

1 A bill to be entitled

2 An act relating to commercially sexually exploited
3 children; amending s. 39.01, F.S.; revising
4 definitions; amending s. 39.401, F.S.; conforming
5 provisions to changes made by the act; creating s.
6 39.4025, F.S.; specifying when a child believed to be
7 commercially sexually exploited may be taken into
8 custody; requiring a child taken into custody to be
9 released to the custody of the Department of Children
10 and Families; providing for assessment of the child;
11 providing for placement of a child found to be at high
12 risk of continued sexual exploitation in a protective
13 secure residential treatment program; providing
14 criteria for placement; providing for reports of
15 examiners; requiring dependency petitions in certain
16 circumstances; requiring a report if a child does not
17 meet the criteria for placement under specified
18 provisions; specifying requirements for the department
19 if a child is placed in a protective secure
20 residential treatment program; requiring reassessment
21 of a child who runs away and returns; specifying the
22 burden of proof in hearings; requiring rulemaking;
23 amending s. 409.1678, F.S.; revising definitions;
24 specifying that safe-harbor provisions apply to
25 children who are victims of commercial sexual
26 exploitation; amending ss. 39.524, 796.07, 960.065,

27 and 985.115, F.S.; conforming provisions to changes
 28 made by the act; providing an effective date.

29
 30 Be It Enacted by the Legislature of the State of Florida:

31
 32 Section 1. Subsection (63) and subsections (64) through
 33 (76) of section 39.01, Florida Statutes, are renumbered as
 34 subsection (64) and subsections (66) through (78), respectively,
 35 new subsections (63) and (65) are added to that section, and
 36 paragraph (g) of present subsection (67) and present subsection
 37 (76) of that section are amended, to read:

38 39.01 Definitions.—When used in this chapter, unless the
 39 context otherwise requires:

40 (63) "Protective secure residential treatment program"
 41 means placement for protection and assessment, diagnosis, or
 42 treatment of trauma or substance abuse in one of the following
 43 facilities that has the specialized setting and services for
 44 commercially sexually exploited children:

45 (a) A crisis stabilization unit, residential treatment
 46 facility, or residential treatment center for children and
 47 adolescents licensed under s. 394.875.

48 (b) A hospital licensed under chapter 395.

49 (c) A detoxification facility licensed under chapter 397.

50 (d) A residential treatment center, including a
 51 therapeutic group home, under contract with the department or
 52 the Agency for Health Care Administration to provide treatment

53 services to children with an emotional disturbance or serious
 54 emotional disturbance who are admitted to services pursuant to
 55 this chapter or chapter 394.

56 (e) A facility that serves children through age 20 who are
 57 committed under s. 985.19.

58 (65) "Qualified examiner" means a psychiatrist or a
 59 psychologist licensed in this state who has at least 3 years of
 60 experience in the diagnosis and treatment of mental health,
 61 substance abuse, and trauma in children and adolescents.

62 (69)-(67) "Sexual abuse of a child" for purposes of finding
 63 a child to be dependent means one or more of the following acts:

64 (g) The sexual exploitation of a child, which includes the
 65 act of a child offering to engage in or engaging in
 66 prostitution, provided that the child is not under arrest or is
 67 not being prosecuted in a delinquency or criminal proceeding for
 68 a violation of any offense in chapter 796 based on such
 69 behavior; or allowing, encouraging, or forcing a child to:

- 70 1. Solicit for or engage in prostitution;
- 71 2. Engage in a sexual performance, as defined by chapter
 72 827; or
- 73 3. Participate in commercial sexual exploitation ~~the trade~~
 74 ~~of sex trafficking~~ as provided in chapter 796, s. 787.06(3)(g)
 75 or (h), or, to the extent it is committed for a commercial
 76 purpose, s. 827.071(2) or (3) s. 796.035.

77 (78)-(76) "Victim" means a ~~any~~ child who has sustained or
 78 is threatened with physical, mental, or emotional injury

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79 identified in a report involving child abuse, neglect, or
80 abandonment, commercial sexual exploitation, or child-on-child
81 sexual abuse.

82 Section 2. Paragraph (b) of subsection (2) and paragraph
83 (b) of subsection (3) of section 39.401, Florida Statutes, are
84 amended to read:

85 39.401 Taking a child alleged to be dependent into
86 custody; law enforcement officers and authorized agents of the
87 department.—

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

90 (b) Deliver the child to an authorized agent of the
91 department, stating the facts by reason of which the child was
92 taken into custody and sufficient information to establish
93 probable cause that the child is abandoned, abused, or
94 neglected, or otherwise dependent. For such a child for whom
95 there is also probable cause to believe he or she has been
96 commercially sexually exploited, the law enforcement officer
97 shall deliver the child to the department. ~~The department may~~
98 ~~place the child in an appropriate short-term safe house as~~
99 ~~provided for in s. 409.1678 if a short-term safe house is~~
100 ~~available.~~

101
102 For cases involving allegations of abandonment, abuse, or
103 neglect, or other dependency cases, within 3 days after such
104 release or within 3 days after delivering the child to an

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105 authorized agent of the department, the law enforcement officer
106 who took the child into custody shall make a full written report
107 to the department.

108 (3) If the child is taken into custody by, or is delivered
109 to, an authorized agent of the department, the agent shall
110 review the facts supporting the removal with an attorney
111 representing the department. The purpose of the review is to
112 determine whether there is probable cause for the filing of a
113 shelter petition.

114 (b) If the facts are sufficient and the child has not been
115 returned to the custody of the parent or legal custodian, the
116 department shall file the petition and schedule a hearing, and
117 the attorney representing the department shall request that a
118 shelter hearing be held within 24 hours after the removal of the
119 child. While awaiting the shelter hearing, the authorized agent
120 of the department may place the child in licensed shelter care,
121 ~~or in a short-term safe house if the child is a sexually~~
122 ~~exploited child~~, or may release the child to a parent or legal
123 custodian or responsible adult relative or the adoptive parent
124 of the child's sibling who shall be given priority consideration
125 over a licensed placement, or a responsible adult approved by
126 the department if this is in the best interests of the child.
127 Placement of a child which is not in a licensed shelter must be
128 preceded by a criminal history records check as required under
129 s. 39.0138. In addition, the department may authorize placement
130 of a housekeeper/homemaker in the home of a child alleged to be

131 dependent until the parent or legal custodian assumes care of
132 the child.

133 Section 3. Section 39.4025, Florida Statutes, is created
134 to read:

135 39.4025 Commercially sexually exploited children.-

136 (1) (a) A child believed to be commercially sexually
137 exploited may only be taken into custody by a law enforcement
138 officer if the officer has probable cause to support a finding
139 that the child has been commercially sexually exploited.

140 (b) The law enforcement officer shall release the child to
141 an authorized agent of the department, who shall immediately
142 transport the child to a facility that has the specialized
143 setting and services for commercially sexually exploited
144 children.

145 (c) The authorized agent of the department shall review
146 the facts supporting the child's placement with the department
147 with an attorney representing the department.

148 (d) The attorney representing the department shall file a
149 shelter petition and request that a shelter hearing be held
150 within 24 hours after the child has been delivered to the
151 department by law enforcement. The authorized agent of the
152 department shall provide notice to the parents or legal
153 custodians of the child in accordance with s. 39.402 (5).

154 (2) (a) At the shelter hearing, the court shall determine
155 whether there is probable cause to believe that the child has
156 been commercially sexually exploited.

157 (b) If the court finds probable cause to believe that the
158 child has been commercially sexually exploited, the court shall
159 appoint an attorney ad litem to represent the child along with a
160 guardian ad litem.

161 (3) (a) Upon the court's placement of the child in the
162 custody of the department, the department shall place the child
163 for 5 days in a protective secure residential treatment program
164 for a protection assessment to be conducted by a qualified
165 examiner appointed by the Agency for Health Care Administration.
166 Such child may be clinically discharged sooner in accordance
167 with the results of the assessment.

168 (b) If the qualified examiner is unable to complete the
169 protection assessment within 5 days, he or she may, within that
170 time period, file a written request, stating good cause, for an
171 extension of time to complete the assessment and shall, in
172 accordance with confidentiality requirements, furnish a copy of
173 the request to all parties. With or without a hearing, the court
174 may grant the extension, for a period not to exceed 10 days
175 after the child's placement in the custody of the department, to
176 complete the assessment.

177 (4) If the qualified examiner concludes in the protection
178 assessment that the child is at high risk of continued sexual
179 exploitation, the child, in accordance with an order of
180 protective placement, shall be placed or shall remain for 21
181 days, unless clinically discharged sooner, in a protective
182 secure residential treatment program for purposes of

183 comprehensive evaluation, stabilization, and treatment. The
184 comprehensive evaluation shall include a suitability assessment
185 for placement pursuant to s. 39.407(6) by a qualified examiner
186 appointed by the Agency for Health Care Administration. An
187 extension of the 21-day period may be obtained only pursuant to
188 an order of the court.

189 (5) In order for a child to meet the criteria for
190 placement in a protective secure residential treatment program,
191 the qualified examiner must conduct a personal examination and
192 assessment of the child pursuant to s. 39.407(6) and produce a
193 report that includes the following findings:

194 (a) The child refused to participate in the assessment,
195 requiring the department to seek an order of the court
196 authorizing the assessment.

197 (b) The child is at risk of continued sexual exploitation,
198 including commercial sexual exploitation.

199 (c)1. The child's age or developmental maturity is such
200 that the child's ability to appreciate his or her risk of harm
201 is impaired;

202 2. The child's judgment has been impaired by trauma such
203 that the child's ability to appreciate his or her risk of harm
204 is impaired;

205 3. The child's judgment has been impaired by alcohol or
206 drug abuse such that the child's ability to appreciate his or
207 her risk of harm is impaired; or

208 4. The child is in need of mental health treatment.

209 (6) (a) The qualified examiner must provide the child with
210 a clinically appropriate explanation of the nature and purpose
211 of the treatment.

212 (b) A copy of the qualified examiner's report must be
213 provided to the department, the attorney ad litem, and the
214 guardian ad litem, all of whom must have the opportunity to
215 discuss the findings with the qualified examiner.

216 (7) Upon the determination by a qualified examiner that
217 the child is at high risk of continued sexual exploitation, the
218 department shall file a petition for dependency under s. 39.501
219 unless the court finds that a parent or legal custodian is
220 willing to regain custody of the child and obtain the necessary
221 treatment needs reported by the qualified examiner.

222 (8) If the child does not meet criteria for placement in a
223 protective secure residential treatment program under s.
224 39.407(6), the protective secure residential treatment program
225 shall prepare a written report within 30 days after the child's
226 admission of its findings and submit the report to the
227 department, the attorney ad litem, and the guardian ad litem.

228 (9) Upon the placement of a child in a protective secure
229 residential treatment program pursuant to s. 39.407(6), the
230 department must notify the attorney ad litem, the guardian ad
231 litem, and the court having jurisdiction over the child and must
232 provide the attorney ad litem, the guardian ad litem, and the
233 court with a copy of the assessment by the qualified examiner.

234 (a) Within 10 days after the admission of a child to a

235 protective secure residential treatment program, the director of
236 the protective secure residential treatment program or the
237 director's designee must ensure that an individualized safety
238 and services plan has been prepared by the program and has been
239 explained to the child, the attorney ad litem, the department,
240 and the guardian ad litem and submitted to the department.

241 1. The child must be involved in the preparation of the
242 plan to the maximum extent feasible, consistent with the child's
243 safety and his or her ability to understand and participate. The
244 guardian ad litem and the child's legal custodian or parent or
245 parents must be involved to the maximum extent feasible,
246 consistent with the child's treatment needs.

247 2. The plan must include a preliminary plan for
248 protection, residential treatment, and aftercare upon completion
249 of residential treatment. The plan must include a specific
250 safety plan and behavioral and emotional goals against which the
251 success of the residential treatment may be measured. A copy of
252 the plan must be provided to the child, the attorney ad litem,
253 the guardian ad litem, and the department.

254 (b) The court must conduct a hearing to review the status
255 of the child's protective secure residential treatment plan no
256 later than 30 days after the child's admission to the protective
257 secure residential treatment program. The court, upon a showing
258 of need, may extend the period of comprehensive evaluation,
259 stabilization, and treatment.

260 (c) After the initial 30-day review, the court must

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261 conduct a review of the child's protective secure residential
262 treatment plan every 90 days.

263 (d) If at any time the court determines that the child is
264 not suitable for continued protective secure residential
265 treatment, the court shall order the department to place the
266 child in the least restrictive setting that is best suited to
267 meet his or her needs.

268 (10) A child who has previously been assessed pursuant to
269 this section and subsequently runs away or is recovered from
270 commercial sexual exploitation by law enforcement shall be
271 reassessed pursuant to this section.

272 (11) The burden of proof at any hearing held under this
273 section shall be by a preponderance of the evidence.

274 (12) The department shall adopt rules for implementing
275 timeframes for the completion of suitability assessments by
276 qualified examiners; a procedure that includes timeframes for
277 completing the 21-day reviews by the qualified examiners of the
278 child's safety which must be submitted to the court; the
279 registration of qualified examiners; the procedure for selecting
280 the examiners to conduct the reviews required under this
281 section; and a reasonable, cost-efficient fee schedule for
282 qualified examiners.

283 Section 4. Section 409.1678, Florida Statutes, is amended
284 to read:

285 409.1678 Safe harbor for children who are victims of
286 commercial sexual exploitation.—

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287 (1) As used in this section, the term:

288 ~~(a)-(d)~~ "Commercially sexually exploited child" means a
289 dependent child who has suffered sexual exploitation as defined
290 in s. 39.01(69)(g)3. ~~39.01(67)(g)~~ and is ineligible for relief
291 and benefits under the federal Trafficking Victims Protection
292 Act, 22 U.S.C. ss. 7101 et seq.

293 ~~(a) "Child advocate" means an employee of a short-term~~
294 ~~safe house who has been trained to work with and advocate for~~
295 ~~the needs of sexually exploited children. The advocate shall~~
296 ~~accompany the child to all court appearances, meetings with law~~
297 ~~enforcement officials, and the state attorney's office and shall~~
298 ~~serve as a liaison between the short-term safe house and the~~
299 ~~court.~~

300 (b) "Safe house" means a living environment that has set
301 aside gender-specific, separate, and distinct living quarters
302 for commercially sexually exploited children who have been
303 adjudicated dependent or delinquent and need to reside in a
304 secure residential facility with staff members who are awake 24
305 hours a day. A safe house shall be operated by a licensed family
306 foster home or residential child-caring agency as defined in s.
307 409.175, including a runaway youth center as defined in s.
308 409.441. Each facility must be appropriately licensed in this
309 state as a residential child-caring agency as defined in s.
310 409.175 and must have applied for accreditation within 1 year
311 after being licensed. A safe house serving children who have
312 been commercially sexually exploited must have available staff

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313 or contract personnel who have the clinical expertise,
314 credentials, and training to provide services identified in
315 paragraph (2) (b).

316 (c) "Secure" means that a facility providing services is
317 supervised 24 hours a day by staff members who are awake while
318 on duty.

319 ~~(e) "Short-term safe house" means a shelter operated by a~~
320 ~~licensed residential child-caring agency as defined in s.~~
321 ~~409.175, including a runaway youth center as defined in s.~~
322 ~~409.441, that has set aside gender-specific, separate, and~~
323 ~~distinct living quarters for sexually exploited children. In~~
324 ~~addition to shelter, the house shall provide services and care~~
325 ~~to sexually exploited children, including food, clothing,~~
326 ~~medical care, counseling, and appropriate crisis intervention~~
327 ~~services at the time they are taken into custody by law~~
328 ~~enforcement officials or department personnel.~~

329 (2) (a) Notwithstanding any other provision of law,
330 pursuant to rules of the department, each circuit of the
331 department shall address the child welfare service needs of
332 commercially sexually exploited children as a component of the
333 circuit's master plan. This determination shall be made in
334 consultation with local law enforcement officials, runaway and
335 homeless youth program providers, local probation departments,
336 local community-based care and social services, local guardians
337 ad litem, public defenders, state attorney's offices, and ~~child~~
338 ~~advocates and services providers who work directly with~~

339 commercially sexually exploited youth.

340 (b) The lead agency, not-for-profit agency, or local
341 governmental entity providing safe-house services is responsible
342 for security, crisis intervention services, general counseling
343 and victim-witness counseling, a comprehensive assessment,
344 residential care, transportation, access to behavioral health
345 services, recreational activities, food, clothing, supplies,
346 infant care, and miscellaneous expenses associated with caring
347 for these children; for necessary arrangement for or provision
348 of educational services, including life skills services and
349 planning services for the successful transition of residents
350 back to the community; and for ensuring necessary and
351 appropriate health care and dental care.

352 (c) This section does not prohibit any provider of these
353 services from appropriately billing Medicaid for services
354 rendered, from contracting with a local school district for
355 educational services, or from obtaining federal or local funding
356 for services provided, as long as two or more funding sources do
357 not pay for the same specific service that has been provided to
358 a child.

359 (d) The lead agency, not-for-profit agency, or local
360 governmental entity providing safe-house services has the legal
361 authority for children served in a safe-house program, as
362 provided in chapter 39 or this chapter, as appropriate, to
363 enroll the child in school, to sign for a driver license for the
364 child, to cosign loans and insurance for the child, to sign for

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365 medical treatment of the child, and to authorize other such
366 activities.

367 (e) All of the services specified in this section may, to
368 the extent possible provided by law and with funding authorized,
369 be available to all commercially sexually exploited children
370 whether they are accessed voluntarily, as a condition of
371 probation, through a diversion program, through a proceeding
372 under chapter 39, or through a referral from a local community-
373 based care or social service agency.

374 (3) The local circuit administrator may, to the extent
375 that funds are available, in conjunction with local law
376 enforcement officials, contract with an appropriate not-for-
377 profit agency having experience working with commercially
378 sexually exploited children to train law enforcement officials
379 who are likely to encounter commercially sexually exploited
380 children in the course of their law enforcement duties on the
381 provisions of this section and how to identify and obtain
382 appropriate services for commercially sexually exploited
383 children. Circuits may work cooperatively to provide such
384 training, and such training may be provided on a regional basis.
385 The department shall assist circuits in obtaining any available
386 funds for the purposes of conducting law enforcement training
387 from the Office of Juvenile Justice and Delinquency Prevention
388 of the United States Department of Justice.

389 (4) The department may adopt rules necessary to administer
390 this section.

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391 Section 5. Subsection (1) of section 39.524, Florida
392 Statutes, is amended to read:

393 39.524 Safe-harbor placement.—

394 (1) Except as provided in s. 39.407 or s. 985.801, a
395 dependent child 6 years of age or older who has been found to be
396 a victim of sexual exploitation as defined in s. 39.01(69)(g)
397 ~~39.01(67)(g)~~ must be assessed for placement in a safe house as
398 provided in s. 409.1678. The assessment shall be conducted by
399 the department or its agent and shall incorporate and address
400 current and historical information from any law enforcement
401 reports; psychological testing or evaluation that has occurred;
402 current and historical information from the guardian ad litem,
403 if one has been assigned; current and historical information
404 from any current therapist, teacher, or other professional who
405 has knowledge of the child and has worked with the child; and
406 any other information concerning the availability and
407 suitability of safe-house placement. If such placement is
408 determined to be appropriate as a result of this assessment, the
409 child may be placed in a safe house, if one is available. As
410 used in this section, the term "available" as it relates to a
411 placement means a placement that is located within the circuit
412 or otherwise reasonably accessible.

413 Section 6. Subsection (6) of section 796.07, Florida
414 Statutes, is amended to read:

415 796.07 Prohibiting prostitution and related acts.—

416 (6) A person who violates paragraph (2)(f) shall be

417 assessed a civil penalty of \$5,000 if the violation results in
 418 any judicial disposition other than acquittal or dismissal. Of
 419 the proceeds from each penalty assessed under this subsection,
 420 the first \$500 shall be paid to the circuit court administrator
 421 for the sole purpose of paying the administrative costs of
 422 treatment-based drug court programs provided under s. 397.334.
 423 The remainder of the penalty assessed shall be deposited in the
 424 Operations and Maintenance Trust Fund of the Department of
 425 Children and Family Services for the sole purpose of funding
 426 safe houses ~~and short-term safe houses~~ as provided in s.
 427 409.1678.

428 Section 7. Subsection (5) of section 960.065, Florida
 429 Statutes, is amended to read:

430 960.065 Eligibility for awards.—

431 (5) A person is not ineligible for an award pursuant to
 432 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that
 433 person is a victim of sexual exploitation of a child as defined
 434 in s. 39.01(69) (g) ~~39.01(67) (g)~~.

435 Section 8. Paragraph (b) of subsection (2) of section
 436 985.115, Florida Statutes, is amended to read:

437 985.115 Release or delivery from custody.—

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

442 (b) Contingent upon specific appropriation, to a shelter

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443 approved by the department or to an authorized agent ~~or short-~~
444 ~~term safe house~~ under s. 39.401(2)(b).

445 Section 9. This act shall take effect July 1, 2014.