as
741 requested and contract management services.

742 (j) The provisions of this section shall be implemented to
743 the extent of available appropriations contained in the General
744 Appropriations Act for such purpose.

745 (k) The department may adopt rules pursuant to ss.
746 120.536(1) and 120.54 to implement the provisions of this
747 section conferring duties upon it.

748 (l) All of the services created under this section may, to
749 the extent possible provided by law, be available to all

750 sexually exploited children whether they are accessed
751 voluntarily, as a condition of probation, through a diversion
752 program, through a proceeding under chapter 39, or through a
753 referral from a local community based care or social service
754 agency.

755 (4) The local district administrator may, to the extent
756 that funds are available, in conjunction with local law
757 enforcement officials, contract with an appropriate not-for-
758 profit agency with experience working with sexually exploited
759 children to train law enforcement officials who are likely to
760 encounter sexually exploited children in the course of their law
761 enforcement duties on the provisions of this section and how to
762 identify and obtain appropriate services for sexually exploited
763 children. Districts may work cooperatively to provide such
764 training, and such training may be provided on a regional basis.
765 The department shall assist districts in obtaining any available
766 funds for the purposes of conducting law enforcement training
767 from the United States Department of Justice, Office of Juvenile
768 Justice and Delinquency Prevention.

769 Section 10. Present subsection (2) and (6) of section
770 796.07, Florida Statutes, are amended, present subsections (3)
771 through (6) are redesignated as subsections (4) through (7),
772 respectively, and a new subsection (3) is added to that section,
773 to read:

774 796.07 Prohibiting prostitution and related acts, ~~etc.;~~
775 ~~evidence; penalties; definitions.-~~

776 (2) It is unlawful to:

777 (a) ~~To~~ Own, establish, maintain, or operate any place,

778 structure, building, or conveyance for the purpose of lewdness,
779 assignation, or prostitution.

780 (b) ~~To~~ Offer, or to offer or agree to secure, another for
781 the purpose of prostitution or for any other lewd or indecent
782 act.

783 (c) ~~To~~ Receive, or to offer or agree to receive, any
784 person into any place, structure, building, or conveyance for
785 the purpose of prostitution, lewdness, or assignation, or to
786 permit any person to remain there for such purpose.

787 (d) ~~To~~ Direct, take, or transport, or to offer or agree to
788 direct, take, or transport, any person to any place, structure,
789 or building, or to any other person, with knowledge or
790 reasonable cause to believe that the purpose of such directing,
791 taking, or transporting is prostitution, lewdness, or
792 assignation.

793 ~~(e) To offer to commit, or to commit, or to engage in,
794 prostitution, lewdness, or assignation.~~

795 (e)-(f) ~~To~~ Solicit, induce, entice, or procure another to
796 commit prostitution, lewdness, or assignation.

797 (f) Use or threaten to use a deadly weapon during the
798 commission of one of the offenses enumerated in subsection (3).

799 ~~(g) To reside in, enter, or remain in, any place,
800 structure, or building, or to enter or remain in any conveyance,
801 for the purpose of prostitution, lewdness, or assignation.~~

802 ~~(h) To aid, abet, or participate in any of the acts or
803 things enumerated in this subsection.~~

804 ~~(i) To purchase the services of any person engaged in
805 prostitution.~~

806 (3) It is unlawful for any person 16 years of age or older
 807 to:

808 (a) Purchase the services of any person engaged in
 809 prostitution.

810 (b) Offer to commit, or to commit, or to engage in,
 811 prostitution, lewdness, or assignation.

812 (c) Reside in, enter, or remain in, any place, structure,
 813 or building, or to enter or remain in any conveyance, for the
 814 purpose of prostitution, lewdness, or assignation.

815 (d) Aid, abet, or participate in any of the acts or things
 816 enumerated in subsection (2) or this subsection.

817 (7)(6) A person who violates paragraph (2) (e) ~~(f)~~ shall be
 818 assessed a civil penalty of \$500 if the violation results in any
 819 judicial disposition other than acquittal or dismissal. The
 820 proceeds from penalties assessed under this subsection shall be
 821 paid to the circuit court administrator for the sole purpose of
 822 paying the administrative costs of treatment-based drug court
 823 programs provided under s. 397.334.

824 Section 11. Paragraph (i) of subsection (1) of section
 825 985.145, Florida Statutes, is amended to read:

826 985.145 Responsibilities of juvenile probation officer
 827 during intake; screenings and assessments.—

828 (1) The juvenile probation officer shall serve as the
 829 primary case manager for the purpose of managing, coordinating,
 830 and monitoring the services provided to the child. Each program
 831 administrator within the Department of Children and Family
 832 Services shall cooperate with the primary case manager in
 833 carrying out the duties and responsibilities described in this

HB 535

2010

834 section. In addition to duties specified in other sections and
835 through departmental rules, the assigned juvenile probation
836 officer shall be responsible for the following:

837 (i) Recommendation concerning a petition.—Upon determining
838 that the report, affidavit, or complaint complies with the
839 standards of a probable cause affidavit and that the interests
840 of the child and the public will be best served, the juvenile
841 probation officer may recommend that a delinquency petition not
842 be filed. If such a recommendation is made, the juvenile
843 probation officer shall advise in writing the person or agency
844 making the report, affidavit, or complaint, the victim, if any,
845 and the law enforcement agency having investigative jurisdiction
846 over the offense of the recommendation; the reasons therefor;
847 and that the person or agency may submit, within 10 days after
848 the receipt of such notice, the report, affidavit, or complaint
849 to the state attorney for special review. In the case of a
850 report, affidavit, or complaint alleging a violation of s.
851 796.07(3), there is a presumption that the juvenile probation
852 officer recommend that a petition not be filed unless the child
853 has previously been adjudicated delinquent. The state attorney,
854 upon receiving a request for special review, shall consider the
855 facts presented by the report, affidavit, or complaint, and by
856 the juvenile probation officer who made the recommendation that
857 no petition be filed, before making a final decision as to
858 whether a petition or information should or should not be filed.

859 Section 12. Paragraph (c) of subsection (1) of section
860 985.15, Florida Statutes, is amended to read:

861 985.15 Filing decisions.—

HB 535

2010

862 (1) The state attorney may in all cases take action
863 independent of the action or lack of action of the juvenile
864 probation officer and shall determine the action that is in the
865 best interest of the public and the child. If the child meets
866 the criteria requiring prosecution as an adult under s. 985.556,
867 the state attorney shall request the court to transfer and
868 certify the child for prosecution as an adult or shall provide
869 written reasons to the court for not making such a request. In
870 all other cases, the state attorney may:

871 (c) File a petition for delinquency. In the case of a
872 report, affidavit, or complaint alleging a violation of s.
873 796.07(3), there is a presumption that a petition not be filed
874 unless the child has previously been adjudicated delinquent;

875 Section 13. This act shall take effect July 1, 2010.