

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 Committee on Criminal Justice

BILL: CS/SB 852

INTRODUCER: Criminal Justice Committee and Senator Garcia and others

SUBJECT: Human Trafficking

DATE: March 14, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Fav/CS
2.			JU	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 852 amends numerous statutes to include the term commercial sexual exploitation because it emphasizes the fact that sex is exchanged for money, goods, or services and better defines the victims served by the Department of Children and Families (DCF), sheriff's offices conducting child abuse investigations, and community-based care agencies.

The bill:

- Defines the term "commercial sexual exploitation" to mean the use of any person under the age of 18 for sexual purposes in exchange for, or promise of money, goods, or services;
- Changes the date of the annual report by the DCF on commercial sex trafficking of minors from December 1st of each year to October 1st;
- Requires the DCF to maintain data specifying certain services available for verified victims of commercial sexual exploitation;
- Adds the crime of human trafficking involving commercial sexual activity, s. 787.06(3), F.S., to the list of crimes where the defendant's confession is admissible during specified situations in trial;
- Amends s. 409.1678, F.S., to remove the outdated definition of "sexually exploited child" and replace it with "commercial sexual exploitation";
- Clarifies procedures for conducting a multidisciplinary staffing for alleged or verified victims of commercial sexual exploitation, who are not eligible for relief or benefits under the federal Trafficking Victims Protection Act;

- Requires that the multidisciplinary staffing develop a service plan for any child victims suspected or verified as a victim of commercial sexual exploitation that identifies the victim's needs and local services;
- Specifies that services provided in the service plan be in the least restrictive environment and identifies types of services that may be included in the service plan;
- Requires the DCF or the sheriff's office to follow up with the verified victims of commercial sexual exploitation within six months; and
- Reenacts s. 790.065, F.S., relating to the sale of firearms in order to incorporate the amendments made to s. 907.041, F.S.

The bill will likely have a fiscal impact on the DCF and the six sheriff's offices that conduct child protective services through a contract with the DCF; however, the impact is not expected to be significant. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2017.

II. Present Situation:

Human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, men, and women, who are often subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor. There is an estimated 20.9 million adults and children in the world who are in some sort of forced labor or sexual exploitation. Of that number, an estimated 26 percent of them are children, and in 2010, it was estimated that as many as 300,000 children in the United States were at risk for exploitation each year.¹

Section 787.06, F.S., is Florida's human trafficking statute and defines "human trafficking" 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 by using labor or services or through commercial sexual activity.²

Children can be victims of human trafficking in two forms: commercial sexual exploitation and labor exploitation. In Florida, human trafficking is reported to the Child Abuse Hotline. Toll free national numbers to report human trafficking of children in Florida are relayed to the abuse hotline. Sex trafficking is defined as a commercial sex act induced by force, fraud, or coercion in which the person induced to perform such act is under 18.³

¹ U.S. Department of Justice, Office of Justice Programs, *OJP Fact Sheet, Fast Facts*, (December 2011) available at http://ojp.gov/newsroom/factsheets/ojpfh_humantrafficking.html (last visited March 10, 2017). Polaris, *Human Trafficking: The Facts*, 2016, available at <https://polarisproject.org/facts> (last visited March 10, 2017).

² See ss. 787.06(3) and (4), F.S.

³ Department of Children and Families, *What is Human Trafficking*, available at <http://www.myflfamilies.com/service-programs/human-trafficking/what-is-human-trafficking> (last visited March 10, 2017). 22 U.S.C. 7102(9)(A).

Commercial sex acts include, but are not limited to, prostitution and/or pornography as a means for the perpetrator to make money.⁴ Calls to the abuse hotline are investigated by the Department of Children and Families (DCF) or in certain counties, by the sheriff's office.⁵

Once a call is made to the hotline, an investigation is opened by the DCF or certain sheriff's office in counties where the sheriff conducts child abuse investigations. If commercial sexual trafficking is suspected or verified, the DCF, community-based care agencies, or sheriff's office, conducts a multidisciplinary staffing on each case.⁶ The staffing includes local experts in child protection, child welfare, medical professionals, and law enforcement to assess the needs of the child and determine if the victim needs placement in a residential home, or "safe house" pursuant to s. 39.524, F.S. Multidisciplinary staffing teams are also charged with assessing the local services available to victims of commercial sexual exploitation.⁷

Section 409.16791, F.S., requires the Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an annual study on commercial sexual exploitation of children. The most recent report found that in 2015, there were 1,279 reports of human trafficking to the Child Abuse Hotline in Florida.⁸ Of those, 264 were verified. Of the verified cases, 123 were dependent children in foster care while 141 were not dependent. The OPPAGA reported that there is no data on the status or outcomes for the 141 victims not in foster care.

III. Effect of Proposed Changes:

Section 1 amends s. 39.524, F.S., to update terminology. Current law uses the term "sexual exploitation" defined in s. 39.01(70)(g), F.S., relating to sexual abuse. The term "commercial sexual exploitation" is more appropriate because it emphasizes the fact that sex is exchanged for money, goods, or services.

The bill adds the term to the definition section of ch. 409, F.S., because the state's program to serve child victims of commercial sexual exploitation is not limited to dependent children under ch. 39, F.S., (**Section 3**). The bill clarifies that a sheriff's office that provides child protection services must assess children for services and safe-harbor placement.⁹

⁴ The federal Trafficking Victims Protection Act defines "commercial sex act" as any sex act on account of which anything of value is given to or received by *any person*. 22 USC 7102 (4).

⁵ Section 39.3065, F.S., and specific appropriation 331 of the 2016-2017 General Appropriations Act (ch. 2016-66, L.O.F.) assigns state responsibility for conducting child abuse investigations to the Sheriff Offices in Broward, Hillsborough, Manatee, Pasco, Pinellas, and Seminole counties.

⁶ Section 409.1754(2), F.S.

⁷ *Id.*

⁸ Office of Program Policy Analysis and Government Accountability, *Placement Challenges Persist for Child Victims of Commercial Sexual Exploitation; Questions Regarding Effective Interventions and Outcomes Remain*, Report No. 16-04, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=16-04> (last visited March 10, 2017). Chapter 2014-161, L.O.F.

⁹ Section 39.3065, F.S., and specific appropriation 331 of the 2016-2017 General Appropriations Act (2016-66, L.O.F.) assigns state responsibility for conducting child abuse investigations to the Sheriff Offices in Broward, Hillsborough, Manatee, Pasco, Pinellas, and Seminole counties.

The bill changes the date of the annual report by the DCF on commercial sex trafficking of minors from December 1st of each year to October 1st. Most of the state's child welfare reports are due October 1st of each year to allow the Legislature to consider the reports prior to the Legislative Session. The bill requires the DCF, with information from sheriff's offices conducting child abuse investigations and community-based care agencies, to report on the prevalence of exploitation in Florida, specialized services, local services, and the DCF's response to the recommendations from the annual report by the OPPAGA on commercial sexual exploitation of children.¹⁰

The DCF is required to maintain data specifying the number of children who were:

- Verified victims of commercial sexual exploitation.
- Referred to nonresidential services in the community.
- Placed in a safe house or safe foster home.
- Referred to a safe house or safe foster home for whom placement was unavailable.

The DCF must also identify which counties did not have the available placement in a safe house or safe foster home.

Section 2 amends s. 92.565, F.S., to add the crime of human trafficking involving commercial sexual activity, s. 787.06(3), F.S., to the list crimes where the defendant's confession is admissible during specified situations in trial, without the state proving a *corpus delicti*¹¹ of the crime. This could improve prosecution of persons committing commercial sexual exploitation of children.

Section 3 amends s. 409.016, F.S., to define "commercial sexual exploitation" to mean the use of any person under the age of 18 for sexual purposes in exchange for, or promise of money, goods, or services. This new term better defines the victims served by the DCF, sheriff's offices conducting child abuse investigations, and community-based care agencies.¹²

Section 4 amends s. 409.1678, F.S., to remove the outdated definition of "sexually exploited child" and replace it with "commercial sexual exploitation." Section 409.1678, F.S., addresses the specialized residential options for children who are victims of commercial sexual exploitation. These homes specialize in the care of victims of commercial sexual exploitation. There are currently four safe houses licensed by the DCF statewide. These four homes have a total capacity of 24 beds.¹³ The bill allows the DCF to serve those victims not covered by the federal Trafficking Victims Protection Act, which serves victims who are illegal aliens.¹⁴

¹⁰ The report by the Office of Program Policy Analysis and Government Accountability is required each year pursuant to s. 409.16791, F.S.

¹¹ *Corpus delicti* means the fact of a crime having been actually committed. BLACK'S LAW DICTIONARY, 6th ed.

¹² See Department of Children and Families Operating Procedure No. 170-14, *Response to the Human Trafficking of Children*, July 1, 2016, available at http://centerforchildwelfare.fmhi.usf.edu/kb/DCF_Pol/CFOP_170/CFOP170-14.pdf (last visited on March 10, 2017).

¹³ Office of Program Policy Analysis and Government Accountability, *Placement Challenges Persist for Child Victims of Commercial Sexual Exploitation; Questions Regarding Effective Interventions and Outcomes Remain*, Report No. 16-04, available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=16-04> (last visited March 10, 2017).

¹⁴ Federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

Section 5 amends s. 409.1754, F.S., to clarify procedures for conducting a multidisciplinary staffing for alleged or verified victims of commercial sexual exploitation, who are not eligible for relief or benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. The bill requires that the multidisciplinary staffing develop a service plan for any child victims suspected or verified as a victim of commercial sexual exploitation. This service plan identifies the victim's needs and local services. The bill directs the DCF to update the case plan required under ch 39, F.S., for dependent children who are alleged or verified victims of commercial sexual exploitation.

The bill clarifies that in those counties where the sheriff's office conducts child abuse investigations, that the sheriff's office must provide the service plan. The service plan is voluntary and is provided to the victim's family or legal guardian.

The bill specifies that services provided in the service plan be in the least restrictive environment and identifies types of services that may be included in the service plan:

- Emergency shelter and runaway center services;
- Outpatient individual or group counseling for the victim and the victim's family or legal guardian;
- Substance use disorder treatment services;
- Drop-in centers or mentoring programs;
- Commercial sexual exploitation treatment programs;
- Child advocacy center services pursuant to s. 39.3035;
- Prevention services such as those provided by the Florida Network of Youth and Family Services and the PACE Center for Girls;
- Family foster care;
- Therapeutic foster care;
- Safe houses or safe foster homes;
- Residential treatment programs; and
- Employment or workforce training.

The DCF or sheriff's office must follow up with all verified victims of commercial sexual exploitation, not just victims who are dependent (foster care), within six months to determine if the child received services, if these services assisted the child and his or her family, and if the child has been victimized again.

Section 6 amends s. 907.041, F.S., relating to pretrial detention to add human trafficking to the list of crimes considered dangerous and for which the court may not grant nonmonetary pretrial release at first appearance.

Section 7 reenacts s. 790.065, F.S., relating to the sale of firearms, in order to incorporate the amendments made to s. 907.041, F.S.

Section 8 provides the bill is effective October 1, 2017.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The bill clarifies that the six sheriff's offices that have the responsibility for conducting child abuse investigations must provide a service plan and follow up with all verified victims. This requirement may cause the six sheriff's offices to incur costs. If these costs are less than \$1.8 million the bill is exempt from the mandates provision of the Florida Constitution due to its insignificant fiscal impact.

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:

The additional requirement of developing a service plan for each child who is not dependent would fall to the community-based care lead agencies. Based on current trends, the DCF estimates that 405 children will have a verified report of commercial child sexual exploitation in FY 2016-2017. The community-based care lead agencies currently provide a case manager and develop a case plan for community children who are placed in residential placements based on their commercial sexual exploitation victimization, and this has been minimal throughout the regions. The DCF believes that the workload increase will be minimal and can be absorbed within existing resources.¹⁵

C. Government Sector Impact:

Currently, regional DCF staff and community-based care agency staff conduct multidisciplinary staffings for alleged and confirmed victims of commercial sex trafficking. The bill requires the staff to develop a service plan at the multidisciplinary staffings for verified victims of commercial sex trafficking. Identifying local services available to victims is currently a duty of the multidisciplinary staffings.¹⁶ The bill requires the staffings to document the local services that would be needed by each victim

¹⁵ 2017 Department of Children and Families Legislative Bill Analysis, *SB 852 Human Trafficking*, February 15, 2017, (on file with the Senate Criminal Justice Committee).

¹⁶ Section 409.1754 (2), F.S.

based on the information the staffing is required by law to collect and maintain. This is a new requirement and can be absorbed within existing resources.¹⁷

The bill requires the DCF to follow up with victims of commercial sex trafficking within six months of a confirmed case. The DCF's Florida Safe Families Network currently holds information on the care and status of victims who are dependent. Information on victims who are not dependent will have to be collected. The bill authorizes the DCF to collect basic status information from the victim, family, or legal guardian. In 2015, there were 141 such victims statewide.¹⁸ This is a new requirement and can be absorbed within existing resources.

Sheriff's offices in six counties conduct child protective services by law and through a contract with the DCF.¹⁹ These sheriff's offices are currently required to conduct multidisciplinary staffings along with the local community-based care agency. Sheriff's offices could see an increase in costs to prepare a service plan for victims and for following up with victims who are not dependent. The cost is not expected to be significant.²⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.524, 92.565, 409.016, 409.1678, 409.1754, and 907.041.

This bill reenacts section 790.065 of the Florida Statutes.

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 March 13, 2017:

The committee substitute made a technical change to update a reference to chapter law to the enacted statute, s. 409.16791, F.S.

¹⁷ 2017 Department of Children and Families Legislative Bill Analysis, *SB 852 Human Trafficking*, February 15, 2017, (on file with the Senate Criminal Justice Committee).

¹⁸ *Id.*

¹⁹ Section 39.3065, F.S.

²⁰ 2017 Department of Children and Families Legislative Bill Analysis, *SB 852 Human Trafficking*, February 15, 2017, (on file with the Senate Criminal Justice Committee).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
