

**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 Children, Families, and Elder Affairs

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BILL: SB 1046

INTRODUCER: Senator Book

SUBJECT: Trust Fund for Victims of Human Trafficking and Prevention/Department of Law Enforcement

DATE: February 9, 2018

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<u>Pre-meeting</u>
2.	<u>                    </u>	<u>                    </u>	<u>AP</u>	<u>                    </u>

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**I. Summary:**

SB 1046 creates the Trust Fund for Victims of Human Trafficking and Prevention within the Florida Department of Law Enforcement (FDLE). The trust fund consists of funds obtained from civil actions brought on behalf of victims of human trafficking, from penalties imposed by the courts, and funds received from any other sources including legislative appropriations.

The Florida Constitution requires a bill creating a new trust fund to pass by a three-fifths vote of the membership of each chamber of the Legislature. State trust funds must terminate not more than four years after the initial creation of the fund unless the Legislature sets a shorter time.

The bill provides that it shall take effect on the same date that SB 1044 or similar legislation takes effect, if such legislation is adopted in the same session and becomes law. The effective date of SB 1044 is July 1, 2018.

**II. Present Situation:**

**Human Trafficking**

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.<sup>1</sup>

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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/ojpfs\\_humantrafficking.html](http://ojp.gov/newsroom/factsheets/ojpfs_humantrafficking.html) (last visited February 8, 2018). Polaris, *Human Trafficking: The Facts*, 2016, available at <https://polarisproject.org/facts> (last visited February 8, 2018).

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.<sup>2</sup>

### ***SB 1044 Human Trafficking***

SB 1044, which is linked to SB 1046, creates a civil cause of action for victims of human trafficking to bring against the trafficker<sup>3</sup> or facilitator<sup>4</sup> of human trafficking. The bill allows a victim to bring a civil action against the trafficker or facilitator of human trafficking who victimized the victim.

A victim who prevails in any such action is entitled to recover economic and noneconomic damages, penalties, punitive damages, reasonable attorney fees, reasonable investigative expenses, and costs.

If a victim prevails in an action, the court must award a civil penalty against the defendant of \$100,000. This penalty is in addition to, and not in lieu of, any other damage award. The civil penalty cannot be disclosed to the jury. The proceeds from the civil penalty must be deposited into the trust fund.

If a victim recovers punitive damage in an action, the court must equally distribute the punitive damages award between the victim and the trust fund.

### **III. Effect of Proposed Changes:**

**Section 1** of the bill creates the Trust Fund for Victims of Human Trafficking and Prevention within FDLE. The bill requires that the trust fund must consist of funds obtained under s. 787.061, F.S., from civil actions brought on behalf of victims, from penalties imposed by the courts, and funds received from any other source, including legislative appropriations.

The bill also requires that FDLE administer the trust fund and must use its funds in a manner that ensures that they are used for victims of human trafficking, including, but not limited to, medical and mental health examinations and treatment, living expenses, lost wages, and repatriation of such victims.

The purposes of the trust fund include, but are not limited to:

- Educating the public about the recruitment, trafficking, and exploitation of persons in connection with human trafficking;
- Assisting in the prevention of the recruitment of minors in Florida schools for exploitation;

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

<sup>3</sup> SB 1044 defines a "trafficker" as any person who knowingly engages in human trafficking, attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking.

<sup>4</sup> SB 1044 defines a "facilitator" as a person who knowingly, or in willful blindness, assists or provides goods or services to a trafficker, which assist or enable the trafficker to carry out human trafficking.

- Establishing a survivors' resource center to make available to survivors of human trafficking legal services, social services, safe harbors, safe houses, and language services;
- Advertising the National Human Trafficking Resource Center hotline number and the BeFree Textline in diverse venues;
- Assisting in the coordination between law enforcement and service providers; and
- Assisting in vacating any convictions of minors who were victims of human trafficking, whose offenses were the result of force, duress, or coercion.

In accordance with section 19(f)(2), Art. III, of the Florida Constitution, the trust fund must, unless terminated sooner, be terminated on July 1, 2022. Before its scheduled termination, the trust fund must be reviewed as provided in s. 215.3206(1) and (2), F.S.

**Section 2** provides that the bill shall take effect on the same date that SB 1044 or similar legislation takes effect, if such legislation is adopted in the same session and becomes law. The effective date of SB 1044 is July 1, 2018.

#### **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 bill requires FDLE to administer the trust fund and utilize the funds available for a variety of purposes. FDLE anticipates that implementing the bill will require up to 9 FTE and \$778,352. Of that total, they expect to have recurring expenditures of \$744,557.<sup>5</sup>

**VI. Technical Deficiencies:**

The bill states that FDLE shall administer the trust fund and must use its funds in a manner that ensures they are used for victims of human trafficking. However, in the following paragraph, the bill states that trust fund moneys may also be used for a variety of other purposes, creating inconsistency between two provisions of the bill.

**VII. Related Issues:**

FDLE's agency bill analysis states that post-conviction compensation to victims falls outside of the department's current defined mission and normal scope of operations. FDLE suggests that the Department of Legal Affairs may be a more appropriate entity to administer the trust fund.<sup>6</sup>

**VIII. Statutes Affected:**

This bill creates section 787.0611 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.)

None.

**B. Amendments:**

None.

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

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<sup>5</sup> FDLE, 2018 Legislative Bill Analysis, January 14, 2018. (On file with Children, Families, and Elder Affairs Committee staff).

<sup>6</sup> *Supra* at note 5.