

By Senator Braynon

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1 A bill to be entitled
2 An act relating to human trafficking; amending s.
3 39.01, F.S.; redefining the term "sexual abuse of a
4 child" to include human trafficking; amending s.
5 92.56, F.S.; authorizing a defendant who has been
6 charged with specified human trafficking offenses to
7 apply for an order of disclosure of confidential and
8 exempt information; authorizing the court to use a
9 pseudonym, instead of a victim's name, to designate
10 the victim of specified human trafficking offenses;
11 providing that trial testimony for specified human
12 trafficking offenses may be published or broadcast
13 under certain circumstances; amending s. 787.06, F.S.;
14 making technical changes; amending s. 794.024, F.S.;
15 prohibiting a public employee or officer from
16 disclosing specified information about a victim of
17 specified human trafficking offenses; amending s.
18 960.065, F.S.; providing an exception to ineligibility
19 for victim assistance awards to specified victims of
20 human trafficking; amending s. 960.199, F.S.;
21 authorizing the Department of Legal Affairs to provide
22 relocation assistance to a victim of specified human
23 trafficking offenses; requiring the human trafficking
24 offense to be reported to the proper authorities and
25 certified by the state attorney or statewide
26 prosecutor; requiring the state attorney or statewide
27 prosecutor's approval of a rape crisis center's
28 certification that a victim is cooperating with law
29 enforcement officials; providing that the act of human

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30 trafficking must occur under certain circumstances for
31 the victim to be eligible for relocation assistance;
32 providing an effective date.
33

34 Be It Enacted by the Legislature of the State of Florida:
35

36 Section 1. Paragraph (g) of subsection (67) of section
37 39.01, Florida Statutes, is amended to read:

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

40 (67) “Sexual abuse of a child” for purposes of finding a
41 child to be dependent means one or more of the following acts:

42 (g) The sexual exploitation of a child, which includes the
43 act of a child offering to engage in or engaging in
44 prostitution, provided that the child is not under arrest or is
45 not being prosecuted in a delinquency or criminal proceeding for
46 a violation of any offense in chapter 796 based on such
47 behavior; or allowing, encouraging, or forcing a child to:

48 1. Solicit for or engage in prostitution;

49 2. Engage in a sexual performance, as defined by chapter
50 827; or

51 3. Participate in commercial sexual activity ~~the trade of~~
52 ~~sex trafficking~~ as provided in ss. 787.06(3)(g) or (h) and
53 796.035 ~~s. 796.035~~.

54 Section 2. Section 92.56, Florida Statutes, is amended to
55 read:

56 92.56 Judicial proceedings and court records involving
57 sexual offenses and human trafficking.—

58 (1) (a) The confidential and exempt status of criminal

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59 intelligence information or criminal investigative information
60 made confidential and exempt pursuant to s. 119.071(2)(h) must
61 be maintained in court records pursuant to s. 119.0714(1)(h) and
62 in court proceedings, including testimony from witnesses.

63 (b) If a petition for access to such confidential and
64 exempt records is filed with the trial court having jurisdiction
65 over the alleged offense, the confidential and exempt status of
66 such information shall be maintained by the court if the state
67 or the victim demonstrates that:

68 1. The identity of the victim is not already known in the
69 community;

70 2. The victim has not voluntarily called public attention
71 to the offense;

72 3. The identity of the victim has not otherwise become a
73 reasonable subject of public concern;

74 4. The disclosure of the victim's identity would be
75 offensive to a reasonable person; and

76 5. The disclosure of the victim's identity would:

77 a. Endanger the victim because the assailant has not been
78 apprehended and is not otherwise known to the victim;

79 b. Endanger the victim because of the likelihood of
80 retaliation, harassment, or intimidation;

81 c. Cause severe emotional or mental harm to the victim;

82 d. Make the victim unwilling to testify as a witness; or

83 e. Be inappropriate for other good cause shown.

84 (2) A defendant charged with a crime specified ~~described~~ in
85 s. 787.06(3)(a), if the victim is younger than 18 years of age,
86 in s. 787.06(3)(b), (d), (f), (g), or (h), or in chapter 794 or
87 chapter 800, or with child abuse, aggravated child abuse, or

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88 sexual performance by a child as described in chapter 827, may
89 apply to the trial court for an order of disclosure of
90 information in court records held confidential and exempt
91 pursuant to s. 119.0714(1)(h) or maintained as confidential and
92 exempt pursuant to court order under this section. Such
93 identifying information concerning the victim may be released to
94 the defendant or his or her attorney in order to prepare the
95 defense. The confidential and exempt status of this information
96 does ~~may not be construed to~~ prevent the disclosure of the
97 victim's identity to the defendant; however, the defendant may
98 not disclose the victim's identity to any person other than the
99 defendant's attorney or any other person directly involved in
100 the preparation of the defense. A willful and knowing disclosure
101 of the identity of the victim to any other person by the
102 defendant constitutes contempt.

103 (3) The state may use a pseudonym instead of the victim's
104 name to designate the victim of a crime specified ~~described~~ in
105 s. 787.06(3)(a), if the victim is younger than 18 years of age,
106 in s. 787.06(3)(b), (d), (f), (g), or (h), or in chapter 794 or
107 chapter 800, or of child abuse, aggravated child abuse, or
108 sexual performance by a child as described in chapter 827, or
109 any crime involving the production, possession, or promotion of
110 child pornography as described in chapter 847, in all court
111 records and records of court proceedings, both civil and
112 criminal.

113 (4) The protection of this section may be waived by the
114 victim of the alleged offense in a writing filed with the court,
115 in which the victim consents to the use or release of
116 identifying information during court proceedings and in the

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117 records of court proceedings.

118 (5) This section does not prohibit the publication or
119 broadcast of the substance of trial testimony in a prosecution
120 for an offense specified ~~described~~ in s. 787.06(3)(a), if the
121 victim is younger than 18 years of age, in s. 787.06(3)(b), (d),
122 (f), (g), or (h), or in chapter 794 or chapter 800, or for a
123 crime of child abuse, aggravated child abuse, or sexual
124 performance by a child, as described in chapter 827; however,
125 ~~but~~ the publication or broadcast may not include an identifying
126 photograph, an identifiable voice, or the name or address of the
127 victim, unless the victim has consented in writing to the
128 publication and filed such consent with the court or unless the
129 court has declared such records not confidential and exempt as
130 provided for in subsection (1).

131 (6) A willful and knowing violation of this section or a
132 willful and knowing failure to obey a ~~any~~ court order issued
133 under this section constitutes contempt.

134 Section 3. Subsection (3) of section 787.06, Florida
135 Statutes, is amended to read:

136 787.06 Human trafficking.—

137 (3) A ~~Any~~ person who knowingly, or in reckless disregard of
138 the facts, engages in, or attempts to engage in human
139 trafficking, or benefits financially by receiving anything of
140 value from participation in a venture that has subjected a
141 person to human trafficking:

142 (a) Using coercion for labor or services commits a felony
143 of the first degree, punishable as provided in s. 775.082, s.
144 775.083, or s. 775.084.

145 (b) Using coercion for commercial sexual activity commits a

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146 felony of the first degree, punishable as provided in s.
147 775.082, s. 775.083, or s. 775.084.

148 (c) Using coercion for labor or services of an ~~any~~
149 individual who is an unauthorized alien commits a felony of the
150 first degree, punishable as provided in s. 775.082, s. 775.083,
151 or s. 775.084.

152 (d) Using coercion for commercial sexual activity of an ~~any~~
153 individual who is an unauthorized alien commits a felony of the
154 first degree, punishable as provided in s. 775.082, s. 775.083,
155 or s. 775.084.

156 (e) Using coercion for labor or services who does so by the
157 transfer or transport of an ~~any~~ individual from outside this
158 state to within the state commits a felony of the first degree,
159 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

160 (f) Using coercion for commercial sexual activity who does
161 so by the transfer or transport of an ~~any~~ individual from
162 outside this state to within the state commits a felony of the
163 first degree, punishable as provided in s. 775.082, s. 775.083,
164 or s. 775.084.

165 (g) For commercial sexual activity in which a ~~any~~ child
166 younger than ~~under the age of 18 years of age~~ is involved
167 commits a felony of the first degree, punishable by imprisonment
168 for a term of years not exceeding life, or as provided in s.
169 775.082, s. 775.083, or s. 775.084. In a prosecution under this
170 paragraph in which the defendant had a reasonable opportunity to
171 observe the person who was subject to human trafficking, the
172 state is not required to ~~need not~~ prove that the defendant knew
173 that the person was younger than ~~had not attained the age of 18~~
174 years of age.

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175 (h) For commercial sexual activity in which a ~~any~~ child
176 younger than ~~under the age of 15 years of age~~ is involved
177 commits a life felony, punishable as provided in s. 775.082, s.
178 775.083, or s. 775.084. In a prosecution under this paragraph in
179 which the defendant had a reasonable opportunity to observe the
180 person who was subject to human trafficking, the state is not
181 required to ~~need not~~ prove that the defendant knew that the
182 person was younger than ~~had not attained the age of 15 years of~~
183 age.

184
185 For each instance of human trafficking of any individual under
186 this subsection, a separate crime is committed and a separate
187 punishment is authorized.

188 Section 4. Section 794.024, Florida Statutes, is amended to
189 read:

190 794.024 Unlawful to disclose identifying information.—

191 (1) A public employee or officer who has access to the
192 photograph, name, or address of a person who is alleged to be
193 the victim of an offense specified ~~described~~ in this chapter, in
194 s. 787.06(3)(a), if the victim is younger than 18 years of age,
195 in s. 787.06(3)(b), (d), (f), (g), or (h), in chapter 800, or in
196 s. 827.03, s. 827.04, or s. 827.071 may not willfully and
197 knowingly disclose such information ~~it~~ to a person who is not
198 assisting in the investigation or prosecution of the alleged
199 offense or to any person other than the defendant, the
200 defendant's attorney, a person specified in an order entered by
201 the court having jurisdiction of the alleged offense, or
202 organizations authorized to receive such information made exempt
203 by s. 119.071(2)(h), or to a rape crisis center or sexual

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204 assault counselor, as defined in s. 90.5035(1)(b), who will be
205 offering services to the victim.

206 (2) A violation of subsection (1) constitutes a misdemeanor
207 of the second degree, punishable as provided in s. 775.082 or s.
208 775.083.

209 Section 5. Subsection (2) of section 960.065, Florida
210 Statutes, is amended to read:

211 960.065 Eligibility for awards.—

212 (2) A ~~Any~~ claim is ineligible for an award if it is filed
213 by or on behalf of a person who:

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

216 (b) Was engaged in an unlawful activity at the time of the
217 crime upon which the claim for compensation is based, unless the
218 victim was engaged in prostitution as a result of being a victim
219 of human trafficking as described in s. 787.06(3)(b), (d), (f),
220 (g), or (h);

221 (c) Was in custody or confined, regardless of conviction,
222 in a county or municipal detention facility, a state or federal
223 correctional facility, or a juvenile detention or commitment
224 facility at the time of the crime upon which the claim for
225 compensation is based;

226 (d) Has been adjudicated as a habitual felony offender,
227 habitual violent offender, or violent career criminal under s.
228 775.084; or

229 (e) Has been adjudicated guilty of a forcible felony
230 offense as described in s. 776.08~~7~~

231
232 ~~is ineligible for an award.~~

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233 Section 6. Section 960.199, Florida Statutes, is amended to
234 read:

235 960.199 Relocation assistance for victims of sexual battery
236 or human trafficking.—

237 (1) The department may award a one-time payment of up to
238 \$1,500 on any one claim and a lifetime maximum of \$3,000 to a
239 victim of sexual battery as defined in s. 794.011 or of human
240 trafficking as described in s. 787.06(3) (b), (d), (f), (g), or
241 (h) who needs relocation assistance.

242 (2) In order for an award to be granted to a victim for
243 relocation assistance:

244 (a) There must be proof that a sexual battery offense or
245 human trafficking offense as described in s. 787.06(3) (b), (d),
246 (f), (g), or (h) was committed.

247 (b) The sexual battery offense or human trafficking offense
248 as specified in s. 787.06(3) (b), (d), (f), (g), or (h) must be
249 reported to the proper authorities.

250 (c) The victim's need for assistance must be certified by a
251 certified rape crisis center in this state or by the state
252 attorney or statewide prosecutor having jurisdiction over the
253 offense.

254 (d) With the approval of the state attorney or statewide
255 prosecutor, the center's ~~center~~ certification must assert that
256 the victim is cooperating with law enforcement officials, if
257 applicable, and must include documentation that the victim has
258 developed a safety plan.

259 (e) The act of sexual battery or human trafficking as
260 specified in s. 787.06(3) (b), (d), (f), (g), or (h) must be
261 committed in the victim's place of residence or in a location

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262 that would lead the victim to reasonably fear for his or her
263 continued safety in the place of residence.

264 (3) Relocation payments for a sexual battery or human
265 trafficking claim under this section shall be denied if the
266 department has previously approved or paid out a domestic
267 violence relocation claim under s. 960.198 to the same victim
268 regarding the same incident.

269 Section 7. This act shall take effect July 1, 2014.