

By Senator Flores

38-00292-12

2012202__

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; creating s.
25 409.1678, F.S.; providing definitions; requiring
26 circuits of the Department of Children and Family
27 Services to address child welfare service needs of
28 sexually exploited children as a component of their
29 master plans; providing duties, responsibilities, and

38-00292-12

2012202__

30 requirements for safe houses and their operators;
31 providing for training for law enforcement officials
32 who are likely to encounter sexually exploited
33 children; amending s. 796.07, F.S.; providing for an
34 increased civil penalty for soliciting another to
35 commit prostitution or related acts; providing for
36 disposition of proceeds; amending s. 960.065, F.S.;
37 allowing victim compensation for sexually exploited
38 children; amending s. 985.115, F.S.; conforming a
39 provision to changes made by the act; amending ss.
40 985.145 and 985.15, F.S.; providing a presumption
41 against filing a delinquency petition for certain
42 prostitution-related offenses in certain
43 circumstances; providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

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

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

54 39.001 Purposes and intent; personnel standards and
55 screening.—

56 (4) SEXUAL EXPLOITATION SERVICES.—

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

38-00292-12

2012202

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

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

- 78 1. To ensure the safety of children.
- 79 2. To provide for the treatment of such children as
80 dependent children rather than as delinquents.
- 81 3. To sever the bond between exploited children and
82 traffickers and to reunite these children with their families or
83 provide them with appropriate guardians.
- 84 4. To enable such children to be willing and reliable
85 witnesses in the prosecution of traffickers.

86 (c) The Legislature finds that sexually exploited children
87 need special care and services in the dependency process,

38-00292-12

2012202

88 including counseling, health care, substance abuse treatment,
89 educational opportunities, and a safe environment secure from
90 traffickers.

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

99 (8) ~~(7)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.-

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

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

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

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

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

115 a. Programs and services for the promotion of adoption,
116 support of adoptive families, and prevention of child abuse and

38-00292-12

2012202__

117 neglect.

118 b. Training programs for the prevention of child abuse and
119 neglect.

120 c. Multidisciplinary and discipline-specific training
121 programs for professionals with responsibilities affecting
122 children, young adults, and families.

123 d. Efforts to promote adoption.

124 e. Postadoptive services to support adoptive families.

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

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

136 b. A summary of the adoption data collected and reported to
137 the federal Adoption and Foster Care Analysis and Reporting
138 System (AFCARS) and the federal Administration for Children and
139 Families.

140 c. A summary of the child abuse prevention data collected
141 and reported to the National Child Abuse and Neglect Data System
142 (NCANDS) and the federal Administration for Children and
143 Families.

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

38-00292-12

2012202__

146 system.

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

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

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

155 (10)~~(9)~~ FUNDING AND SUBSEQUENT PLANS.—

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

38-00292-12

2012202__

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

178 39.01 Definitions.—When used in this chapter, unless the
179 context otherwise requires:

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

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

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

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

195 (c) To have been voluntarily placed with a licensed child-
196 caring agency, a licensed child-placing agency, an adult
197 relative, the department, or the former Department of Health and
198 Rehabilitative Services, after which placement, under the
199 requirements of this chapter, a case plan has expired and the
200 parent or parents or legal custodians have failed to
201 substantially comply with the requirements of the plan;

202 (d) To have been voluntarily placed with a licensed child-
203 placing agency for the purposes of subsequent adoption, and a

38-00292-12

2012202__

204 parent or parents have signed a consent pursuant to the Florida
205 Rules of Juvenile Procedure;

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

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

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

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

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

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

221 2. Engage in a sexual performance, as defined by chapter
222 827; or

223 3. Participate in the trade of sex trafficking as provided
224 in s. 796.035.

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

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

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

38-00292-12

2012202

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

242

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

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

255 (b) If the facts are sufficient and the child has not been
256 returned to the custody of the parent or legal custodian, the
257 department shall file the petition and schedule a hearing, and
258 the attorney representing the department shall request that a
259 shelter hearing be held within 24 hours after the removal of the
260 child. While awaiting the shelter hearing, the authorized agent
261 of the department may place the child in licensed shelter care,

38-00292-12

2012202__

262 or in a short-term safe house if the child is a sexually
263 exploited child, or may release the child to a parent or legal
264 custodian or responsible adult relative or the adoptive parent
265 of the child's sibling who shall be given priority consideration
266 over a licensed placement, or a responsible adult approved by
267 the department if this is in the best interests of the child.
268 Placement of a child which is not in a licensed shelter must be
269 preceded by a criminal history records check as required under
270 s. 39.0138. In addition, the department may authorize placement
271 of a housekeeper/homemaker in the home of a child alleged to be
272 dependent until the parent or legal custodian assumes care of
273 the child.

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

277 39.402 Placement in a shelter.—

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

287 (8) (a) A child may not be held in a shelter longer than 24
288 hours unless an order so directing is entered by the court after
289 a shelter hearing. In the interval until the shelter hearing is
290 held, the decision to place the child in a shelter or release

38-00292-12

2012202

291 the child from a shelter lies with the protective investigator.
292 In the case of a child who is alleged to have been sexually
293 exploited, there is a rebuttable presumption that placement in a
294 short-term safe house is necessary.

295 (d) At the shelter hearing, in order to continue the child
296 in shelter care:

297 1. The department must establish probable cause that
298 reasonable grounds for removal exist and that the provision of
299 appropriate and available services will not eliminate the need
300 for placement;

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

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

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

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

316 2. That placement in shelter care is in the best interest
317 of the child.

318 3. That continuation of the child in the home is contrary
319 to the welfare of the child because the home situation presents

38-00292-12

2012202__

320 a substantial and immediate danger to the child's physical,
321 mental, or emotional health or safety which cannot be mitigated
322 by the provision of preventive services.

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

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

335 a. The first contact of the department with the family
336 occurs during an emergency;

337 b. The appraisal of the home situation by the department
338 indicates that the home situation presents a substantial and
339 immediate danger to the child's physical, mental, or emotional
340 health or safety which cannot be mitigated by the provision of
341 preventive services;

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

347 d. The child has been sexually exploited; or

348 e.~~d.~~ The parent or legal custodian is alleged to have

38-00292-12

2012202

349 committed any of the acts listed as grounds for expedited
350 termination of parental rights in s. 39.806(1)(f)-(i).

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

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

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

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

370 39.521 Disposition hearings; powers of disposition.—

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

38-00292-12

2012202__

378 having been conducted.

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

391 1. For the purposes of this paragraph, the term "reasonable
392 effort" means the exercise of reasonable diligence and care by
393 the department to provide the services ordered by the court or
394 delineated in the case plan.

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

397 a. Enter written findings as to whether prevention or
398 reunification efforts were indicated.

399 b. If prevention or reunification efforts were indicated,
400 include a brief written description of what appropriate and
401 available prevention and reunification efforts were made.

402 c. Indicate in writing why further efforts could or could
403 not have prevented or shortened the separation of the parent and
404 child.

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

38-00292-12

2012202

407 a. The first contact of the department with the family
408 occurs during an emergency;

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

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

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

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

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

434 (3) When any child is adjudicated by a court to be
435 dependent, the court shall determine the appropriate placement

38-00292-12

2012202__

436 for the child as follows:

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

454
455 Protective supervision continues until the court terminates it
456 or until the child reaches the age of 18, whichever date is
457 first. Protective supervision shall be terminated by the court
458 whenever the court determines that permanency has been achieved
459 for the child, whether with a parent, another relative, or a
460 legal custodian, and that protective supervision is no longer
461 needed. The termination of supervision may be with or without
462 retaining jurisdiction, at the court's discretion, and shall in
463 either case be considered a permanency option for the child. The
464 order terminating supervision by the department shall set forth

38-00292-12

2012202__

465 the powers of the custodian of the child and shall include the
466 powers ordinarily granted to a guardian of the person of a minor
467 unless otherwise specified. Upon the court's termination of
468 supervision by the department, no further judicial reviews are
469 required, so long as permanency has been established for the
470 child.

471 Section 7. Section 39.524, Florida Statutes, is created to
472 read:

473 39.524 Safe-harbor placement.—

474 (1) Except as provided in s. 39.407, any dependent child 6
475 years of age or older who has been found to be a victim of
476 sexual exploitation as defined in s. 39.01(67)(g) must be
477 assessed for placement in a safe house as provided in s.
478 409.1678. The assessment shall be conducted by the department or
479 its agent and shall incorporate and address current and
480 historical information from any law enforcement reports;
481 psychological testing or evaluation that has occurred; current
482 and historical information from the guardian ad litem, if one
483 has been assigned; current and historical information from any
484 current therapist, teacher, or other professional who has
485 knowledge of the child and has worked with the child; and any
486 other information concerning the availability and suitability of
487 safe-house placement. If such placement is determined to be
488 appropriate as a result of this procedure, the child must be
489 placed in a safe house, if one is available. As used in this
490 section, the term "available" as it relates to a placement means
491 a placement that is located within the circuit or that is
492 otherwise reasonably accessible.

493 (2) The results of the assessment described in subsection

38-00292-12

2012202

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

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

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

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

522 Section 8. Section 409.1678, Florida Statutes, is created

38-00292-12

2012202__

523 to read:

524 409.1678 Safe harbor for children who are victims of sexual
525 exploitation.-526 (1) As used in this section, the term:527 (a) "Child advocate" means an employee of a short-term safe
528 house who has been trained to work with and advocate for the
529 needs of sexually exploited children. The advocate shall
530 accompany the child to all court appearances, meetings with law
531 enforcement, and the state attorney's office and shall serve as
532 a liaison between the short-term safe house and the court.533 (b) "Safe house" means a living environment that has set
534 aside gender-specific, separate, and distinct living quarters
535 for sexually exploited children who have been adjudicated
536 dependent or delinquent and need to reside in a secure
537 residential facility with staff members awake 24 hours a day. A
538 safe house shall be operated by a licensed family foster home or
539 residential child-caring agency as defined in s. 409.175,
540 including a runaway youth center as defined in s. 409.441. Each
541 facility must be appropriately licensed in this state as a
542 residential child-caring agency as defined in s. 409.175 and
543 must be accredited by July 1, 2013. A safe house serving
544 children who have been sexually exploited must have available
545 staff or contract personnel with the clinical expertise,
546 credentials, and training to provide services identified in
547 paragraph (2) (b).548 (c) "Secure" means that a child is supervised 24 hours a
549 day by staff members who are awake while on duty.550 (d) "Sexually exploited child" means a dependent child who
551 has suffered sexual exploitation as defined in s. 39.01(67)(g)

38-00292-12

2012202

552 and is ineligible for relief and benefits under the federal
553 Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

554 (e) "Short-term safe house" means a shelter operated by a
555 licensed residential child-caring agency as defined in s.
556 409.175, including a runaway youth center as defined in s.
557 409.441, that has set aside gender-specific, separate, and
558 distinct living quarters for sexually exploited children. In
559 addition to shelter, the house shall provide services and care
560 to sexually exploited children, including food, clothing,
561 medical care, counseling, and appropriate crisis intervention
562 services at the time they are taken into custody by law
563 enforcement or the department.

564 (2) (a) Notwithstanding any other provision of law, pursuant
565 to regulations of the department, every circuit of the
566 department shall address the child welfare service needs of
567 sexually exploited children as a component of the circuit's
568 master plan. This determination shall be made in consultation
569 with local law enforcement, runaway and homeless youth program
570 providers, local probation departments, local community-based
571 care and social services, local guardians ad litem, public
572 defenders, state attorney's offices, and child advocates and
573 services providers who work directly with sexually exploited
574 youth.

575 (b) The lead agency, not-for-profit agency, or local
576 government entity providing safe-house services is responsible
577 for security, crisis intervention services, general counseling
578 and victim-witness counseling, a comprehensive assessment,
579 residential care, transportation, access to behavioral health
580 services, recreational activities, food, clothing, supplies,

38-00292-12

2012202

581 infant care, and miscellaneous expenses associated with caring
582 for these children; for necessary arrangement for or provision
583 of educational services, including life skills services and
584 planning services to successfully transition residents back to
585 the community; and for ensuring necessary and appropriate health
586 and dental care.

587 (c) This section does not prohibit any provider of these
588 services from appropriately billing Medicaid for services
589 rendered, from contracting with a local school district for
590 educational services, or from obtaining federal or local funding
591 for services provided, as long as two or more funding sources do
592 not pay for the same specific service that has been provided to
593 a child.

594 (d) The lead agency, not-for-profit agency, or local
595 government entity providing safe-house services has the legal
596 authority for children served in a safe-house program, as
597 provided in chapter 39 or this chapter, as appropriate, to
598 enroll the child in school, to sign for a driver's license for
599 the child, to cosign loans and insurance for the child, to sign
600 for medical treatment of the child, and to authorize other such
601 activities.

602 (e) All of the services created under this section may, to
603 the extent possible provided by law, be available to all
604 sexually exploited children whether they are accessed
605 voluntarily, as a condition of probation, through a diversion
606 program, through a proceeding under chapter 39, or through a
607 referral from a local community-based care or social service
608 agency.

609 (3) The local circuit administrator may, to the extent that

38-00292-12

2012202

610 funds are available, in conjunction with local law enforcement
611 officials, contract with an appropriate not-for-profit agency
612 having experience working with sexually exploited children to
613 train law enforcement officials who are likely to encounter
614 sexually exploited children in the course of their law
615 enforcement duties on the provisions of this section and how to
616 identify and obtain appropriate services for sexually exploited
617 children. Circuits may work cooperatively to provide such
618 training, and such training may be provided on a regional basis.
619 The department shall assist circuits in obtaining any available
620 funds for the purposes of conducting law enforcement training
621 from the Office of Juvenile Justice and Delinquency Prevention
622 of the United States Department of Justice.

623 Section 9. Section 796.07, Florida Statutes, is amended to
624 read:

625 796.07 Prohibiting prostitution and related acts,~~etc.;~~
626 ~~evidence; penalties; definitions.~~

627 (1) As used in this section:

628 (a) "Prostitution" means the giving or receiving of the
629 body for sexual activity for hire but excludes sexual activity
630 between spouses.

631 (b) "Lewdness" means any indecent or obscene act.

632 (c) "Assignment" means the making of any appointment or
633 engagement for prostitution or lewdness, or any act in
634 furtherance of such appointment or engagement.

635 (d) "Sexual activity" means oral, anal, or vaginal
636 penetration by, or union with, the sexual organ of another; anal
637 or vaginal penetration of another by any other object; or the
638 handling or fondling of the sexual organ of another for the

38-00292-12

2012202__

639 purpose of masturbation; however, the term does not include acts
640 done for bona fide medical purposes.

641 (2) It is unlawful:

642 (a) To own, establish, maintain, or operate any place,
643 structure, building, or conveyance for the purpose of lewdness,
644 assignation, or prostitution.

645 (b) To offer, or to offer or agree to secure, another for
646 the purpose of prostitution or for any other lewd or indecent
647 act.

648 (c) To receive, or to offer or agree to receive, any person
649 into any place, structure, building, or conveyance for the
650 purpose of prostitution, lewdness, or assignation, or to permit
651 any person to remain there for such purpose.

652 (d) To direct, take, or transport, or to offer or agree to
653 direct, take, or transport, any person to any place, structure,
654 or building, or to any other person, with knowledge or
655 reasonable cause to believe that the purpose of such directing,
656 taking, or transporting is prostitution, lewdness, or
657 assignation.

658 (e) To offer to commit, or to commit, or to engage in,
659 prostitution, lewdness, or assignation.

660 (f) To solicit, induce, entice, or procure another to
661 commit prostitution, lewdness, or assignation.

662 (g) To reside in, enter, or remain in, any place,
663 structure, or building, or to enter or remain in any conveyance,
664 for the purpose of prostitution, lewdness, or assignation.

665 (h) To aid, abet, or participate in any of the acts or
666 things enumerated in this subsection.

667 (i) To purchase the services of any person engaged in

38-00292-12

2012202__

668 prostitution.

669 (3) (a) In the trial of a person charged with a violation of
670 this section, testimony concerning the reputation of any place,
671 structure, building, or conveyance involved in the charge,
672 testimony concerning the reputation of any person residing in,
673 operating, or frequenting such place, structure, building, or
674 conveyance, and testimony concerning the reputation of the
675 defendant is admissible in evidence in support of the charge.

676 (b) Notwithstanding any other provision of law, a police
677 officer may testify as an offended party in an action regarding
678 charges filed pursuant to this section.

679 (4) A person who violates any provision of this section
680 commits:

681 (a) A misdemeanor of the second degree for a first
682 violation, punishable as provided in s. 775.082 or s. 775.083.

683 (b) A misdemeanor of the first degree for a second
684 violation, punishable as provided in s. 775.082 or s. 775.083.

685 (c) A felony of the third degree for a third or subsequent
686 violation, punishable as provided in s. 775.082, s. 775.083, or
687 s. 775.084.

688 (5) A person who is charged with a third or subsequent
689 violation of this section shall be offered admission to a
690 pretrial intervention program or a substance-abuse treatment
691 program as provided in s. 948.08.

692 (6) A person who violates paragraph (2) (f) shall be
693 assessed a civil penalty of \$5,000 ~~\$500~~ if the violation results
694 in any judicial disposition other than acquittal or dismissal.
695 Of the proceeds from each penalty ~~penalties~~ assessed under this
696 subsection, \$500 shall be paid to the circuit court

38-00292-12

2012202

697 administrator for the sole purpose of paying the administrative
698 costs of treatment-based drug court programs provided under s.
699 397.334 and \$4,500 shall be paid to the Department of Children
700 and Family Services for the sole purpose of funding safe houses
701 and short-term safe houses as provided in s. 409.1678.

702 Section 10. Section 960.065, Florida Statutes, is amended
703 to read:

704 960.065 Eligibility for awards.—

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

707 (a) A victim.

708 (b) An intervenor.

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

711 (d) Any other person who is dependent for his or her
712 principal support upon a deceased victim or intervenor.

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

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

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

718 (c) Was in custody or confined, regardless of conviction,
719 in a county or municipal detention facility, a state or federal
720 correctional facility, or a juvenile detention or commitment
721 facility at the time of the crime upon which the claim for
722 compensation is based;

723 (d) Has been adjudicated as a habitual felony offender,
724 habitual violent offender, or violent career criminal under s.
725 775.084; or

38-00292-12

2012202__

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

728
729 is ineligible ~~shall not be eligible~~ for an award.

730 (3) Any claim filed by or on behalf of a person who was in
731 custody or confined, regardless of adjudication, in a county or
732 municipal facility, a state or federal correctional facility, or
733 a juvenile detention, commitment, or assessment facility at the
734 time of the crime upon which the claim is based, who has been
735 adjudicated as a habitual felony offender under s. 775.084, or
736 who has been adjudicated guilty of a forcible felony offense as
737 described in s. 776.08, renders the person ineligible ~~shall not~~
738 ~~be eligible~~ for an award. Notwithstanding the foregoing, upon a
739 finding by the Crime Victims' Services Office of the existence
740 of mitigating or special circumstances that would render such a
741 disqualification unjust, an award may be approved. A decision
742 that mitigating or special circumstances do not exist in a case
743 subject to this section does ~~shall~~ not constitute final agency
744 action subject to review pursuant to ss. 120.569 and 120.57.

745 (4) Payment may not be made under this chapter if the
746 person who committed the crime upon which the claim is based
747 will receive any direct or indirect financial benefit from such
748 payment, unless such benefit is minimal or inconsequential.
749 Payment may not be denied based on the victim's familial
750 relationship to the offender or based upon the sharing of a
751 residence by the victim and offender, except to prevent unjust
752 enrichment of the offender.

753 (5) A person is not ineligible for an award pursuant to
754 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that

38-00292-12

2012202

755 person is a victim of sexual exploitation of a child as defined
756 in s. 39.01(67)(g).

757 Section 11. Paragraph (b) of subsection (2) of section
758 985.115, Florida Statutes, is amended to read:

759 985.115 Release or delivery from custody.—

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

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

767 Section 12. Paragraph (i) of subsection (1) of section
768 985.145, Florida Statutes, is amended to read:

769 985.145 Responsibilities of juvenile probation officer
770 during intake; screenings and assessments.—

771 (1) The juvenile probation officer shall serve as the
772 primary case manager for the purpose of managing, coordinating,
773 and monitoring the services provided to the child. Each program
774 administrator within the Department of Children and Family
775 Services shall cooperate with the primary case manager in
776 carrying out the duties and responsibilities described in this
777 section. In addition to duties specified in other sections and
778 through departmental rules, the assigned juvenile probation
779 officer shall be responsible for the following:

780 (i) *Recommendation concerning a petition.*—Upon determining
781 that the report, affidavit, or complaint complies with the
782 standards of a probable cause affidavit and that the interests
783 of the child and the public will be best served, the juvenile

38-00292-12

2012202

784 probation officer may recommend that a delinquency petition not
785 be filed. If such a recommendation is made, the juvenile
786 probation officer shall advise in writing the person or agency
787 making the report, affidavit, or complaint, the victim, if any,
788 and the law enforcement agency having investigative jurisdiction
789 over the offense of the recommendation; the reasons therefor;
790 and that the person or agency may submit, within 10 days after
791 the receipt of such notice, the report, affidavit, or complaint
792 to the state attorney for special review. In the case of a
793 report, affidavit, or complaint alleging a violation of s.
794 796.07(2)(f), there is a presumption that the juvenile probation
795 officer recommend that a petition not be filed unless the child
796 has previously been adjudicated delinquent. The state attorney,
797 upon receiving a request for special review, shall consider the
798 facts presented by the report, affidavit, or complaint, and by
799 the juvenile probation officer who made the recommendation that
800 no petition be filed, before making a final decision as to
801 whether a petition or information should or should not be filed.

802 Section 13. Subsection (1) of section 985.15, Florida
803 Statutes, is amended to read:

804 985.15 Filing decisions.—

805 (1) The state attorney may in all cases take action
806 independent of the action or lack of action of the juvenile
807 probation officer and shall determine the action that is in the
808 best interest of the public and the child. If the child meets
809 the criteria requiring prosecution as an adult under s. 985.556,
810 the state attorney shall request the court to transfer and
811 certify the child for prosecution as an adult or shall provide
812 written reasons to the court for not making such a request. In

38-00292-12

2012202__

813 all other cases, the state attorney may:

814 (a) File a petition for dependency;

815 (b) File a petition under chapter 984;

816 (c) File a petition for delinquency. In the case of a
817 report, affidavit, or complaint alleging a violation of s.
818 796.07(2)(f), there is a presumption that a petition not be
819 filed unless the child has previously been adjudicated
820 delinquent;

821 (d) File a petition for delinquency with a motion to
822 transfer and certify the child for prosecution as an adult;

823 (e) File an information under s. 985.557;

824 (f) Refer the case to a grand jury;

825 (g) Refer the child to a diversionary, pretrial
826 intervention, arbitration, or mediation program, or to some
827 other treatment or care program if such program commitment is
828 voluntarily accepted by the child or the child's parents or
829 legal guardian; or

830 (h) Decline to file.

831 Section 14. This act shall take effect January 1, 2013.