

By Senator Flores

37-00751A-15

20151106__

1 A bill to be entitled
2 An act relating to human trafficking; amending s.
3 796.07, F.S.; providing enhanced criminal penalties
4 for soliciting another to commit prostitution and
5 similar offenses; requiring persons convicted of such
6 offenses to perform community service and pay for and
7 attend an education program; requiring the court to
8 impose minimum mandatory terms of incarceration for
9 persons convicted two or more times of soliciting
10 another to commit prostitution and similar offenses;
11 providing for impoundment of a vehicle used in
12 soliciting another to commit prostitution and similar
13 offenses; providing an opportunity for owners to
14 prevent the impoundment or immobilization in certain
15 circumstances; amending s. 943.0583, F.S.; providing
16 that a circuit court in the circuit in which the
17 petitioner was arrested may expunge the criminal
18 history record of a victim of human trafficking;
19 requiring a judge to allow an advocate to be present
20 with a human trafficking victim in an expunction
21 hearing in certain circumstances; amending ss.
22 456.074, 480.041, and 480.043, F.S.; conforming
23 provisions to changes made by the act; providing an
24 effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 796.07, Florida Statutes, is amended to
29 read:

37-00751A-15

20151106__

30 796.07 Prohibiting prostitution and related acts.—

31 (1) As used in this section:

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

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

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

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

45 (2) It is unlawful:

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

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

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

56 (d) To direct, take, or transport, or to offer or agree to
57 direct, take, or transport, any person to any place, structure,
58 or building, or to any other person, with knowledge or

37-00751A-15

20151106__

59 reasonable cause to believe that the purpose of such directing,
60 taking, or transporting is prostitution, lewdness, or
61 assignation.

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

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

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

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

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

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

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

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

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

87 2. (b) A misdemeanor of the first degree for a second

37-00751A-15

20151106__

88 violation, punishable as provided in s. 775.082 or s. 775.083.

89 3.~~(e)~~ A felony of the third degree for a third or
90 subsequent violation, punishable as provided in s. 775.082, s.
91 775.083, or s. 775.084.

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

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

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

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

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

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

107 1. Perform 100 hours of community service; and

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

113 (c) In addition to any other penalty imposed, the court
114 shall sentence a person convicted of a second or subsequent
115 violation of paragraph (2)(f) to a minimum mandatory period of
116 incarceration of 10 days.

37-00751A-15

20151106__

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

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

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

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

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

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

144 3. If the court denies the request to dismiss the order,
145 the petitioner may request an evidentiary hearing. If, at the

37-00751A-15

20151106__

146 evidentiary hearing, the court finds to be true any of the
147 circumstances described in sub-subparagraphs 2.a.-d., the court
148 must dismiss the order and the owner of the vehicle will incur
149 no costs.

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

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

164 943.0583 Human trafficking victim expunction.—

165 (2) Notwithstanding any other provision of law, a circuit
166 court in the circuit in which the petitioner was arrested ~~the~~
167 ~~court of original jurisdiction over the crime sought to be~~
168 ~~expunged~~ may order a criminal justice agency to expunge the
169 criminal history record of a victim of human trafficking who
170 complies with the requirements of this section. This section
171 does not confer any right to the expunction of any criminal
172 history record, and any request for expunction of a criminal
173 history record may be denied at the discretion of the court.

174 (7)(a) In judicial proceedings under this section, a copy

37-00751A-15

20151106__

175 of the completed petition to expunge shall be served upon the
176 appropriate state attorney or the statewide prosecutor and upon
177 the arresting agency; however, it is not necessary to make any
178 agency other than the state a party. The appropriate state
179 attorney or the statewide prosecutor and the arresting agency
180 may respond to the court regarding the completed petition to
181 expunge.

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

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

192 (d)~~(e)~~ If relief is granted by the court, the clerk of the
193 court shall certify copies of the order to the appropriate state
194 attorney or the statewide prosecutor and the arresting agency.
195 The arresting agency is responsible for forwarding the order to
196 any other agency listed in the court order to which the
197 arresting agency disseminated the criminal history record
198 information to which the order pertains. The department shall
199 forward the order to expunge to the Federal Bureau of
200 Investigation. The clerk of the court shall certify a copy of
201 the order to any other agency that the records of the court
202 reflect has received the criminal history record from the court.

203 (8) (a) Any criminal history record of a minor or an adult

37-00751A-15

20151106__

204 that is ordered expunged ~~by the court of original jurisdiction~~
205 ~~over the charges sought to be expunged~~ pursuant to this section
206 must be physically destroyed or obliterated by any criminal
207 justice agency having custody of such record, except that any
208 criminal history record in the custody of the department must be
209 retained in all cases.

210 Section 3. Paragraph (1) of subsection (5) of section
211 456.074, Florida Statutes, is amended to read:

212 456.074 Certain health care practitioners; immediate
213 suspension of license.-

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

226 (1) Section 796.07(4)(a)3. ~~796.07(4)(e)~~, relating to a
227 felony of the third degree for a third or subsequent violation
228 of s. 796.07, relating to prohibiting prostitution and related
229 acts.

230 Section 4. Paragraph (1) of subsection (7) of section
231 480.041, Florida Statutes, is amended to read:

232 480.041 Massage therapists; qualifications; licensure;

37-00751A-15

20151106__

233 endorsement.—

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

240 (1) Section 796.07(4)(a)3. ~~796.07(4)(e)~~, relating to a
241 felony of the third degree for a third or subsequent violation
242 of s. 796.07, relating to prohibiting prostitution and related
243 acts.

244 Section 5. Paragraph (1) of subsection (8) of section
245 480.043, Florida Statutes, is amended to read:

246 480.043 Massage establishments; requisites; licensure;
247 inspection.—

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

258 (1) Section 796.07(4)(a)3. ~~796.07(4)(e)~~, relating to a
259 felony of the third degree for a third or subsequent violation
260 of s. 796.07, relating to prohibiting prostitution and related
261 acts.

37-00751A-15

20151106__

262

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