

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/SB 852

INTRODUCER: Criminal Justice Committee and Senator Garcia and others

SUBJECT: Human Trafficking

DATE: April 4, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Hrdlicka</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
3.	<u>Sneed</u>	<u>Hansen</u>	<u>AP</u>	<b>Pre-meeting</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Technical Changes

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**I. Summary:**

CS/SB 852 amends multiple statutes to include the term “commercial sexual exploitation.” The term 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 the 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 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” to the list of crimes where the defendant’s confession is admissible during specified situations in trial;
- Amends various sections of statute to remove references to the outdated definition of “sexually exploited child” and replace it with references to “commercial sexual exploitation;”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 victims of commercial sexual exploitation and that the plan identify 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; and
- Requires the DCF or the sheriff's office to follow up with the verified victims of commercial sexual exploitation within six months.

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.

The bill provides an effective date of 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. Approximately 20.9 million adults and children are estimated to be in some sort of forced labor or sexual exploitation. Of that number, an estimated 26 percent are children, and in 2010, it was estimated that as many as 300,000 children in the United States are at risk for exploitation each year.<sup>1</sup>

Section 787.06, F.S., is Florida's human trafficking statute. It 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.<sup>2</sup> Similarly, sex trafficking is defined as a commercial sex act induced by force, fraud, or coercion in which the person induced to perform the act is under 18.<sup>3</sup>

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.

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<sup>1</sup> U.S. Department of Justice, Office of Justice Programs, *OJP Fact Sheet, Fast Facts*, (December 2011) available at [http://ojp.gov/newsroom/factsheets/ojpbs\\_humantrafficking.html](http://ojp.gov/newsroom/factsheets/ojpbs_humantrafficking.html) (last visited March 19, 2017). Polaris, *Human Trafficking: The Facts*, 2016, available at <https://polarisproject.org/facts> (last visited March 19, 2017).

<sup>2</sup> See ss. 787.06(3) and (4), F.S.

<sup>3</sup> 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 19, 2017). 22 U.S.C. s. 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.<sup>4</sup> Calls to the abuse hotline are investigated by the DCF or, in certain counties, by the sheriff's office.<sup>5</sup>

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.<sup>6</sup> The staffing includes local experts in child protection, child welfare, medical professionals, and law enforcement officers who 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.<sup>7</sup>

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.<sup>8</sup> Of those, 264 were verified. Of the verified cases, 123 were dependent children in foster care while 141 were not dependent. The OPPAGA report noted 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., relating to safe-harbor placement, 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.

**Annual Report** -The bill changes the due date of the DCF's annual report to the Legislature on commercial sex trafficking of minors from December 1st to October 1st. Most of the state's child welfare reports are due October 1st of each year to allow the Legislature time to consider the reports before the legislative session. The required reporting categories are expanded. The bill requires the DCF, with information from sheriff's offices that conduct child abuse investigations and community-based care agencies, to report on the prevalence of exploitation in Florida,

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<sup>4</sup> 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 s. 7102 (4).

<sup>5</sup> Section 39.3065, F.S., and specific appropriation 331 of the 2016-2017 General Appropriations Act (Ch. 2016-66, s. 331, Laws of Fla.) assign state responsibility for conducting child abuse investigations to the sheriff's offices in Broward, Hillsborough, Manatee, Pasco, Pinellas, and Seminole counties.

<sup>6</sup> Section 409.1754(2), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> 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 19, 2017). Ch. 2014-161, Laws of Fla.

specialized services, local services, and the DCF's response to the recommendations from the annual report by OPPAGA on commercial sexual exploitation of children.<sup>9</sup>

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., relating to the admissibility of a confession in sexual abuse cases, to add 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, without the state proving the *corpus delicti*<sup>10</sup> of the crime. This may strengthen the prosecution of persons committing commercial sexual exploitation of children.

**Section 3** adds the term “commercial sexual exploitation” to the definition section of chapter 409, F.S., dealing with social and economic assistance. Commercial sexual exploitation means “the use of any person under the age of 18 for sexual purposes in exchange for, or promise of money, goods, or services.” This definition is added to chapter 409, F.S., because the state’s program to serve child victims of commercial sexual exploitation is not limited to dependent children under chapter 39, F.S. This new term better defines the victims served by the DCF, sheriff’s offices conducting child abuse investigations, and community-based care agencies.<sup>11</sup> The bill clarifies that a sheriff’s office that provides child protection services must assess children for services and safe-harbor placement.<sup>12</sup>

**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.<sup>13</sup> The bill allows the DCF to serve those victims not eligible for relief and benefits under the federal Trafficking Victims Protection Act.<sup>14</sup>

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<sup>9</sup> The report by the Office of Program Policy Analysis and Government Accountability is required each year pursuant to s. 409.16791, F.S.

<sup>10</sup> In Latin, “*corpus delicti*” literally means the body of the crime. In legal terms it means the fact of a crime having been actually committed. BLACK’S LAW DICTIONARY, 346 (7th ed. 1999).

<sup>11</sup> 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](http://centerforchildwelfare.fmhi.usf.edu/kb/DCF_Pol/CFOP_170/CFOP170-14.pdf) (last visited on March 20, 2017).

<sup>12</sup> See *supra* note 5.

<sup>13</sup> See *supra* note 8.

<sup>14</sup> 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. ss. 7101 et seq. 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 chapter 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. These services include:

- 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, F.S.;
- 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 the 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; these services assisted the child and his or her family; and the child has been victimized again.

**Section 6** amends s. 907.041, F.S., relating to pretrial detention and release, 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 and delivery 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:**

Article VII, s. 18(a) of the State Constitution provides that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the expenditure is required to comply with a law that applies to all persons similarly situated . . .”

The bill requires the six sheriff’s offices that have the responsibility for conducting child abuse investigations in their respective counties to provide a service plan and follow up with all verified victims. This requirement may cause the six sheriff’s offices to incur additional costs. This bill does not include any legislative findings that the bill fulfills important state interests. However, the bill applies to all persons similarly situated (all entities involved with victims of commercial sexual exploitation).

An exemption applies if these costs are insignificant (less than \$2.0 million). In this case, the costs associated with the bill are indeterminate but are not expected to be above the \$2 million threshold. Thus, this bill most likely 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:**

Under CS/SB 852, 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 upon 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.<sup>15</sup>

**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. CS/SB 852 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.<sup>16</sup> The bill requires the staffings to document the local services that would be needed by each victim 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.<sup>17</sup>

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. 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.<sup>18</sup> 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.<sup>19</sup>

**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.

<sup>15</sup> Department of Children and Families, *Senate Bill 852 Legislative Analysis* (Feb. 15, 2017) (on file with the Senate Committee on Judiciary).

<sup>16</sup> Section 409.1754 (2), F.S.

<sup>17</sup> See *supra* note 16.

<sup>18</sup> Section 39.3065, F.S.

<sup>19</sup> See *supra* note 16.

**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.

- B. **Amendments:**

None.