

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL: CS/SB 784

INTRODUCER: Criminal Justice Committee and Senator Flores

SUBJECT: Human Trafficking

DATE: February 10, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Harkness</u>	<u>Sadberry</u>	<u>ACJ</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 784 addresses human trafficking and offenses that are often associated with human trafficking by:

- Reclassifying the felony degree of human trafficking offenses under s. 787.06, F.S., which increases the maximum penalty of these offenses, if the victim suffers great bodily harm, permanent disability, or permanent disfigurement;
- Clarifying that the offense of branding a victim of human trafficking is for the purpose of committing or facilitating a human trafficking offense under s. 797.06, F.S.;
- Adding human trafficking as a predicate (qualifying) felony for first degree murder in the commission of a felony;
- Increasing from a second degree misdemeanor (maximum penalty of 60 days in jail) to a first degree misdemeanor (up to one year in jail) a first violation of s. 796.06, F.S. (renting space to be used for lewdness, assignation, prostitution), and increasing from a first degree misdemeanor to a third degree felony (maximum penalty of 5 years in state prison) a second or subsequent violation of that statute;
- Amending s. 796.07, F.S. (prostitution and related acts), to:
 - Remove minors from being prosecuted for prostitution, lewdness, or assignation under s. 796.07, F.S.;
 - Specify that programs offered by faith-based providers are included in a required educational program on the negative effects of prostitution and human trafficking (applicable to offenders sentenced for soliciting prostitution or related acts) if such programs exist in the judicial circuit; and

- Reclassify the misdemeanor or felony degree of a violation of s. 796.07, F.S., if the place, structure, building, or conveyance that is owned, established, maintained, or operated in violation of the statute is a massage establishment that is or should be licensed under s. 480.043, F.S.;
- Requiring the Department of Health to issue an emergency order suspending the license of a massage therapist of the massage establishment if the therapist, establishment owner, etc., committed a reclassified violation of s. 796.07, F.S.;
- Requiring the Board of Massage Therapy to deny an application for a new or renewal massage therapist license if the applicant has committed a reclassified violation of s. 796.07, F.S.;
- Requiring the Department of Health to deny an application for a new or renewal massage establishment license if the applicant has committed a reclassified violation of s. 796.07, F.S.;
- Consistent with removing minors from being prosecuted for a violation of s. 796.07, F.S., involving prostitution, lewdness, or assignation, removing language regarding arrest or prosecution of a minor for these offenses from the definition “sexual abuse of a child” in ch. 39, F.S. (child dependency); and
- Adding racketeering to the list of the offenses that may require a person to register as a sexual predator or sexual offender if the court makes a written finding that the racketeering activity involved at least one registration-qualifying sexual offense or one registration-qualifying offense with sexual intent or motive.

The Criminal Justice Impact Conference (CJIC) reviewed CS/SB 784 on January 29, 2016 and concluded that the bill has an overall positive, but insignificant, impact on prison beds. As a result, the bill, as filed, has no significant fiscal impact to the state. CS/SB 784 amends multiple statutes and therefore has varying effects on state prison beds. See Section V.

The bill has an effective date of October 1, 2016.

II. Present Situation:

Human Trafficking

Section 787.06, F.S., punishes human trafficking, which the statute defines as the “transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person.” The statute contains a variety of provisions prohibiting persons from knowingly engaging in human trafficking using labor or services or for commercial sexual activity.¹

Relevant to the bill, s. 787.06(4)(b), F.S., provides that it is a second degree felony for a person to permanently brand,² or direct to be branded, a victim of an offense under s. 787.06, F.S.

¹ See s. 787.06(3) and (4), F.S.

² Section 787.06(4)(b), F.S., defines permanently brand as a mark on the body that can only be removed or repaired by surgical means, laser treatment or other medical procedure.

Felony Murder

Florida law punishes felony murder. Section 782.04(1)(a)2., F.S., defines first degree murder as including the unlawful killing of a human being when committed by a person engaged in the perpetration of, or in the attempt to perpetrate any offense listed in this subparagraph, such as drug trafficking, arson, or sexual battery. Currently, human trafficking is not a listed offense.

First degree murder is a capital felony punishable by death if the proceeding held to determine the sentence according to the procedure set forth in s. 921.141, F.S.,³ results in findings by the court that such person be punished by death. If such proceeding results in findings by the court that the person not be punished by death, such person must be punished by life imprisonment and is ineligible for parole.

Massage Therapist and Massage Establishment Licensing

Chapter 480, F.S., entitled the “Massage Practice Act” (Act), governs the practice of massage⁴ in Florida. A significant portion of the Act is dedicated to regulating massage establishments, which are defined as “a site or premises, or portion thereof, wherein a massage therapist practices massage.”⁵

Massage establishments may only operate if they have applied for and received a license from the Department of Health (DOH) in accordance with rules adopted by the Board of Massage Therapy (Board).⁶ The Board’s rules:

- Govern the operation of massage establishments and their facilities, personnel, safety and sanitary requirements, financial responsibility, and insurance coverage;
- Require the DOH to inspect a proposed massage establishment upon receipt of an application for licensure to ensure that the site is to be utilized for massage; and
- Require the DOH to periodically inspect licensed massage establishments at least once a year.⁷

In order to be licensed as a massage therapist, an applicant must:

- Be at least 18 years of age or have received a high school diploma or graduate equivalency diploma;

³ Section 921.141, F.S., requires a court, upon conviction or adjudication of guilt of a defendant of a capital felony, to conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment. The proceeding must be conducted by the trial judge before the trial jury as soon as practicable. After hearing all the evidence, the jury must deliberate and render an advisory sentence to the court, based upon specified aggravating and mitigating circumstances. Notwithstanding the recommendation of a majority of the jury, the court, after weighing the aggravating and mitigating circumstances, must enter a sentence of life imprisonment or death, but if the court imposes a sentence of death, it must set forth in writing its findings upon which the sentence of death is based. However, the United States Supreme Court recently held that Florida’s capital sentencing scheme violates the Sixth Amendment of the United States Constitution. See *Hurst v. Florida*, Case No. 14–7505 (January 12, 2016) (Slip. Op.), available at http://www.supremecourt.gov/opinions/15pdf/14-7505_5ie6.pdf (last visited on January 25, 2016).

⁴ The term “massage” is defined as the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation. Section 480.033(3), F.S.

⁵ Section 480.033(7), F.S.

⁶ Section 480.043(1), F.S.

⁷ See Rules 64B7-26.003, 64B7-26.004, and 64B7-26.005, F.A.C.

- Complete a course of study at a massage school or apprentice program approved by the Board;
- Pass an examination; and
- Submit to a background screening.⁸

In addition to practicing massage therapy in a licensed massage establishment, a massage therapist may practice at a client's residence or office, at a sports event, or at a convention or trade show.⁹

The DOH must issue an emergency order suspending the license of a massage therapist or massage establishment upon information that the therapist, a person with ownership interest in the establishment, or other specified person¹⁰ has committed a listed offense, e.g., a violation of s. 787.06, F.S. (human trafficking), and s. 796.07(4)(c), F.S. (third or subsequent violation of s. 796.07, F.S., relating to prostitution and related acts).¹¹

The Board must deny an application for a new or renewal massage therapist license if the applicant has committed a listed offense (essentially the same list of offenses that requires an emergency license-suspension order).¹² Similarly, the DOH must deny an application for a new or renewal massage establishment license if the applicant has committed a listed offense (essentially the same list of offenses that requires an emergency license-suspension order).¹³

Additionally, Florida law prohibits sexual misconduct¹⁴ in the practice of massage therapy.¹⁵ In 2013, the Legislature passed legislation to restrict the practice of illicit sex acts at massage establishments by limiting the hours a massage establishment may be open at night.¹⁶

Renting and Using Space for Lewdness, Assignment, or Prostitution

Section 796.06(1), F.S., provides that it is unlawful for any person to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used for the purpose of lewdness, assignment,¹⁷ or prostitution. Section 796.06(2), F.S., provides that a first violation of s. 796.06, F.S., is a second degree misdemeanor; a second or subsequent violation is a first degree misdemeanor.

⁸ Sections 480.041, and 480.042, F.S.

⁹ Section 480.046(1)(n), F.S.

¹⁰ For a corporation that has more than \$250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of the establishment. Section 456.074(5), F.S.

¹¹ Id.

¹² Section 480.041(7), F.S.

¹³ Section 480.03(8), F.S.

¹⁴ "Sexual misconduct in the practice of massage therapy means violation of the massage therapist-patient relationship through which the massage therapist uses that relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient." Section 480.0485, F.S.

¹⁵ Id.

¹⁶ Ch. 2013-212, L.O.F. Section 480.0475(1), F.S., provides that a person may not operate a massage establishment between the hours of midnight and 5 a.m., with exceptions. A person who violates this subsection commits a first degree misdemeanor but any subsequent violations is a third degree felony. Section 480.0475(3), F.S.

¹⁷ The term "assignment" is not defined in statute. In the context of s. 796.06, F.S., it is essentially setting up an appointment or meeting for prostitution or related acts punished by the statute.

Prostitution

Section 796.07(2), F.S., punishes engaging in prostitution and related acts. Currently both minors and adults may be charged with engaging in prostitution, lewdness, or assignation.¹⁸

Relevant to the bill, s. 787.07(2)(f), F.S., punishes soliciting, inducing, enticing, or procuring another to commit prostitution, lewdness, or assignation. Section 796.07(5), F.S., in part, provides that in addition to any other penalty imposed, the court shall order a person convicted of a violation of paragraph (2)(f) to pay for and attend an educational program about the negative effects of prostitution and human trafficking, such as a sexual violence prevention education program, if such program exists in the judicial circuit in which the offender is sentenced.

In 2014, the Legislature amended ch. 796, F.S.¹⁹ One of the amendments was the creation of s. 796.001, F.S., which provides:

It is the intent of the Legislature that adults who involve minors in any behavior prohibited under this chapter be prosecuted under other laws of this state, such as, but not limited to, s. 787.06, chapter 794, chapter 800, s. 810.145, chapter 827, and chapter 847. The Legislature finds that prosecution of such adults under this chapter is inappropriate since a minor is unable to consent to such behavior.

This legislation also repealed the following provisions from ch. 796, F.S.:

- Procuring persons under age 18 for prostitution;
- Selling or buying of minors into prostitution; and
- Reclassifying prostitution violations involving minors.

Sexual Predator and Sexual Offender Registration

Florida law requires certain persons to register as a sexual predator or sexual offender. A person is designated by a court to be a sexual predator and administratively determined to be a sexual offender by the Florida Department of Law Enforcement (FDLE). In very general terms, the distinction between a sexual predator and a sexual offender depends on what offense the person has been convicted of, whether the person has previously been convicted of a sexual offense, and the date the offense occurred.²⁰

A sexual predator or sexual offender must comply with a number of registration requirements.²¹ Most of these requirements relate to the registration of particular identifying and residence information but other information may also be required (e.g., vehicular information, attendance at an institution of higher education, and temporarily or permanently departing from or reentering this state). The agency to which the person reports this information is determined by

¹⁸ Section 796.07(2)(e), F.S.

¹⁹ Ch 2014-160, L.O.F.

²⁰ See ss. 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S.

²¹ *Id.* Failure to comply with these requirements is generally a third degree felony. See ss. 775.21, 943.0435, and 985.4815, F.S.

the person's status or the type of information that has to be reported. For example, if the person is not in the custody of or under the supervision of the Department of Corrections, Department of Juvenile Justice, or Department of Children and Families (civilly-confined violent sexual predators), he or she would report, in most circumstances, to the local sheriff's office. An exception would be reporting to the Department of Highway Safety and Motor Vehicles to obtain or renew a driver license or state identification card (or to update information relevant to the license or card).

Information reported by registered sexual predators and sexual offenders is provided to the FDLE and entered in a statewide database. The FDLE maintains a website that makes available to the public some of this information (e.g., identifying information, residence information, and registration-qualifying sexual offense or offenses).²²

III. Effect of Proposed Changes:

The bill, which takes effect October 1, 2016, addresses human trafficking and offenses often associated with human trafficking, in the following manner:

Human Trafficking

The bill amends s. 787.06, F.S., the human trafficking statute, to reclassifying the felony degree of human trafficking offenses under s. 787.06, F.S., which increases the maximum penalty of these offenses, if the victim suffers great bodily harm, permanent disability, or permanent disfigurement. The offense is reclassified as follows:

- A second degree felony²³ is reclassified as a first degree felony;²⁴ and
- A first degree felony is reclassified as a life felony.²⁵

Section 787.06, F.S., is also amended to clarify that the offense of branding a victim of human trafficking is for the purpose of committing or facilitating a human trafficking offense under that statute.

Felony Murder

The bill amends s. 782.04(1)(a)2., F.S., to add human trafficking as a predicate (qualifying) felony for first degree murder in the commission of a felony.

Renting and Using Space for Lewdness, Assignment, or Prostitution

The bill amends s. 796.06(2), F.S., to increase from a second degree misdemeanor (maximum penalty of 60 days in jail) to a first degree misdemeanor (up to one year in jail) a first violation of s. 796.06, F.S. (renting space to be used for lewdness, assignment, prostitution), and increase

²² See <https://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on January 20, 2016).

²³ The maximum penalty is 15 years in state prison. Section 775.082, F.S.

²⁴ The maximum penalty is generally 30 years in state prison. Section 775.082, F.S.

²⁵ The maximum penalty is generally life imprisonment or a terms of years not exceeding life imprisonment. Section 775.082, F.S.

from a first degree misdemeanor to a third degree felony (maximum penalty of five years in state prison) a second or subsequent violation of that statute.

Prostitution

The bill amends s. 796.07(2)(e), F.S., to provide that only an adult may be charged under the statute with engaging in prostitution, lewdness, or assignation.

As previously noted s. 796.07(2)(f), F.S., provides that it is unlawful to solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation. Section 796.07(5), F.S., in part, provides that in addition to any other penalty imposed, the court shall order a person convicted of a violation of paragraph (2)(f) to pay for and attend an educational program about the negative effects of prostitution and human trafficking, such as a sexual violence prevention education program, if such program exists in the judicial circuit in which the offender is sentenced. The bill specifies that an educational program includes such programs offered by faith-based providers (if they exist in the judicial circuit in which the offender is sentenced).

The bill also amends s. 796.07, F.S., to reclassify the misdemeanor or felony degree of a violation of s. 796.07, F.S., if the place, structure, building, or conveyance that is owned, established, maintained, or operated in violation of the statute is a massage establishment that is or should be licensed under s. 480.043, F.S. The reclassification is as follows:

- A second degree misdemeanor for a first violation is reclassified as a first degree misdemeanor;
- A first degree misdemeanor for a second violation is reclassified as a third degree felony;²⁶ and
- A third degree felony for a third or subsequent violation is reclassified as a second degree felony.

Consistent with removing minors from being prosecuted for a violation of s. 796.07, F.S., involving prostitution, lewdness, or assignation, the bill removes language regarding arrest or prosecution of a minor for these offenses from the definition “sexual abuse of a child” in s. 39.01, F.S., the definitions section of ch. 39, F.S. (child dependency).

Massage Therapist and Massage Establishment Licensing

The bill amends s. 456.074(5), F.S., to require the Department of Health to issue an emergency order suspending the license of a massage therapist of the massage establishment if the therapist, establishment owner, etc., committed a reclassified violation of s. 796.07, F.S.

The bill amends s. 480.041(7), F.S., to requiring the Board of Massage Therapy to deny an application for a new or renewal massage therapist license if the applicant has committed a reclassified violation of s. 796.07, F.S.

²⁶ The maximum penalty is five years in state prison. Section 775.082, F.S. However, if the third degree is not a forcible felony and if the total sentence points pursuant to s. 921.0024, F.S., are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction, unless the court makes written findings that a nonstate prison sanction could present a danger to the public. Section 775.082(10), F.S.

The bill amends s. 480.043(8), F.S., to require the Department of Health to deny an application for a new or renewal massage establishment license if the applicant has committed a reclassified violation of s. 796.07, F.S.

Sexual Predator and Sexual Offender Registration

The bill amends the list of offenses in ss. 775.21, 943.0435, 944.606, and 944.707, F.S., which are relevant qualifying offenses for purposes of designation as a sexual predator or classification as a sexual offender and for registration requirements applicable to those offenders. The bill adds the following additional qualifying offense: racketeering (s. 895.03, F.S.) where the court has made a written finding that the racketeering activity involved at least one sexual offense in the list of qualifying offenses or at least one offense in the list with sexual intent or motive.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), which provides the official estimate of the prison bed impact, reviewed SB 784 on January 29, 2016 and concluded that the bill, as filed, has an overall positive, but insignificant, impact on prison beds. As a result, the bill, as filed, has no significant fiscal impact to the state. CS/SB 784 amends multiple statutes and therefore has varying effects on state prison beds.

The bill:

- Amends s. 782.04(1)(a)2., F.S., to make it a first degree murder when an unlawful killing is committed by a person engaged in the perpetration of human trafficking. In Fiscal Year 2014-2015, there were 12 offenders sentenced under s. 787.06, F.S.

(human trafficking), and 9 of these offenders were sentenced to prison (average sentence length 149.3 months). None of those sentenced to prison were charged with the additional offense of first degree murder. Furthermore, no offender sent to prison for manslaughter or murder had an additional charge of human trafficking. The CJIC estimated that this provision has a positive, but insignificant, impact on prison beds.

- Amends s. 787.06(4)(b), F.S., to clarify that a person can only be convicted of branding a victim of human trafficking if it is for the purpose of committing or facilitating an offense of human trafficking. In Fiscal Year 2014-2015, there were no offenders sentenced under s. 787.06(4)(b), F.S. The CJIC estimated that this provision has a negative, but insignificant, impact on prison beds.
- Amends s. 787.06, F.S., to provide that if a human trafficking offense causes great bodily harm, permanent disability, or permanent disfigurement to another person during the commission of the offense, the degree of that offense will be reclassified as follows: second degree felony increased to a first degree felony and a first degree felony increased to a life felony. In Fiscal Year 2014-2015, there were 12 offenders sentenced under s. 787.06, F.S. (human trafficking), and nine of these offenders were sentenced to prison (average sentence length 149.3 months). Two offenders were charged with felony battery in addition to human trafficking, and one was charged with domestic battery. The CJIC estimated that this provision has a positive, but insignificant, impact on prison beds.
- Amends s. 796.06(2)(b), F.S., to increase the current first degree misdemeanor to an unranked third degree felony for a second or subsequent violation of renting space to be used for lewdness, assignation, or prostitution. In Fiscal Year 2014-2015, of the eight convictions and one adjudication withheld for violating s. 796.06, F.S., all were second degree misdemeanors and none were repeat offenders. In Fiscal Year 2014-2015, the incarceration rate for an unranked third degree felony was 9.9 percent. The CJIC estimated that this provision has a positive, but insignificant, impact on prison beds.
- Amends s. 796.07(2)(a), F.S., to reclassify the second degree misdemeanor offense as a first degree misdemeanor for a first violation, a first degree misdemeanor as an unranked third degree felony for a second violation, and the third degree felony as a second degree felony for a third or subsequent violation, if the place, structure, building, or conveyance that is owned, established, maintained, or operated for prostitution is a massage establishment required to be licensed under s. 480.043, F.S. In Fiscal Year 2014-2015, there were no guilty/convicted counts and two adjudication withheld counts for violating s. 796.07(2)(a), F.S. The CJIC estimated that this provision has a positive, but insignificant, impact on prison beds.
- Amends s. 796.07(2)(e), F.S., to specify that only adults may be charged with the offense of offering to commit, or to commit, or to engage in, prostitution, lewdness, or assignation. This offense is currently a second degree misdemeanor for a first violation, a first degree misdemeanor for a second violation, and an unranked third degree felony for a third or subsequent violation. In Fiscal Year 2014-2015, there was one guilty/convicted count and one adjudication withheld count for violating s. 796.07(2)(e), F.S. In Fiscal Year 2014-2015, there were no offenders sentenced for committing the offense of prostitution for a third or subsequent violation while under 18 years of age. The CJIC estimated that this provision has a negative, but insignificant, impact on prison beds.

- Amends ss. 775.21, 943.0435, 944.606, and 944.607, F.S., to add the offense of s. 895.03, F.S. (racketeering) to the qualifying offenses for sexual offender and sexual predator if the court has made written findings that the racketeering activity involved at least one sexual offense included in the definition of sexual predator or sexual offender or the offense involved sexual intent or motive. This change adds these offenders to the pool of offenders who could potentially commit sexual offender/predator registration-related offenses. In Fiscal Year 2014-2015, there were 12 offenders sentenced under s. 787.06, F.S. (human trafficking), and nine of these offenders were sentenced to prison (mean sentence length 149.3 months) and one was sentenced to prison with both racketeering and sexual offenses. The CJIC estimated that this provision has a positive, but insignificant, impact on prison beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.01, 456.074, 480.041, 480.043, 782.04, 787.06, 796.06, 796.07, 775.21, 943.0435, 944.606, and 944.607.

The bill reenacts provisions of the following sections of the Florida Statutes: 39.0139, 39.509, 39.806, 60.05, 63.089, 63.092, 68.07, 92.55, 95.11, 322.141, 394.495, 394.912, 394.9125, 397.4872, 409.1678, 775.082, 775.0823, 775.0862, 775.0877, 775.13, 775.15, 775.21, 775.24, 775.25, 775.261, 782.065, 794.075, 796.08, 796.09, 895.02, 903.0351, 903.046, 921.0022, 921.16, 921.141, 938.10, 943.0435, 943.0436, 944.607, 944.608, 944.609, 947.1405, 947.16, 948.06, 948.062, 948.063, 948.064, 948.12, 948.16, 948.30, 948.31, 960.065, 985.04, 985.265, 985.4815, 1012.315, and 1012.467.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on January 25, 2016:

- Reclassifies the felony degree of human trafficking offenses under s. 787.06, F.S., which increases the maximum penalty of these offenses, if the victim suffers great bodily harm, permanent disability, or permanent disfigurement;
- Clarifies that the offense of branding a victim of human trafficking is for the purpose of committing or facilitating a human trafficking offense under s. 797.06, F.S.;
- Adds human trafficking as a predicate (qualifying) felony for first degree murder in the commission of a felony;
- Increases from a second degree misdemeanor (maximum penalty of 60 days in jail) to a first degree misdemeanor (up to one year in jail) a first violation of s. 796.06, F.S.

(renting space to be used for lewdness, assignation, prostitution), and increases from a first degree misdemeanor to a third degree felony (maximum penalty of five years in state prison) a second or subsequent violation of that statute;

- Amends s. 796.07, F.S. (prostitution and related acts) to reclassify the misdemeanor or felony degree of a violation of s. 796.07, F.S., if the place, structure, building, or conveyance that is owned, established, maintained, or operated in violation of the statute is a massage establishment that is or should be licensed under s. 480.043, F.S.;
- Requires the Department of Health to issue an emergency order suspending the license of a massage therapist of the massage establishment if the therapist, establishment owner, etc., committed a reclassified violation of s. 796.07, F.S.;
- Requires the Board of Massage Therapy to deny an application for a new or renewal massage therapist license if the applicant has committed a reclassified violation of s. 796.07, F.S.;
- Requires the Department of Health to deny an application for a new or renewal massage establishment license if the applicant has committed a reclassified violation of s. 796.07, F.S.; and
- Consistent with removing minors from being prosecuted for a violation of s. 796.07, F.S., involving prostitution, lewdness, or assignation, removing language regarding arrest or prosecution of a minor for these offenses from the definition “sexual abuse of a child” in ch. 39, F.S. (child dependency).

B. Amendments:

None.