



694962

576-03727-15

Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to human trafficking; amending s.  
796.07, F.S.; providing enhanced criminal penalties  
for soliciting another to commit prostitution and  
similar offenses; requiring persons convicted of such  
offenses to perform community service and pay for and  
attend an education program; requiring the court to  
impose minimum mandatory terms of incarceration for  
persons convicted two or more times of soliciting  
another to commit prostitution and similar offenses;  
providing for impoundment of a vehicle used in  
soliciting another to commit prostitution and similar  
offenses; providing an opportunity for owners to  
prevent the impoundment or immobilization in certain  
circumstances; amending s. 943.0583, F.S.; providing  
that any court in the circuit in which the petitioner  
was arrested may expunge the criminal history record  
of a victim of human trafficking; requiring a judge to  
allow an advocate to be present with a human  
trafficking victim in an expunction hearing in certain  
circumstances; amending ss. 456.074, 480.041, and  
480.043, F.S.; conforming provisions to changes made  
by the act; providing an effective date.

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

Section 1. Section 796.07, Florida Statutes, is amended to



694962

576-03727-15

28 read:

29 796.07 Prohibiting prostitution and related acts.—

30 (1) As used in this section:

31 (a) "Prostitution" means the giving or receiving of the  
32 body for sexual activity for hire but excludes sexual activity  
33 between spouses.

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

35 (c) "Assignment" means the making of any appointment or  
36 engagement for prostitution or lewdness, or any act in  
37 furtherance of such appointment or engagement.

38 (d) "Sexual activity" means oral, anal, or vaginal  
39 penetration by, or union with, the sexual organ of another; anal  
40 or vaginal penetration of another by any other object; or the  
41 handling or fondling of the sexual organ of another for the  
42 purpose of masturbation; however, the term does not include acts  
43 done for bona fide medical purposes.

44 (2) It is unlawful:

45 (a) To own, establish, maintain, or operate any place,  
46 structure, building, or conveyance for the purpose of lewdness,  
47 assignment, or prostitution.

48 (b) To offer, or to offer or agree to secure, another for  
49 the purpose of prostitution or for any other lewd or indecent  
50 act.

51 (c) To receive, or to offer or agree to receive, any person  
52 into any place, structure, building, or conveyance for the  
53 purpose of prostitution, lewdness, or assignment, or to permit  
54 any person to remain there for such purpose.

55 (d) To direct, take, or transport, or to offer or agree to  
56 direct, take, or transport, any person to any place, structure,



694962

576-03727-15

57 or building, or to any other person, with knowledge or  
58 reasonable cause to believe that the purpose of such directing,  
59 taking, or transporting is prostitution, lewdness, or  
60 assignation.

61 (e) To offer to commit, or to commit, or to engage in,  
62 prostitution, lewdness, or assignation.

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

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

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

70 (i) To purchase the services of any person engaged in  
71 prostitution.

72 (3) (a) In the trial of a person charged with a violation of  
73 this section, testimony concerning the reputation of any place,  
74 structure, building, or conveyance involved in the charge,  
75 testimony concerning the reputation of any person residing in,  
76 operating, or frequenting such place, structure, building, or  
77 conveyance, and testimony concerning the reputation of the  
78 defendant is admissible in evidence in support of the charge.

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

82 (4) (a) A person who violates any provision of this section,  
83 other than paragraph (2) (f), commits:

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



694962

576-03727-15

86 2.~~(b)~~ A misdemeanor of the first degree for a second  
87 violation, punishable as provided in s. 775.082 or s. 775.083.

88 3.~~(e)~~ A felony of the third degree for a third or  
89 subsequent violation, punishable as provided in s. 775.082, s.  
90 775.083, or s. 775.084.

91 (b)~~(5)~~ A person who is charged with a third or subsequent  
92 violation of this section, other than paragraph (2)(f), shall be  
93 offered admission to a pretrial intervention program or a  
94 substance abuse treatment program as provided in s. 948.08.

95 (5)(a) A person who violates paragraph (2)(f) commits:

96 1. A misdemeanor of the first degree for a first violation,  
97 punishable as provided in s. 775.082 or s. 775.083.

98 2. A felony of the third degree for a second violation,  
99 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

100 3. A felony of the second degree for a third or subsequent  
101 violation, punishable as provided in s. 775.082, s. 775.083, or  
102 s. 775.084.

103 (b) In addition to any other penalty imposed, the court  
104 shall order a person convicted of a violation of paragraph  
105 (2)(f) to:

106 1. Perform 100 hours of community service; and

107 2. Pay for and attend an educational program about the  
108 negative effects of prostitution and human trafficking, such as  
109 a sexual violence prevention education program, if such program  
110 exists in the judicial circuit in which the offender is  
111 sentenced.

112 (c) In addition to any other penalty imposed, the court  
113 shall sentence a person convicted of a second or subsequent  
114 violation of paragraph (2)(f) to a minimum mandatory period of



694962

576-03727-15

115 incarceration of 10 days.

116 (d)1. If a person who violates paragraph (2)(f) uses a  
117 vehicle in the course of the violation, the judge, upon the  
118 person's conviction, may issue an order for the impoundment or  
119 immobilization of the vehicle for a period of up to 60 days. The  
120 order of impoundment or immobilization must include the names  
121 and telephone numbers of all immobilization agencies meeting all  
122 of the conditions of s. 316.193(13). Within 7 business days  
123 after the date that the court issues the order of impoundment or  
124 immobilization, the clerk of the court must send notice by  
125 certified mail, return receipt requested, to the registered  
126 owner of the vehicle, if the registered owner is a person other  
127 than the defendant, and to each person of record claiming a lien  
128 against the vehicle.

129 2. The owner of the vehicle may request the court to  
130 dismiss the order. The court must dismiss the order, and the  
131 owner of the vehicle will incur no costs, if the owner of the  
132 vehicle alleges and the court finds to be true any of the  
133 following:

134 a. The owner's family has no other private or public means  
135 of transportation;

136 b. The vehicle was stolen at the time of the offense;

137 c. The owner purchased the vehicle after the offense was  
138 committed, and the sale was not made to circumvent the order and  
139 allow the defendant continued access to the vehicle; or

140 d. The vehicle is owned by the defendant but is operated  
141 solely by employees of the defendant or employees of a business  
142 owned by the defendant.

143 3. If the court denies the request to dismiss the order,



694962

576-03727-15

144 the petitioner may request an evidentiary hearing. If, at the  
145 evidentiary hearing, the court finds to be true any of the  
146 circumstances described in sub-subparagraphs 2.a.-d., the court  
147 must dismiss the order and the owner of the vehicle will incur  
148 no costs.

149 (6) A person who violates paragraph (2) (f) shall be  
150 assessed a civil penalty of \$5,000 if the violation results in  
151 any judicial disposition other than acquittal or dismissal. Of  
152 the proceeds from each penalty assessed under this subsection,  
153 the first \$500 shall be paid to the circuit court administrator  
154 for the sole purpose of paying the administrative costs of  
155 treatment-based drug court programs provided under s. 397.334.  
156 The remainder of the penalty assessed shall be deposited in the  
157 Operations and Maintenance Trust Fund of the Department of  
158 Children and Families for the sole purpose of funding safe  
159 houses and safe foster homes as provided in s. 409.1678.

160 Section 2. Subsections (2) and (7) and paragraph (a) of  
161 subsection (8) of section 943.0583, Florida Statutes, are  
162 amended to read:

163 943.0583 Human trafficking victim expunction.—

164 (2) Notwithstanding any other provision of law, upon the  
165 filing of a petition as provided in this section, any court in  
166 the circuit in which the petitioner was arrested ~~the court of~~  
167 ~~original jurisdiction over the crime sought to be expunged~~ may  
168 order a criminal justice agency to expunge the criminal history  
169 record of a victim of human trafficking who complies with the  
170 requirements of this section so long as the court has  
171 jurisdiction over the class of offense or offenses sought to be  
172 expunged. A petition need not be filed in the court where the



694962

576-03727-15

173 petitioner's criminal proceeding or proceedings originally took  
174 place. This section does not confer any right to the expunction  
175 of any criminal history record, and any request for expunction  
176 of a criminal history record may be denied at the discretion of  
177 the court.

178 (7) (a) In judicial proceedings under this section, a copy  
179 of the completed petition to expunge shall be served upon the  
180 appropriate state attorney or the statewide prosecutor and upon  
181 the arresting agency; however, it is not necessary to make any  
182 agency other than the state a party. The appropriate state  
183 attorney or the statewide prosecutor and the arresting agency  
184 may respond to the court regarding the completed petition to  
185 expunge.

186 (b) The petitioner or the petitioner's attorney may appear  
187 at any hearing under this section telephonically, via video  
188 conference, or by other electronic means.

189 (c) The court shall allow an advocate from a state  
190 attorney's office, law enforcement agency, safe house, or safe  
191 foster home as defined in s. 409.1678(1), or a residential  
192 facility offering services to adult victims of human trafficking  
193 to be present with the petitioner during any court proceedings  
194 or hearings under this section, if the petitioner has made such  
195 a request and the advocate is able to be present.

196 (d) ~~(e)~~ If relief is granted by the court, the clerk of the  
197 court shall certify copies of the order to the appropriate state  
198 attorney or the statewide prosecutor and the arresting agency.  
199 The arresting agency is responsible for forwarding the order to  
200 any other agency listed in the court order to which the  
201 arresting agency disseminated the criminal history record



694962

576-03727-15

202 information to which the order pertains. The department shall  
203 forward the order to expunge to the Federal Bureau of  
204 Investigation. The clerk of the court shall certify a copy of  
205 the order to any other agency that the records of the court  
206 reflect has received the criminal history record from the court.

207 (8) (a) Any criminal history record of a minor or an adult  
208 that is ordered expunged ~~by the court of original jurisdiction~~  
209 ~~over the charges sought to be expunged~~ pursuant to this section  
210 must be physically destroyed or obliterated by any criminal  
211 justice agency having custody of such record, except that any  
212 criminal history record in the custody of the department must be  
213 retained in all cases.

214 Section 3. Paragraph (1) of subsection (5) of section  
215 456.074, Florida Statutes, is amended to read:

216 456.074 Certain health care practitioners; immediate  
217 suspension of license.-

218 (5) The department shall issue an emergency order  
219 suspending the license of a massage therapist or establishment  
220 as defined in chapter 480 upon receipt of information that the  
221 massage therapist, a person with an ownership interest in the  
222 establishment, or, for a corporation that has more than \$250,000  
223 of business assets in this state, the owner, officer, or  
224 individual directly involved in the management of the  
225 establishment has been convicted or found guilty of, or has  
226 entered a plea of guilty or nolo contendere to, regardless of  
227 adjudication, a felony offense under any of the following  
228 provisions of state law or a similar provision in another  
229 jurisdiction:

230 (1) Section 796.07(4)(a)3. ~~796.07(4)(c)~~, relating to a





694962

576-03727-15

231 felony of the third degree for a third or subsequent violation  
232 of s. 796.07, relating to prohibiting prostitution and related  
233 acts.

234 Section 4. Paragraph (1) of subsection (7) of section  
235 480.041, Florida Statutes, is amended to read:

236 480.041 Massage therapists; qualifications; licensure;  
237 endorsement.—

238 (7) The board shall deny an application for a new or  
239 renewal license if an applicant has been convicted or found  
240 guilty of, or enters a plea of guilty or nolo contendere to,  
241 regardless of adjudication, a felony offense under any of the  
242 following provisions of state law or a similar provision in  
243 another jurisdiction:

244 (1) Section 796.07(4)(a)3. ~~796.07(4)(e)~~, relating to a  
245 felony of the third degree for a third or subsequent violation  
246 of s. 796.07, relating to prohibiting prostitution and related  
247 acts.

248 Section 5. Paragraph (1) of subsection (8) of section  
249 480.043, Florida Statutes, is amended to read:

250 480.043 Massage establishments; requisites; licensure;  
251 inspection.—

252 (8) The department shall deny an application for a new or  
253 renewal license if a person with an ownership interest in the  
254 establishment or, for a corporation that has more than \$250,000  
255 of business assets in this state, the owner, officer, or  
256 individual directly involved in the management of the  
257 establishment has been convicted or found guilty of, or entered  
258 a plea of guilty or nolo contendere to, regardless of  
259 adjudication, a felony offense under any of the following



694962

576-03727-15

260 provisions of state law or a similar provision in another  
261 jurisdiction:

262 (1) Section 796.07(4)(a)3. ~~796.07(4)(e)~~, relating to a  
263 felony of the third degree for a third or subsequent violation  
264 of s. 796.07, relating to prohibiting prostitution and related  
265 acts.

266 Section 6. This act shall take effect October 1, 2015.