

By the Committee on Criminal Justice; and Senator Braynon

591-03102-14

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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. 960.065, F.S.;
15 providing an exception to ineligibility for victim
16 assistance awards to specified victims of human
17 trafficking; amending s. 960.199, F.S.; authorizing
18 the Department of Legal Affairs to provide relocation
19 assistance to a victim of specified human trafficking
20 offenses; requiring the human trafficking offense to
21 be reported to the proper authorities and certified by
22 the state attorney or statewide prosecutor; requiring
23 the state attorney or statewide prosecutor's approval
24 of a rape crisis center's certification that a victim
25 is cooperating with law enforcement officials;
26 providing that the act of human trafficking must occur
27 under certain circumstances for the victim to be
28 eligible for relocation assistance; providing an
29 effective date.

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

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

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

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

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

1. Solicit for or engage in prostitution;
2. Engage in a sexual performance, as defined by chapter 827; or
3. Participate in commercial sexual activity ~~the trade of sex trafficking~~ as provided in ss. 787.06(3)(g) or (h) and 796.035 ~~s. 796.035~~.

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

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

(1)(a) The confidential and exempt status of criminal intelligence information or criminal investigative information made confidential and exempt pursuant to s. 119.071(2)(h) must be maintained in court records pursuant to s. 119.0714(1)(h) and

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59 in court proceedings, including testimony from witnesses.

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

65 1. The identity of the victim is not already known in the
66 community;

67 2. The victim has not voluntarily called public attention
68 to the offense;

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

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

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

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

76 b. Endanger the victim because of the likelihood of
77 retaliation, harassment, or intimidation;

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

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

80 e. Be inappropriate for other good cause shown.

81 (2) A defendant charged with a crime specified ~~described~~ in
82 s. 787.06(3)(a), if the victim is younger than 18 years of age,
83 in s. 787.06(3)(b), (d), (f), (g), or (h), or in chapter 794 or
84 chapter 800, or with child abuse, aggravated child abuse, or
85 sexual performance by a child as described in chapter 827, may
86 apply to the trial court for an order of disclosure of
87 information in court records held confidential and exempt

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

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

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

115 (5) This section does not prohibit the publication or
116 broadcast of the substance of trial testimony in a prosecution

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

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

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

133 787.06 Human trafficking.—

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

139 (a) Using coercion for labor or services commits a felony
140 of the first degree, punishable as provided in s. 775.082, s.
141 775.083, or s. 775.084.

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

145 (c) Using coercion for labor or services of an ~~any~~

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146 individual who is an unauthorized alien commits a felony of the
147 first degree, punishable as provided in s. 775.082, s. 775.083,
148 or s. 775.084.

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

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

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

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

172 (h) For commercial sexual activity in which a ~~any~~ child
173 younger than ~~under the age of~~ 15 years of age is involved
174 commits a life felony, punishable as provided in s. 775.082, s.

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175 775.083, or s. 775.084. In a prosecution under this paragraph in
176 which the defendant had a reasonable opportunity to observe the
177 person who was subject to human trafficking, the state is not
178 required to ~~need not~~ prove that the defendant knew that the
179 person was younger than ~~had not attained the age of~~ 15 years of
180 age.

181
182 For each instance of human trafficking of any individual under
183 this subsection, a separate crime is committed and a separate
184 punishment is authorized.

185 Section 4. Subsection (2) of section 960.065, Florida
186 Statutes, is amended to read:

187 960.065 Eligibility for awards.—

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

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

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

197 (c) Was in custody or confined, regardless of conviction,
198 in a county or municipal detention facility, a state or federal
199 correctional facility, or a juvenile detention or commitment
200 facility at the time of the crime upon which the claim for
201 compensation is based;

202 (d) Has been adjudicated as a habitual felony offender,
203 habitual violent offender, or violent career criminal under s.

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204 775.084; or

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

207
208 ~~is ineligible for an award.~~

209 Section 5. Section 960.199, Florida Statutes, is amended to
210 read:

211 960.199 Relocation assistance for victims of sexual battery
212 or human trafficking.-

213 (1) The department may award a one-time payment of up to
214 \$1,500 on any one claim and a lifetime maximum of \$3,000 to a
215 victim of sexual battery as defined in s. 794.011 or of human
216 trafficking as described in s. 787.06(3)(b), (d), (f), (g), or
217 (h) who needs relocation assistance.

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

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

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

226 (c) The victim's need for assistance must be certified by a
227 certified rape crisis center in this state or by the state
228 attorney or statewide prosecutor having jurisdiction over the
229 offense.

230 (d) With the approval of the state attorney or statewide
231 prosecutor, the center's ~~center~~ certification must assert that
232 the victim is cooperating with law enforcement officials, if

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233 applicable, and must include documentation that the victim has
234 developed a safety plan.

235 (e) The act of sexual battery or human trafficking as
236 specified in s. 787.06(3)(b), (d), (f), (g), or (h) must be
237 committed in the victim's place of residence or in a location
238 that would lead the victim to reasonably fear for his or her
239 continued safety in the place of residence.

240 (3) Relocation payments for a sexual battery or human
241 trafficking claim under this section shall be denied if the
242 department has previously approved or paid out a domestic
243 violence relocation claim under s. 960.198 to the same victim
244 regarding the same incident.

245 Section 6. This act shall take effect July 1, 2014.