

By the Committee on Appropriations; and Senator Flores

576-04267-15

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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 any court in the circuit in which the petitioner
17 was arrested may expunge the criminal history record
18 of a victim of human trafficking; requiring a judge to
19 allow an advocate to be present with a human
20 trafficking victim in an expunction hearing in certain
21 circumstances; amending ss. 456.074, 480.041, and
22 480.043, F.S.; conforming provisions to changes made
23 by the act; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 796.07, Florida Statutes, is amended to
28 read:

29 796.07 Prohibiting prostitution and related acts.—

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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,
57 or building, or to any other person, with knowledge or
58 reasonable cause to believe that the purpose of such directing,

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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.

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.

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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
115 incarceration of 10 days.

116 (d) 1. If a person who violates paragraph (2)(f) uses a

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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,
144 the petitioner may request an evidentiary hearing. If, at the
145 evidentiary hearing, the court finds to be true any of the

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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 if the court has jurisdiction over
171 the class of offense or offenses sought to be expunged. A
172 petition need not be filed in the court where the petitioner's
173 criminal proceeding or proceedings originally took place. This
174 section does not confer any right to the expunction of any

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175 criminal history record, and any request for expunction of a
176 criminal history record may be denied at the discretion of the
177 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
202 information to which the order pertains. The department shall
203 forward the order to expunge to the Federal Bureau of

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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)(e)~~, relating to a
231 felony of the third degree for a third or subsequent violation
232 of s. 796.07, relating to prohibiting prostitution and related

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

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262 (1) Section 796.07(4)(a)3. ~~796.07(4)(c)~~, 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.