

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
 ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
 ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
 FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
 WITHDRAWN \_\_\_\_\_ (Y/N)  
 OTHER \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Criminal Justice  
 2 Subcommittee  
 3 Representative Spano offered the following:  
 4

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsections (4), (5), and (6) of section  
 8 796.07, Florida Statutes, are amended to read:

9 796.07 Prohibiting prostitution and related acts.—

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

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

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

Amendment No. 1

16 3.(e) A felony of the third degree for a third or  
17 subsequent violation, punishable as provided in s. 775.082, s.  
18 775.083, or s. 775.084.

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

23 (6)(a) A person who violates paragraph (2)(f) commits:

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

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

28 3. A felony of the second degree for a third or subsequent  
29 violation, punishable as provided in s. 775.082, s. 775.083, or  
30 s. 775.084.

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

34 1. Perform 100 hours of community service; and

35 2. Pay for and attend an educational program about the  
36 negative effects of prostitution and human trafficking, such as  
37 a sexual violence prevention education program, if such program  
38 exists in the judicial circuit in which the offender is  
39 sentenced.

40 (c) In addition to any other penalty imposed, the court  
41 shall sentence a person convicted of a second or subsequent

Amendment No. 1

42 violation of paragraph (2)(f) to a minimum mandatory period of  
43 incarceration of 10 days.

44 (d)1. If a person who violates paragraph (2)(f) uses a  
45 vehicle in the course of the violation, the judge, upon the  
46 person's conviction, may issue an order for the impoundment or  
47 immobilization of the vehicle for a period of up to 60 days. The  
48 order of impoundment or immobilization must include the names  
49 and telephone numbers of all immobilization agencies meeting all  
50 of the conditions of s. 316.193(13). Within 7 business days  
51 after the date that the court issues the order of impoundment or  
52 immobilization, the clerk of the court must send notice by  
53 certified mail, return receipt requested, to the registered  
54 owner of the vehicle, if the registered owner is a person other  
55 than the defendant, and to each person of record claiming a lien  
56 against the vehicle.

57 2. The owner of the vehicle may request the court to  
58 dismiss the order. If the owner of the vehicle alleges and the  
59 court finds to be true any of the following, the court must  
60 dismiss the order, and the owner of the vehicle will incur no  
61 costs:

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

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

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

Amendment No. 1

68 d. The vehicle is owned by the defendant but is operated  
69 solely by employees of the defendant or employees of a business  
70 owned by the defendant.

71 3. If the court denies the request to dismiss the order,  
72 the petitioner may request an evidentiary hearing. If, at the  
73 evidentiary hearing, the court finds to be true any of the  
74 circumstances described in sub-subparagraphs (d)2.a.-d., the  
75 court must dismiss the order and the owner of the vehicle will  
76 incur no costs.

77 (7)-(6) A person who violates paragraph (2) (f) shall be  
78 assessed a civil penalty of \$5,000 if the violation results in  
79 any judicial disposition other than acquittal or dismissal. Of  
80 the proceeds from each penalty assessed under this subsection,  
81 the first \$500 shall be paid to the circuit court administrator  
82 for the sole purpose of paying the administrative costs of  
83 treatment-based drug court programs provided under s. 397.334.  
84 The remainder of the penalty assessed shall be deposited in the  
85 Operations and Maintenance Trust Fund of the Department of  
86 Children and Families for the sole purpose of funding safe  
87 houses and safe foster homes as provided in s. 409.1678.

88 Section 2. Subsections (2) and (7) and paragraph (a) of  
89 subsection (8) of section 943.0583, Florida Statutes, are  
90 amended to read:

91 943.0583 Human trafficking victim expunction.—

92 (2) Notwithstanding any other provision of law, a circuit  
93 court in the circuit in which the petitioner was arrested ~~the~~

Amendment No. 1

94 ~~court of original jurisdiction over the crime sought to be~~  
95 ~~expunged~~ may order a criminal justice agency to expunge the  
96 criminal history record of a victim of human trafficking who  
97 complies with the requirements of this section. This section  
98 does not confer any right to the expunction of any criminal  
99 history record, and any request for expunction of a criminal  
100 history record may be denied at the discretion of the court.

101 (7) (a) In judicial proceedings under this section, a copy  
102 of the completed petition to expunge shall be served upon the  
103 appropriate state attorney or the statewide prosecutor and upon  
104 the arresting agency; however, it is not necessary to make any  
105 agency other than the state a party. The appropriate state  
106 attorney or the statewide prosecutor and the arresting agency  
107 may respond to the court regarding the completed petition to  
108 expunge.

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

112 (c) The court shall allow an advocate from a state  
113 attorney's office, law enforcement agency, safe house or safe  
114 foster home as defined in s. 409.1678(1), or a residential  
115 facility offering services to adult victims of human trafficking  
116 to be present with the petitioner during any court proceedings  
117 or hearings under this section, provided the petitioner has made  
118 such a request and the advocate is able to be present.

## Amendment No. 1

119 (d) ~~(e)~~ If relief is granted by the court, the clerk of the  
120 court shall certify copies of the order to the appropriate state  
121 attorney or the statewide prosecutor and the arresting agency.  
122 The arresting agency is responsible for forwarding the order to  
123 any other agency listed in the court order to which the  
124 arresting agency disseminated the criminal history record  
125 information to which the order pertains. The department shall  
126 forward the order to expunge to the Federal Bureau of  
127 Investigation. The clerk of the court shall certify a copy of  
128 the order to any other agency that the records of the court  
129 reflect has received the criminal history record from the court.

130 (8)(a) Any criminal history record of a minor or an adult  
131 that is ordered expunged ~~by the court of original jurisdiction~~  
132 ~~over the charges sought to be expunged~~ pursuant to this section  
133 must be physically destroyed or obliterated by any criminal  
134 justice agency having custody of such record, except that any  
135 criminal history record in the custody of the department must be  
136 retained in all cases.

137 Section 3. This act shall take effect October 1, 2015.

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**T I T L E   A M E N D M E N T**

141 Remove everything before the enacting clause and insert:  
142 An act relating to human trafficking; amending s. 796.07, F.S.;  
143 providing enhanced criminal penalties for soliciting another to  
144 commit prostitution and similar offenses; requiring persons

## Amendment No. 1

145 convicted of such offenses to perform community service and pay  
146 for and attend an education program; requiring the court to  
147 impose minimum mandatory terms of incarceration for persons  
148 convicted two or more times of soliciting another to commit  
149 prostitution and similar offenses; providing for impoundment of  
150 a vehicle used in soliciting another to commit prostitution and  
151 similar offenses; providing an opportunity for owners to prevent  
152 the impoundment or immobilization in certain circumstances;  
153 amending s. 943.0583, F.S.; providing that a circuit court in  
154 the circuit in which the petitioner was arrested may expunge the  
155 criminal history record of a victim of human trafficking;  
156 requiring a judge to allow an advocate to be present with a  
157 human trafficking victim in an expunction hearing; providing an  
158 effective date.