

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/CS/HB 1167 Trust Funds/Creation/Trust Fund for Victims of Human Trafficking and Prevention/DLA

**SPONSOR(S):** Judiciary Committee; Justice Appropriations Subcommittee; Civil Justice & Claims Subcommittee; Spano and others

**TIED BILLS:** CS/CS/CS/HB 1165 **IDEN./SIM. BILLS:** SB 970

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice & Claims Subcommittee	14 Y, 0 N, As CS	MacNamara	Bond
2) Justice Appropriations Subcommittee	14 Y, 0 N, As CS	Welty	Gusky
3) Judiciary Committee	17 Y, 0 N, As CS	MacNamara	Camechis

### SUMMARY ANALYSIS

Section 19(f), Article III of the Florida Constitution governs the creation of trust funds. It provides that no trust fund of the state or other public body may be created without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

The bill creates the Trust Fund for Victims of Human Trafficking and Prevention in the Department of Legal Affairs. The trust fund will consist of funds: obtained from civil actions brought on behalf of victims of human trafficking, from forfeiture of personal and real property pursuant to a civil forfeiture action, and from penalties imposed by the courts, and funds received from any other sources, including legislative appropriations.

The fund is to be administered by the Statewide Council on Human Trafficking (council). The bill provides the following authorized purposes for the trust fund:

- Educating the public about the recruitment, trafficking, and exploitation of persons through human trafficking,
- Assisting with preventing the recruitment of minors for exploitation in Florida schools,
- Establishing a survivors' resource center to make legal services, social services, safe harbors, safe houses and language services available to survivors of human trafficking,
- Advertising the National Human Trafficking Resource Center hotline telephone number and the BeFree Textline in diverse venues,
- Assisting in the coordination between law enforcement agencies and service providers,
- Assisting in vacating the convictions of persons who were victims of human trafficking, and
- Distributing compensation to victims of human trafficking under s. 787.061, F.S.

The bill also authorizes the use of the trust fund to pay costs associated with bringing civil actions, and to pay any associated costs under such actions.

The trust fund does not have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2017, if CS/CS/CS/HB 1165 takes effect, and provides for a termination date of no later than July 1, 2021.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

###### Trust Funds

The creation, recreation and termination of trust funds are governed by provisions in both the Florida Constitution and Florida Statutes. Article III, s. 19(f), Fla. Const. governs the creation of trust funds. It provides that no trust fund of the state or other public body may be created without a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

The Florida Constitution also specifies that state trust funds shall terminate not more than 4 years after the effective date of the act authorizing the initial creation of the trust fund, unless the Legislature by law sets forth a shorter time period. Specified trust funds are exempted from this provision.

###### Statewide Council on Human Trafficking

The state has created the Statewide Council on Human Trafficking (council) for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and to support victims.<sup>1</sup> The council is housed within the Department of Legal Affairs.

The membership of the council is established by statute, with each member serving a 4-year term. The duties of the council include:

- Developing recommendations for comprehensive programs and services for victims of human trafficking, including recommendations for certification criteria for safe houses and safe foster homes.
- Making recommendations for apprehending and prosecuting traffickers and enhancing coordination of responses.
- Hosting an annual statewide policy summit in conjunction with an institution of higher learning in this state.
- Working with the Department of Children and Families to create and maintain an inventory of human trafficking programs and services in each county, including, but not limited to, awareness programs and victim assistance services, and use that information to determine how to maximize existing resources and address unmet needs and emerging trends.
- Developing policy recommendations that advance the duties of the council and further efforts to combat human trafficking in Florida.

Additionally, the council is required to submit a report to the President of the Senate and the Speaker of the House of Representatives summarizing the accomplishments of the council during the preceding fiscal year and making recommendations regarding the development and coordination of state and local law enforcement and social services responses to fight human trafficking and support victims.

##### **Effect of Bill**

The bill creates the Trust Fund for Victims of Human Trafficking and Prevention in the Department of Legal Affairs. The Statewide Council on Human Trafficking will administer the fund. The trust fund will consist of funds: obtained under s. 787.061, F.S., from civil actions brought on behalf of victims of

---

<sup>1</sup> See s. 16.617, F.S.  
STORAGE NAME: h1167d.JDC  
DATE: 4/13/2017

human trafficking, from forfeiture of personal and real property pursuant to a civil forfeiture action, and from penalties imposed by the courts, and funds received from any other sources, including legislative appropriations.

The bill provides the following authorized purposes for the trust fund:

- Educating the public about the recruitment, trafficking, and exploitation of persons through human trafficking,
- Assisting with preventing the recruitment of minors for exploitation in Florida schools,
- Establishing a survivors' resource center to make legal services, social services, safe harbors, safe houses and language services available to survivors of human trafficking,
- Advertising the National Human Trafficking Resource Center hotline telephone number and the BeFree Textline in diverse venues,
- Assisting in the coordination between law enforcement agencies and service providers,
- Assisting in vacating the convictions of persons who were victims of human trafficking, and
- Distributing compensation to victims of human trafficking under s. 787.061, F.S.

The bill also authorizes the use of the trust fund to pay costs associated with bringing civil actions, and to pay any associated costs under such actions, under s. 787.061, F.S.

The bill provides an effective date of July 1, 2017, if CS/CS/CS/HB 1165 takes effect, and provides for a termination date of no later than July 1, 2021.

#### B. SECTION DIRECTORY:

Section 1 creates s. 787.0611, F.S., relating to Trust Fund for Victims of Human Trafficking and Prevention.

Section 2 provides that the bill will take effect on the same day as CS/CS/CS/HB 1165 or similar legislation, if such legislation is adopted in the same legislative session, and only if the bill is enacted by three-fifths vote of the membership of each house of the Legislature.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The bill does not appear to have any impact on state revenues.

##### 2. Expenditures:

The bill does not appear to have any impact on state expenditures.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

The bill does not appear to have any impact on local government revenues.

##### 2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 20, 2017, the Civil Justice & Claims Subcommittee adopted a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from the bill as filed by removing the Governor's office as the administrator of the trust fund and placing this responsibility with the Statewide Council on Human Trafficking.

On April 3, 2017, the Justice Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute differs from the bill as filed by removing the not for profit foundation as the entity responsible for carrying out the purposes ascribed to the trust fund. The Statewide Council on Human Trafficking, and the Department of Legal Affairs as the administrative support for the council, will be responsible for administering the trust fund.

On April 13, 2017, the Judiciary Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment provides that moneys from the trust fund may be used to bring actions or pay any associated costs under any section of s. 787.061, F.S. This analysis is drafted to the committee substitute as passed by the Judiciary Committee.