

By Senator Ring

32-00106B-11

2011718

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

32-00106B-11

2011718

30 of sexually exploited children as a component of their
31 master plans; providing for operation of safe houses;
32 providing duties, responsibilities, and requirements
33 for safe houses and their operators; providing for
34 training for law enforcement officials who are likely
35 to encounter sexually exploited children; amending s.
36 796.07, F.S.; revising prohibitions on prostitution
37 and related acts; providing a civil penalty for use or
38 threatened use of a deadly weapon during the
39 commission of specified offenses; providing for an
40 increased civil penalty and disposition of proceeds;
41 conforming a cross-reference; amending s. 960.065,
42 F.S.; allowing victim compensation for sexually
43 exploited children; amending s. 985.115, F.S.;

44 conforming a provision to changes made by the act;
45 amending ss. 985.145 and 985.15, F.S.; providing a
46 presumption against filing a delinquency petition for
47 certain prostitution-related offenses in certain
48 circumstances; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. This act may be cited as the "Florida Safe
53 Harbor Act."

54 Section 2. Subsections (4) through (12) of section 39.001,
55 Florida Statutes, are renumbered as subsections (5) through
56 (13), respectively, paragraph (c) of present subsection (7) and
57 paragraph (b) of present subsection (9) are amended, and a new
58 subsection (4) is added to that section, to read:

32-00106B-11

2011718

59 39.001 Purposes and intent; personnel standards and
60 screening.—

61 (4) SEXUAL EXPLOITATION SERVICES.—

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

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

83 1. To ensure the safety of children.

84 2. To provide for the treatment of such children as
85 dependent children rather than as delinquents.

86 3. To sever the bond between exploited children and
87 traffickers and to reunite these children with their families or

32-00106B-11

2011718

88 provide them with appropriate guardians.

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

91 (c) The Legislature finds that sexually exploited children
92 need special care and services in the dependency process,
93 including counseling, health care, substance abuse treatment,
94 educational opportunities, and a safe environment secure from
95 traffickers.

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

104 (8) ~~(7)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.-

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

106 1. Oversee the preparation and implementation of the state
107 plan established under subsection (9) ~~(8)~~ and revise and update
108 the state plan as necessary.

109 2. Provide for or make available continuing professional
110 education and training in the prevention of child abuse and
111 neglect.

112 3. Work to secure funding in the form of appropriations,
113 gifts, and grants from the state, the Federal Government, and
114 other public and private sources in order to ensure that
115 sufficient funds are available for the promotion of adoption,
116 support of adoptive families, and child abuse prevention

32-00106B-11

2011718

117 efforts.

118 4. Make recommendations pertaining to agreements or
119 contracts for the establishment and development of:

120 a. Programs and services for the promotion of adoption,
121 support of adoptive families, and prevention of child abuse and
122 neglect.

123 b. Training programs for the prevention of child abuse and
124 neglect.

125 c. Multidisciplinary and discipline-specific training
126 programs for professionals with responsibilities affecting
127 children, young adults, and families.

128 d. Efforts to promote adoption.

129 e. Postadoptive services to support adoptive families.

130 5. Monitor, evaluate, and review the development and
131 quality of local and statewide services and programs for the
132 promotion of adoption, support of adoptive families, and
133 prevention of child abuse and neglect and shall publish and
134 distribute an annual report of its findings on or before January
135 1 of each year to the Governor, the Speaker of the House of
136 Representatives, the President of the Senate, the head of each
137 state agency affected by the report, and the appropriate
138 substantive committees of the Legislature. The report shall
139 include:

140 a. A summary of the activities of the office.

141 b. A summary of the adoption data collected and reported to
142 the federal Adoption and Foster Care Analysis and Reporting
143 System (AFCARS) and the federal Administration for Children and
144 Families.

145 c. A summary of the child abuse prevention data collected

32-00106B-11

2011718__

146 and reported to the National Child Abuse and Neglect Data System
147 (NCANDS) and the federal Administration for Children and
148 Families.

149 d. A summary detailing the timeliness of the adoption
150 process for children adopted from within the child welfare
151 system.

152 e. Recommendations, by state agency, for the further
153 development and improvement of services and programs for the
154 promotion of adoption, support of adoptive families, and
155 prevention of child abuse and neglect.

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

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

160 (10)~~(9)~~ FUNDING AND SUBSEQUENT PLANS.-

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

32-00106B-11

2011718

175 plan for the promotion of adoption, support of adoptive
176 families, and prevention of child abuse, abandonment, and
177 neglect are clearly identified as such and are provided to the
178 Speaker of the House of Representatives and the President of the
179 Senate as required above.

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

183 39.01 Definitions.—When used in this chapter, unless the
184 context otherwise requires:

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

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

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

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

200 (c) To have been voluntarily placed with a licensed child-
201 caring agency, a licensed child-placing agency, an adult
202 relative, the department, or the former Department of Health and
203 Rehabilitative Services, after which placement, under the

32-00106B-11

2011718

204 requirements of this chapter, a case plan has expired and the
205 parent or parents or legal custodians have failed to
206 substantially comply with the requirements of the plan;

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

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

213 (f) To be at substantial risk of imminent abuse,
214 abandonment, or neglect by the parent or parents or legal
215 custodians; or

216 (g) To have been sexually exploited and to have no parent,
217 legal custodian, or responsible adult relative currently known
218 and capable of providing the necessary and appropriate
219 supervision and care.

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

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

225 1. Solicit for or engage in prostitution; ~~or~~

226 2. Engage in a sexual performance, as defined by chapter
227 827; or

228 3. Participate in the trade of sex trafficking as provided
229 in s. 796.035.

230 Section 4. Paragraph (b) of subsection (2) and paragraph
231 (b) of subsection (3) of section 39.401, Florida Statutes, are
232 amended to read:

32-00106B-11

2011718

233 39.401 Taking a child alleged to be dependent into custody;
234 law enforcement officers and authorized agents of the
235 department.—

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

238 (b) Deliver the child to an authorized agent of the
239 department, stating the facts by reason of which the child was
240 taken into custody and sufficient information to establish
241 probable cause that the child is abandoned, abused, or
242 neglected, or otherwise dependent. In the case of a child for
243 whom there is probable cause to believe he or she has been
244 sexually exploited, the law enforcement officer shall deliver
245 the child to the appropriate short-term safe house as provided
246 for in s. 409.1678 if a short-term safe house is available.

247
248 For cases involving allegations of abandonment, abuse, or
249 neglect, or other dependency cases, within 3 days after such
250 release or within 3 days after delivering the child to an
251 authorized agent of the department, the law enforcement officer
252 who took the child into custody shall make a full written report
253 to the department.

254 (3) If the child is taken into custody by, or is delivered
255 to, an authorized agent of the department, the agent shall
256 review the facts supporting the removal with an attorney
257 representing the department. The purpose of the review is to
258 determine whether there is probable cause for the filing of a
259 shelter petition.

260 (b) If the facts are sufficient and the child has not been
261 returned to the custody of the parent or legal custodian, the

32-00106B-11

2011718

262 department shall file the petition and schedule a hearing, and
263 the attorney representing the department shall request that a
264 shelter hearing be held within 24 hours after the removal of the
265 child. While awaiting the shelter hearing, the authorized agent
266 of the department may place the child in licensed shelter care,
267 or in a short-term safe house if the child is a sexually
268 exploited child, or may release the child to a parent or legal
269 custodian or responsible adult relative or the adoptive parent
270 of the child's sibling who shall be given priority consideration
271 over a licensed placement, or a responsible adult approved by
272 the department if this is in the best interests of the child.
273 Placement of a child which is not in a licensed shelter must be
274 preceded by a criminal history records check as required under
275 s. 39.0138. In addition, the department may authorize placement
276 of a housekeeper/homemaker in the home of a child alleged to be
277 dependent until the parent or legal custodian assumes care of
278 the child.

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

282 39.402 Placement in a shelter.—

283 (2) A child taken into custody may be placed or continued
284 in a shelter only if one or more of the criteria in subsection
285 (1) apply ~~applies~~ and the court has made a specific finding of
286 fact regarding the necessity for removal of the child from the
287 home and has made a determination that the provision of
288 appropriate and available services will not eliminate the need
289 for placement. In the case of a child who is alleged to have
290 been sexually exploited, there is a rebuttable presumption that

32-00106B-11

2011718

291 placement in a short-term safe house is necessary.

292 (8) (a) A child may not be held in a shelter longer than 24
293 hours unless an order so directing is entered by the court after
294 a shelter hearing. In the interval until the shelter hearing is
295 held, the decision to place the child in a shelter or release
296 the child from a shelter lies with the protective investigator.
297 In the case of a child who is alleged to have been sexually
298 exploited, there is a rebuttable presumption that placement in a
299 short-term safe house is necessary.

300 (d) At the shelter hearing, in order to continue the child
301 in shelter care:

302 1. The department must establish probable cause that
303 reasonable grounds for removal exist and that the provision of
304 appropriate and available services will not eliminate the need
305 for placement;

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

310 ~~3.2.~~ The court must determine that additional time is
311 necessary, which may not exceed 72 hours, in which to obtain and
312 review documents pertaining to the family in order to
313 appropriately determine the risk to the child during which time
314 the child shall remain in the department's custody, if so
315 ordered by the court.

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

319 1. That placement in shelter care is necessary based on the

32-00106B-11

2011718

320 criteria in subsections (1) and (2).

321 2. That placement in shelter care is in the best interest
322 of the child.

323 3. That continuation of the child in the home is contrary
324 to the welfare of the child because the home situation presents
325 a substantial and immediate danger to the child's physical,
326 mental, or emotional health or safety which cannot be mitigated
327 by the provision of preventive services.

328 4. That based upon the allegations of the petition for
329 placement in shelter care, there is probable cause to believe
330 that the child is dependent or that the court needs additional
331 time, which may not exceed 72 hours, in which to obtain and
332 review documents pertaining to the family in order to
333 appropriately determine the risk to the child.

334 5. That the department has made reasonable efforts to
335 prevent or eliminate the need for removal of the child from the
336 home. A finding of reasonable effort by the department to
337 prevent or eliminate the need for removal may be made and the
338 department is deemed to have made reasonable efforts to prevent
339 or eliminate the need for removal if:

340 a. The first contact of the department with the family
341 occurs during an emergency;

342 b. The appraisal of the home situation by the department
343 indicates that the home situation presents a substantial and
344 immediate danger to the child's physical, mental, or emotional
345 health or safety which cannot be mitigated by the provision of
346 preventive services;

347 c. The child cannot safely remain at home, either because
348 there are no preventive services that can ensure the health and

32-00106B-11

2011718

349 safety of the child or because, even with appropriate and
350 available services being provided, the health and safety of the
351 child cannot be ensured;

352 d. The child has been sexually exploited; or

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

356 6. That the court notified the parents, relatives that are
357 providing out-of-home care for the child, or legal custodians of
358 the time, date, and location of the next dependency hearing and
359 of the importance of the active participation of the parents,
360 relatives that are providing out-of-home care for the child, or
361 legal custodians in all proceedings and hearings.

362 7. That the court notified the parents or legal custodians
363 of their right to counsel to represent them at the shelter
364 hearing and at each subsequent hearing or proceeding, and the
365 right of the parents to appointed counsel, pursuant to the
366 procedures set forth in s. 39.013.

367 8. That the court notified relatives who are providing out-
368 of-home care for a child as a result of the shelter petition
369 being granted that they have the right to attend all subsequent
370 hearings, to submit reports to the court, and to speak to the
371 court regarding the child, if they so desire.

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

375 39.521 Disposition hearings; powers of disposition.—

376 (1) A disposition hearing shall be conducted by the court,
377 if the court finds that the facts alleged in the petition for

32-00106B-11

2011718

378 dependency were proven in the adjudicatory hearing, or if the
379 parents or legal custodians have consented to the finding of
380 dependency or admitted the allegations in the petition, have
381 failed to appear for the arraignment hearing after proper
382 notice, or have not been located despite a diligent search
383 having been conducted.

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

396 1. For the purposes of this paragraph, the term "reasonable
397 effort" means the exercise of reasonable diligence and care by
398 the department to provide the services ordered by the court or
399 delineated in the case plan.

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

402 a. Enter written findings as to whether prevention or
403 reunification efforts were indicated.

404 b. If prevention or reunification efforts were indicated,
405 include a brief written description of what appropriate and
406 available prevention and reunification efforts were made.

32-00106B-11

2011718

407 c. Indicate in writing why further efforts could or could
408 not have prevented or shortened the separation of the parent and
409 child.

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

412 a. The first contact of the department with the family
413 occurs during an emergency;

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

418 c. The child cannot safely remain at home, because there
419 are no preventive services that can ensure the health and safety
420 of the child or, even with appropriate and available services
421 being provided, the health and safety of the child cannot be
422 ensured. There is a rebuttable presumption that any child who
423 has been found to be a victim of sexual exploitation as defined
424 in s. 39.01(67)(g) meets the terms of this sub-subparagraph; or

425 d. The parent is alleged to have committed any of the acts
426 listed as grounds for expedited termination of parental rights
427 under s. 39.806(1)(f)-(l).

428 4. A reasonable effort by the department for reunification
429 has been made if the appraisal of the home situation by the
430 department indicates that the severity of the conditions of
431 dependency is such that reunification efforts are inappropriate.
432 The department has the burden of demonstrating to the court that
433 reunification efforts were inappropriate.

434 5. If the court finds that the prevention or reunification
435 effort of the department would not have permitted the child to

32-00106B-11

2011718

436 remain safely at home, the court may commit the child to the
437 temporary legal custody of the department or take any other
438 action authorized by this chapter.

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

442 (d) If the child cannot be safely placed in a nonlicensed
443 placement, the court shall commit the child to the temporary
444 legal custody of the department. Such commitment invests in the
445 department all rights and responsibilities of a legal custodian.
446 The department shall not return any child to the physical care
447 and custody of the person from whom the child was removed,
448 except for court-approved visitation periods, without the
449 approval of the court. Any order for visitation or other contact
450 must conform to the provisions of s. 39.0139. There is a
451 rebuttable presumption that any child who has been found to be a
452 victim of sexual exploitation as defined in s. 39.01(67)(g) be
453 committed to a safe house as provided for in s. 409.1678. The
454 term of such commitment continues until terminated by the court
455 or until the child reaches the age of 18. After the child is
456 committed to the temporary legal custody of the department, all
457 further proceedings under this section are governed by this
458 chapter.

459
460 Protective supervision continues until the court terminates it
461 or until the child reaches the age of 18, whichever date is
462 first. Protective supervision shall be terminated by the court
463 whenever the court determines that permanency has been achieved
464 for the child, whether with a parent, another relative, or a

32-00106B-11

2011718

465 legal custodian, and that protective supervision is no longer
466 needed. The termination of supervision may be with or without
467 retaining jurisdiction, at the court's discretion, and shall in
468 either case be considered a permanency option for the child. The
469 order terminating supervision by the department shall set forth
470 the powers of the custodian of the child and shall include the
471 powers ordinarily granted to a guardian of the person of a minor
472 unless otherwise specified. Upon the court's termination of
473 supervision by the department, no further judicial reviews are
474 required, so long as permanency has been established for the
475 child.

476 Section 7. Section 39.524, Florida Statutes, is created to
477 read:

478 39.524 Safe-harbor placement.-

479 (1) Except as provided in s. 39.407, any dependent child 6
480 years of age or older who has been found to be a victim of
481 sexual exploitation as defined in s. 39.01(67)(g) must be
482 assessed for placement in a safe house as provided in s.
483 409.1678. The assessment shall be conducted by the department or
484 its agent and shall incorporate and address current and
485 historical information from any law enforcement reports;
486 psychological testing or evaluation that has occurred; current
487 and historical information from the guardian ad litem, if one
488 has been assigned; current and historical information from any
489 current therapist, teacher, or other professional who has
490 knowledge of the child and has worked with the child; and any
491 other information concerning the availability and suitability of
492 safe-house placement. If such placement is determined to be
493 appropriate as a result of this procedure, the child must be

32-00106B-11

2011718

494 placed in a safe house, if one is available.

495 (2) The results of the assessment described in subsection
496 (1) and the actions taken as a result of the assessment must be
497 included in the next judicial review of the child. At each
498 subsequent judicial review, the court must be advised in writing
499 of the status of the child's placement, with special reference
500 regarding the stability of the placement and the permanency
501 planning for the child.

502 (3) Any safe house that receives children under this
503 section shall establish special permanency teams dedicated to
504 overcoming the special permanency challenges presented by this
505 population of children. Each facility shall report to the
506 department its success in achieving permanency for children
507 placed by the department in its care at intervals that allow the
508 current information to be provided to the court at each judicial
509 review for the child.

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

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

32-00106B-11

2011718

523 (b) As part of the report required in paragraph (a), the
524 department shall also provide a detailed account of the
525 expenditures incurred for "Special Categories: Grants and Aids-
526 Safe Houses" for the fiscal year immediately preceding the date
527 of the report. This section of the report must include whatever
528 supporting data is necessary to demonstrate full compliance with
529 s. 409.1678(3)(b). The document must present the information by
530 district and must specify, at a minimum, the number of
531 additional beds, the average rate per bed, the number of
532 additional persons served, and a description of the enhanced and
533 expanded services provided.

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

536 322.28 Period of suspension or revocation.—

537 (7) Following a second or subsequent violation of s.
538 796.07(2) ~~(e)-(f)~~ which involves a motor vehicle and which results
539 in any judicial disposition other than acquittal or dismissal,
540 in addition to any other sentence imposed, the court shall
541 revoke the person's driver's license or driving privilege,
542 effective upon the date of the disposition, for a period of not
543 less than 1 year. A person sentenced under this subsection may
544 request a hearing under s. 322.271.

545 Section 9. Section 409.1678, Florida Statutes, is created
546 to read:

547 409.1678 Safe harbor for children who are victims of sexual
548 exploitation.—

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

32-00106B-11

2011718

552 them to be reintegrated into society as stable and productive
553 members; and, if appropriate, to enable them to testify as
554 witnesses in criminal proceedings related to their exploitation.
555 Such children require a full range of services in addition to
556 security, including medical care, counseling, education, and
557 mentoring. These services are to be provided in a secure
558 residential setting by a not-for-profit corporation or a local
559 government entity under a contract with the department or by a
560 lead agency as described in s. 409.1671, provided that the
561 expenditure of funds for such services is calculated by the
562 department to be a potential cost savings and more cost-
563 effective than those otherwise provided by the government. These
564 contracts should be designed to provide an identified number of
565 children with access to a full array of services for a fixed
566 price. Further, it is the intent of the Legislature that the
567 department and the Department of Juvenile Justice establish an
568 interagency agreement by December 1, 2011, that describes
569 respective agency responsibilities for referral, placement,
570 service provision, and service coordination for dependent and
571 delinquent youth who are referred to these residential group
572 care facilities. The agreement must require interagency
573 collaboration in the development of terms, conditions, and
574 performance outcomes for safe-house contracts serving children
575 who have been adjudicated dependent or delinquent.

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

577 (a) "Child advocate" means an employee of a short-term safe
578 house who has been trained to work with and advocate for the
579 needs of sexually exploited children. The advocate shall
580 accompany the child to all court appearances, meetings with law

32-00106B-11

2011718

581 enforcement, and the state attorney's office and shall serve as
582 a liaison between the short-term safe house and the court.

583 (b) "Safe house" means a living environment that has set
584 aside gender-specific, separate, and distinct living quarters
585 for sexually exploited children who have been adjudicated
586 dependent or delinquent and need to reside in a secure
587 residential facility with staff members awake 24 hours a day. A
588 safe house shall be operated by a licensed family foster home or
589 residential child-caring agency as defined in s. 409.175,
590 including a runaway youth center as defined in s. 409.441. Each
591 facility must be appropriately licensed in this state as a
592 residential child-caring agency as defined in s. 409.175 and
593 must be accredited by July 1, 2012. A safe house serving
594 children who have been sexually exploited must have available
595 staff or contract personnel with the clinical expertise,
596 credentials, and training to provide services identified in
597 paragraph (3) (e).

598 (c) "Secure" means that a child is supervised 24 hours a
599 day by staff members who are awake while on duty.

600 (d) "Sexually exploited child" means a dependent child who
601 has suffered sexual exploitation as defined in s. 39.01(67)(g)
602 and is ineligible for relief and benefits under the federal
603 Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

604 (e) "Short-term safe house" means a shelter operated by a
605 licensed residential child-caring agency as defined in s.
606 409.175, including a runaway youth center as defined in s.
607 409.441, that has set aside gender-specific, separate, and
608 distinct living quarters for sexually exploited children. In
609 addition to shelter, the house shall provide services and care

32-00106B-11

2011718

610 to sexually exploited children, including food, clothing,
611 medical care, counseling, and appropriate crisis intervention
612 services at the time they are taken into custody by law
613 enforcement or the department.

614 (3) (a) Notwithstanding any other provision of law, pursuant
615 to regulations of the department, every district of the
616 department shall address the child welfare service needs of
617 sexually exploited children as a component of the district's
618 master plan and, to the extent that funds are available, ensure
619 that preventive services, including a short-term safe house to
620 serve sexually exploited children, are available to children
621 residing in the district. The department or a lead agency that
622 has been established in accordance with s. 409.1671 shall
623 contract with an appropriate not-for-profit agency having
624 experience working with sexually exploited children to operate
625 such a short-term safe house. This section does not prohibit a
626 district from using a homeless youth program or services for
627 victims of human trafficking for such purposes so long as the
628 staff members have received appropriate training approved by the
629 department regarding sexually exploited children and the
630 existing programs and facilities provide a safe, secure, and
631 appropriate environment for sexually exploited children. Crisis
632 intervention services, short-term safe-house care, and community
633 programming may, where appropriate, be provided by the same not-
634 for-profit agency. Districts may work cooperatively to provide
635 such short-term safe-house services and programming, and access
636 to such placement, services, and programming may be provided on
637 a regional basis, provided that every district ensures, to the
638 extent that funds are available, that such placement, services,

32-00106B-11

2011718

639 and programs are readily accessible to sexually exploited
640 children residing within the district.

641 (b) The capacity of the services and programs described in
642 subsection (1) shall be based on the number of sexually
643 exploited children in each district who are in need of such
644 services. A determination of such need shall be made annually in
645 every district by the local administrator of the department and
646 be included in the department's master plan. This determination
647 shall be made in consultation with local law enforcement,
648 runaway and homeless youth program providers, local probation
649 departments, local community-based care and social services,
650 local guardians ad litem, public defenders, state attorney's
651 offices, and child advocates and services providers who work
652 directly with sexually exploited youth.

653 (c) The department shall contract with an appropriate not-
654 for-profit agency having experience working with sexually
655 exploited children to operate at least one safe house in a
656 geographically appropriate area of the state, which shall
657 provide safe and secure long-term housing and specialized
658 services for sexually exploited children throughout the state.
659 The appropriateness of the geographic location shall be
660 determined by the department, taking into account the areas of
661 the state with high numbers of sexually exploited children and
662 the need for sexually exploited children to find shelter and
663 long-term placement in a secure and beneficial environment. The
664 department shall determine the need for more than one safe house
665 based on the numbers and geographical location of sexually
666 exploited children within the state.

667 (d) The department shall contract with a not-for-profit

32-00106B-11

2011718

668 corporation, a local government entity, or a lead agency that
669 has been established in accordance with s. 409.1671 for the
670 performance of short-term safe-house and safe-house services
671 described in this section. A lead agency that is currently
672 providing the equivalent of a safe house may provide this
673 service directly with the approval of the department. The
674 department or a lead agency may contract for more than one
675 short-term safe house in a district and more than one safe house
676 in the state if that is determined to be the most effective way
677 to achieve the goals of this section.

678 (e) The lead agency, the contracted not-for-profit
679 corporation, or the local government entity is responsible for
680 security, crisis intervention services, general counseling and
681 victim-witness counseling, a comprehensive assessment,
682 residential care, transportation, access to behavioral health
683 services, recreational activities, food, clothing, supplies,
684 infant care, and miscellaneous expenses associated with caring
685 for these children; for necessary arrangement for or provision
686 of educational services, including life skills services and
687 planning services to successfully transition residents back to
688 the community; and for ensuring necessary and appropriate health
689 and dental care.

690 (f) The department may transfer all casework
691 responsibilities for children served under this section to the
692 entity that provides the safe-house service, including case
693 management and development and implementation of a case plan in
694 accordance with current standards for child protection services.
695 When the department establishes a program under this section in
696 a community that has a lead agency as described in s. 409.1671,

32-00106B-11

2011718

697 the casework responsibilities must be transferred to the lead
698 agency.

699 (g) This section does not prohibit any provider of these
700 services from appropriately billing Medicaid for services
701 rendered, from contracting with a local school district for
702 educational services, or from obtaining federal or local funding
703 for services provided, as long as two or more funding sources do
704 not pay for the same specific service that has been provided to
705 a child.

706 (h) The lead agency, not-for-profit corporation, or local
707 government entity has the legal authority for children served in
708 a safe-house program, as provided in chapter 39 or this chapter,
709 as appropriate, to enroll the child in school, to sign for a
710 driver's license for the child, to cosign loans and insurance
711 for the child, to sign for medical treatment of the child, and
712 to authorize other such activities.

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

715 (j) This section shall be implemented to the extent that
716 appropriations contained in the General Appropriations Act are
717 available for such purpose.

718 (k) The department may adopt rules pursuant to ss.
719 120.536(1) and 120.54 to implement the provisions of this
720 section conferring duties upon it.

721 (l) All of the services created under this section may, to
722 the extent possible provided by law, be available to all
723 sexually exploited children whether they are accessed
724 voluntarily, as a condition of probation, through a diversion
725 program, through a proceeding under chapter 39, or through a

32-00106B-11

2011718

726 referral from a local community-based care or social service
727 agency.

728 (4) The local district administrator may, to the extent
729 that funds are available, in conjunction with local law
730 enforcement officials, contract with an appropriate not-for-
731 profit agency having experience working with sexually exploited
732 children to train law enforcement officials who are likely to
733 encounter sexually exploited children in the course of their law
734 enforcement duties on the provisions of this section and how to
735 identify and obtain appropriate services for sexually exploited
736 children. Districts may work cooperatively to provide such
737 training, and such training may be provided on a regional basis.
738 The department shall assist districts in obtaining any available
739 funds for the purposes of conducting law enforcement training
740 from the Office of Juvenile Justice and Delinquency Prevention
741 of the United States Department of Justice.

742 Section 10. Present subsections (2) and (6) of section
743 796.07, Florida Statutes, are amended, present subsections (3)
744 through (6) are renumbered as subsections (4) through (7),
745 respectively, and a new subsection (3) is added to that section,
746 to read:

747 796.07 Prohibiting prostitution and related acts,~~etc.;~~
748 ~~evidence; penalties; definitions.~~

749 (2) It is unlawful to:

750 (a) ~~To~~ Own, establish, maintain, or operate any place,
751 structure, building, or conveyance for the purpose of lewdness,
752 assignation, or prostitution.

753 (b) ~~To~~ Offer, or to offer or agree to secure, another for
754 the purpose of prostitution or for any other lewd or indecent

32-00106B-11

2011718

755 act.

756 (c) ~~To~~ Receive, or to offer or agree to receive, any person
757 into any place, structure, building, or conveyance for the
758 purpose of prostitution, lewdness, or assignation, or to permit
759 any person to remain there for such purpose.

760 (d) ~~To~~ Direct, take, or transport, or to offer or agree to
761 direct, take, or transport, any person to any place, structure,
762 or building, or to any other person, with knowledge or
763 reasonable cause to believe that the purpose of such directing,
764 taking, or transporting is prostitution, lewdness, or
765 assignation.

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

768 (e)-(f) To Solicit, induce, entice, or procure another to
769 commit prostitution, lewdness, or assignation.

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

772 (g) Have committed one of the offenses enumerated in
773 subsection (3) and be in violation of s. 796.08(4) or (5).

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

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

779 ~~(i) To purchase the services of any person engaged in~~
780 ~~prostitution.~~

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

783 (a) Purchase the services of any person engaged in

32-00106B-11

2011718

784 prostitution.

785 (b) Offer to commit, or to commit, or to engage in,
786 prostitution, lewdness, or assignation.

787 (c) Reside in, enter, or remain in any place, structure, or
788 building, or enter or remain in any conveyance, for the purpose
789 of prostitution, lewdness, or assignation.

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

792 (7) ~~(6)~~ A person who violates paragraph (2) (e) or paragraph
793 (2) (f) shall be assessed a civil penalty of \$5,000 ~~\$500~~ if the
794 violation results in any judicial disposition other than
795 acquittal or dismissal. Of the proceeds from each penalty
796 ~~penalties~~ assessed under this subsection, \$500 shall be paid to
797 the circuit court administrator for the sole purpose of paying
798 the administrative costs of treatment-based drug court programs
799 provided under s. 397.334 and \$4,500 shall be paid to the
800 Department of Children and Family Services for the sole purpose
801 of funding safe houses and short-term safe houses as provided in
802 s. 409.1678.

803 Section 11. Section 960.065, Florida Statutes, is amended
804 to read:

805 960.065 Eligibility for awards.—

806 (1) Except as provided in subsection (2), the following
807 persons shall be eligible for awards pursuant to this chapter:

808 (a) A victim.

809 (b) An intervenor.

810 (c) A surviving spouse, parent or guardian, sibling, or
811 child of a deceased victim or intervenor.

812 (d) Any other person who is dependent for his or her

32-00106B-11

2011718

813 principal support upon a deceased victim or intervenor.

814 (2) Any claim filed by or on behalf of a person who:

815 (a) Committed or aided in the commission of the crime upon
816 which the claim for compensation was based;

817 (b) Was engaged in an unlawful activity at the time of the
818 crime upon which the claim for compensation is based;

819 (c) Was in custody or confined, regardless of conviction,
820 in a county or municipal detention facility, a state or federal
821 correctional facility, or a juvenile detention or commitment
822 facility at the time of the crime upon which the claim for
823 compensation is based;

824 (d) Has been adjudicated as a habitual felony offender,
825 habitual violent offender, or violent career criminal under s.
826 775.084; or

827 (e) Has been adjudicated guilty of a forcible felony
828 offense as described in s. 776.08,

829

830 is ineligible ~~shall not be eligible~~ for an award.

831 (3) Any claim filed by or on behalf of a person who was in
832 custody or confined, regardless of adjudication, in a county or
833 municipal facility, a state or federal correctional facility, or
834 a juvenile detention, commitment, or assessment facility at the
835 time of the crime upon which the claim is based, who has been
836 adjudicated as a habitual felony offender under s. 775.084, or
837 who has been adjudicated guilty of a forcible felony offense as
838 described in s. 776.08, renders the person ineligible ~~shall not~~
839 ~~be eligible~~ for an award. Notwithstanding the foregoing, upon a
840 finding by the Crime Victims' Services Office of the existence
841 of mitigating or special circumstances that would render such a

32-00106B-11

2011718

842 disqualification unjust, an award may be approved. A decision
843 that mitigating or special circumstances do not exist in a case
844 subject to this section does ~~shall~~ not constitute final agency
845 action subject to review pursuant to ss. 120.569 and 120.57.

846 (4) Payment may not be made under this chapter if the
847 person who committed the crime upon which the claim is based
848 will receive any direct or indirect financial benefit from such
849 payment, unless such benefit is minimal or inconsequential.
850 Payment may not be denied based on the victim's familial
851 relationship to the offender or based upon the sharing of a
852 residence by the victim and offender, except to prevent unjust
853 enrichment of the offender.

854 (5) A person is not ineligible for an award pursuant to
855 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that
856 person is a victim of sexual exploitation of a child as defined
857 in s. 39.01(67) (g).

858 Section 12. Paragraph (b) of subsection (2) of section
859 985.115, Florida Statutes, is amended to read:

860 985.115 Release or delivery from custody.—

861 (2) Unless otherwise ordered by the court under s. 985.255
862 or s. 985.26, and unless there is a need to hold the child, a
863 person taking a child into custody shall attempt to release the
864 child as follows:

865 (b) Contingent upon specific appropriation, to a shelter
866 approved by the department or to an authorized agent or short-
867 term safe house under s. 39.401(2) (b).

868 Section 13. Paragraph (i) of subsection (1) of section
869 985.145, Florida Statutes, is amended to read:

870 985.145 Responsibilities of juvenile probation officer

32-00106B-11

2011718

871 during intake; screenings and assessments.-

872 (1) The juvenile probation officer shall serve as the
873 primary case manager for the purpose of managing, coordinating,
874 and monitoring the services provided to the child. Each program
875 administrator within the Department of Children and Family
876 Services shall cooperate with the primary case manager in
877 carrying out the duties and responsibilities described in this
878 section. In addition to duties specified in other sections and
879 through departmental rules, the assigned juvenile probation
880 officer shall be responsible for the following:

881 (i) *Recommendation concerning a petition.*-Upon determining
882 that the report, affidavit, or complaint complies with the
883 standards of a probable cause affidavit and that the interests
884 of the child and the public will be best served, the juvenile
885 probation officer may recommend that a delinquency petition not
886 be filed. If such a recommendation is made, the juvenile
887 probation officer shall advise in writing the person or agency
888 making the report, affidavit, or complaint, the victim, if any,
889 and the law enforcement agency having investigative jurisdiction
890 over the offense of the recommendation; the reasons therefor;
891 and that the person or agency may submit, within 10 days after
892 the receipt of such notice, the report, affidavit, or complaint
893 to the state attorney for special review. In the case of a
894 report, affidavit, or complaint alleging a violation of s.
895 796.07(3), there is a presumption that the juvenile probation
896 officer recommend that a petition not be filed unless the child
897 has previously been adjudicated delinquent. The state attorney,
898 upon receiving a request for special review, shall consider the
899 facts presented by the report, affidavit, or complaint, and by

32-00106B-11

2011718

900 the juvenile probation officer who made the recommendation that
901 no petition be filed, before making a final decision as to
902 whether a petition or information should or should not be filed.

903 Section 14. Paragraph (c) of subsection (1) of section
904 985.15, Florida Statutes, is amended to read:

905 985.15 Filing decisions.—

906 (1) The state attorney may in all cases take action
907 independent of the action or lack of action of the juvenile
908 probation officer and shall determine the action that is in the
909 best interest of the public and the child. If the child meets
910 the criteria requiring prosecution as an adult under s. 985.556,
911 the state attorney shall request the court to transfer and
912 certify the child for prosecution as an adult or shall provide
913 written reasons to the court for not making such a request. In
914 all other cases, the state attorney may:

915 (c) File a petition for delinquency. In the case of a
916 report, affidavit, or complaint alleging a violation of s.
917 796.07(3), there is a presumption that a petition not be filed
918 unless the child has previously been adjudicated delinquent;

919 Section 15. This act shall take effect July 1, 2011.