

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; providing an
22 effective date.

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

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

27 read:

28 796.07 Prohibiting prostitution and related acts.—

29 (1) As used in this section:

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

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

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

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

43 (2) It is unlawful:

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

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

50 (c) To receive, or to offer or agree to receive, any
51 person into any place, structure, building, or conveyance for
52 the purpose of prostitution, lewdness, or assignation, or to

53 permit any person to remain there for such purpose.

54 (d) To direct, take, or transport, or to offer or agree to
55 direct, take, or transport, any person to any place, structure,
56 or building, or to any other person, with knowledge or
57 reasonable cause to believe that the purpose of such directing,
58 taking, or transporting is prostitution, lewdness, or
59 assignation.

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

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

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

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

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

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

88 3.(c) 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
 97 violation, 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
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
146 circumstances described in sub-subparagraphs (d)2.a.-d., the
147 court must dismiss the order and the owner of the vehicle will
148 incur 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, a circuit
165 court in the circuit in which the petitioner was arrested ~~the~~
166 ~~court of original jurisdiction over the crime sought to be~~
167 ~~expunged~~ may order a criminal justice agency to expunge the
168 criminal history record of a victim of human trafficking who
169 complies with the requirements of this section. This section
170 does not confer any right to the expunction of any criminal
171 history record, and any request for expunction of a criminal
172 history record may be denied at the discretion of the court.

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

181 (b) The petitioner or the petitioner's attorney may appear
182 at any hearing under this section telephonically, via video

183 conference, or by other electronic means.

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

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

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

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