

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 487 Trauma-Informed Services for Children
SPONSOR(S): Children, Families & Seniors Subcommittee; Olszewski
TIED BILLS: **IDEN./SIM. BILLS:** SB 634

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	11 Y, 0 N, As CS	Langston	Brazzell
2) Health & Human Services Committee	18 Y, 0 N	Langston	Calamas

SUMMARY ANALYSIS

Human trafficking is a form of modern-day slavery in which young children, teenagers, and adults are subjected to force, fraud, or coercion for sexual exploitation or forced labor. An estimated 300,000 children in the United States are at risk for commercial sexual exploitation (CSE).

The Department of Children and Families (DCF) is responsible for the child welfare needs of child human trafficking victims, including child CSE victims. In cases in which a child is alleged, suspected, or known to have been sexually exploited, DCF and community-based care lead agencies conduct multidisciplinary staffings to assess the services available to victims. DCF then coordinates or provides services to CSE victims found to be dependent. Such services could include, in some instances, a placement in a specialized residential program, such as a safe house or a safe foster home, or a residential treatment center (RTC).

Hospitals (such as psychiatric hospitals) and RTCs must meet specific statutory requirements to serve child CSE survivors, including caring for commercially sexually exploited children in a manner that separates those children from children with other needs. Additionally, hospitals and RTCs must provide services tailored to the needs of CSE survivors and conduct a comprehensive assessment of the service needs of each child. However, CSE treatment providers, community-based lead agencies, and community advocates have reported that the requirement that children who are CSE survivors be separated from other youth is a barrier to availability of such placements and is counter to survivors' therapeutic needs.

CS/HB 487 removes the requirements that RTCs care for CSE survivors in a manner that separates those children from children with other needs. By removing the isolation requirement, RTCs will be able to serve additional CSE survivors. The bill also allows an RTC or a hospital to prioritize among the required services it must provide to commercially sexually exploited children to meet the specific needs of the child.

The bill will not have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Human Trafficking

Human trafficking is a form of modern-day slavery affecting young children, teenagers, and adults, who are subjected to force, fraud, or coercion for sexual exploitation or forced labor.¹ In 2004, the Florida Legislature criminalized human trafficking and unlawfully obtaining labor or services.² Florida statute 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.”³ Under current law, any person who knowingly engages in human trafficking commits a first-degree felony.⁴

Commercial Sexual Exploitation

Commercial sexual exploitation is a form of human trafficking; commercial sex acts through which individuals may be exploited include, but are not limited to, prostitution and pornography as a means for the perpetrator to make money.⁵ Both adults and children can be victims of these acts.⁶ The U.S. Department of Justice estimates that as many as 300,000 children in the United States are at risk for commercial sexual exploitation.⁷

In cases of commercial sex trafficking of minors, pimps often operate as the primary domestic sex traffickers and target particularly vulnerable youth, such as runaway and homeless youth.⁸ Pimps may engage in a “grooming” process where a child is showered with gifts, treats, and compliments in order to earn his or her trust.⁹ Often the children have low self-esteem and may come from broken families or have past childhood trauma, which may include sexual or physical abuse.¹⁰ This makes the children easier targets because they are emotionally vulnerable, looking for someone to love and care for them. After the pimp earns the child’s trust, the pimp may engage in physical, sexual, and emotional abuse of the child.¹¹ The effect is to psychologically and emotionally break the child so that he or she becomes completely dependent on the pimp.¹² Psychologists and clinicians call this phenomenon “traumatic bonding.”¹³ This occurs where a person has dysfunctional attachment that occurs in the presence of danger, shame, or exploitation. These situations often include seduction, deception, or betrayal, and some form of danger or risk is always present.¹⁴ While this is a common way that commercial sexual exploitation occurs, some children are commercially sexually exploited by family members or organized networks.¹⁵

¹ Id.

² S. 787.06, F.S.

³ Id.

⁴ Id.

⁵ 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 U.S.C. s. 7102(4).

⁶ S. 787.06, F.S.

⁷ U.S. Department of Justice, Office of Justice Programs, *OJP Fact Sheet, Fast Facts*, (Dec. 2011), http://ojp.gov/newsroom/factsheets/ojpfs_humantrafficking.html (last visited January 28, 2018).

⁸ The Polaris Project, *Sex Trafficking of Children in the United States*, available at: <http://www.polarisproject.org/what-we-do/policy-advocacy/prosecuting-traffickers/895-sex-trafficking-of-minors> (last visited January 28, 2018).

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id.

¹⁵ Id.

Forced Labor

Forced labor occurs when an individual knowingly provides or obtains the labor or services of a person by means of:

- Force, threats of force, physical restraint, or threats of physical restraint to that person or another person;
- Serious harm or threats of serious harm to that person or another person;
- Abuse or threatened abuse of law or legal process; or
- Any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint.¹⁶

Forced labor can exist in domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.¹⁷

Department of Children and Families

Child Welfare System

Chapter 39, F.S., creates Florida's child welfare system, administered by the Department of Children and Families (DCF) Office of Child Welfare in partnership with local communities and the courts. The system aims to protect children and prevent abuse, abandonment, and neglect.¹⁸

DCF's practice model is based on preserving and strengthening the child's family ties whenever possible, removing the child from his or her home only when his or her welfare and safety cannot be adequately safeguarded otherwise.¹⁹ When a child is determined to be unsafe, child protective investigators (CPIs) initially consider the implementation of an in-home safety plan and the initiation of in-home services to protect the child and stabilize the family.²⁰ In the most serious situations, CPIs remove the child from the home and place the child with another parent, relative, or non-relative or in licensed shelter care.²¹

Prevalence of Child Sexual Exploitation in Florida

Section 409.016, F.S., defines "commercial sexual exploitation" as the use of any person under the age of 18 for sexual purposes in exchange for, or promise of, money, goods, or services; this term has the same meaning in ch. 39, F.S.

It is difficult to obtain an accurate count of CSE children because these victims are not readily identifiable.²² CSE survivors often do not see themselves as victims, and do not have immediately recognizable characteristics, many do not have identification, and they are often physically or psychologically controlled by adult traffickers, as such, they rarely disclose or provide information on exploitation.²³

The Florida Abuse Hotline serves as the central reporting center for allegations of abuse, neglect, and exploitation for all children in Florida, including allegations of human trafficking.

¹⁶ 18 U.S.C. s. 1589.

¹⁷ S. 787.06, F.S.

¹⁸ S. 39.001(8), F.S.

¹⁹ S. 39.001(4), F.S.

²⁰ *Id.*

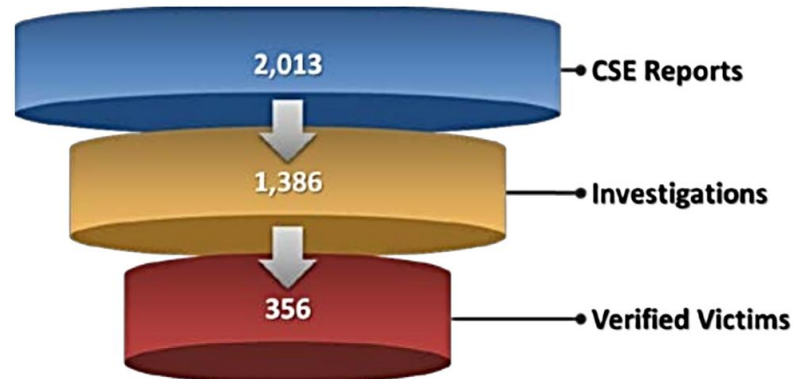
²¹ *Id.*

²² The Florida Legislature Office of Program Policy Analysis & Government Accountability, *Placement Challenges Persist for Child Victims of Commercial Sexual Exploitation; Questions Regarding Effective Interventions and Outcomes Remain*, Report No. 16-04, (Jul. 2016), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1604rpt.pdf> (last visited January 28, 2018).

²³ *Id.*

In calendar year (CY) 2015, DCF verified 264 child victims of CSE from 1,279 reports alleging CSE made to the hotline.²⁴ In CY 2016, DCF received more allegations of CSE to the hotline and identified a higher number of child victims of CSE than in CY 2015. The number of reports to the DCF hotline alleging CSE increased 57 percent from CY 2015 to CY 2016, with 2,013 reports made in CY 2016.²⁵ Additionally, the verified cases of CSE increased to 356 in CY 2016.²⁶ At the time of the DCF investigation, 86 verified CSE children were in out-of-home care, and over a quarter were on runaway status.²⁷

Analysis of DCF CSE Hotline Reports for CY 2016²⁸



Services for CSE Victims

DCF is responsible for the child welfare needs of human trafficking victims.²⁹ To work toward ensuring that services needed by CSE victims are available in each community, each DCF region and each community-based care lead agency must jointly assess local service capacity to meet the specialized service needs of sexually exploited children and establish a plan to develop the necessary capacity.³⁰

In cases in which a child is alleged, suspected, or known to have been sexually exploited, DCF and community-based care lead agencies conduct multidisciplinary staffings in order to begin the process of providing services.³¹ The staffing includes local experts in child protection, child welfare, medical professionals, and law enforcement to assess the needs of the child and determine whether the child needs to be placed and served in a specialized residential program, such as a safe house or a safe foster home.³²

For children in the child welfare system, including CSE victims, DCF must develop a case plan with input from all parties to the dependency case that details the problems being addressed as well as the

²⁴ Id. To estimate the number of allegations and subsequently verified CSE cases, we relied on DCF's Florida Safe Families Network data on hotline intakes and child protective investigations during CY 2015.

²⁵ The Florida Legislature Office of Program Policy Analysis & Government Accountability, *DCF and Its Lead Agencies Have Not Resolved Issues Related to Serving Commercially Sexually Exploited Children*, Report NO. 17-09, (Jul. 2017), p. 3, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1709rpt.pdf> (last visited January 28, 2018). Counties with the highest number of CSE reports in CY 2016 included Miami-Dade (248), Broward (232), Orange (150), and Hillsborough (144).

²⁶ Id.

²⁷ Id. at p. 4.

²⁸ Id.

²⁹ S. 409.996, F.S.

³⁰ Each region of the Department and each community-based care lead agency must establish local protocols and procedures for working with sexually exploited children that are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the sexual exploitation is actively occurring, occurred in the past, or is inactive but likely to recur; and the differing community resources and degrees of familial support that are available. Child protective investigators and case managers must use these protocols and procedures when working with a sexually exploited child. S. 409.1754(2), F.S.

³¹ S. 409.1754(2), F.S.

³² S. 39.524, F.S.

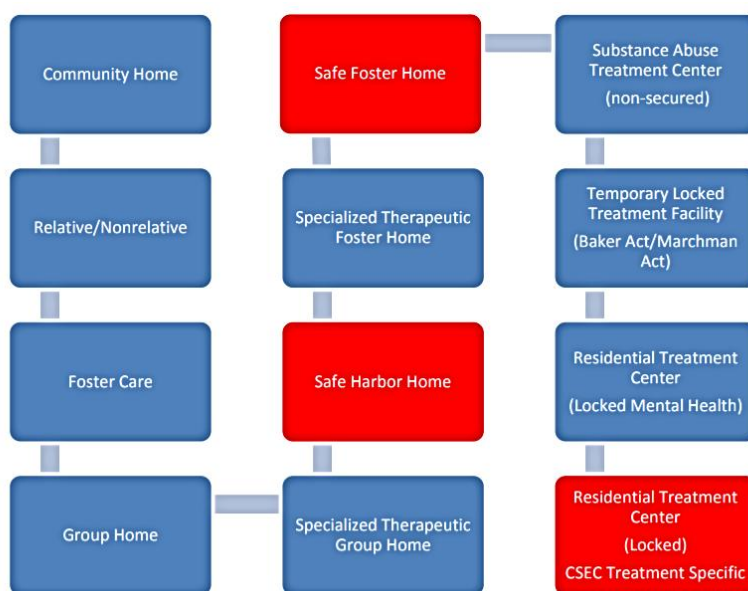
goals, tasks, services, and responsibilities required to ameliorate the concerns of the state.³³ This case plan required by s. 39.6011, F.S. may meet the requirement for a service plan, but must be amended to incorporate the results of the multidisciplinary staffing.³⁴

For CSE victims who are not part of the child welfare system, DCF or the sheriff's office providing child protective investigative services must provide a service plan to the victim's family or legal guardian.³⁵ Compliance with the service plan is voluntary for CSE victims who have not been adjudicated dependent and are not part of the child welfare system.

Placements for CSE Victims

The graphic below illustrates the full continuum of care for children who are CSE victims. They have the ability to move up and down from least restrictive to most restrictive, dependent on their needs.³⁶ Placements in red reflect specialized CSE placements.³⁷

Florida's Placement Continuum of Care for CSE Children³⁸



Safe Houses and Safe Foster Homes

Section 39.524(1), F.S., requires that a dependent child six years of age or older who has been found to be a CSE victim must be assessed for placement in a safe house or safe foster home. If placement in a safe house or safe foster home is determined to be appropriate for the child, the child may be placed in a safe house or safe foster home if one is available. However, the child may be placed in another setting, if the other setting is more appropriate to the child's needs or if a safe house or safe foster home is unavailable, as long as the child's behaviors are managed so they do not endanger other children served in that setting.

A safe house is a group residential placement certified by DCF to care for sexually exploited children,³⁹ while a safe foster home is a foster home that has been certified by DCF to care for sexually exploited

³³ Ss. 39.6011 and 39.6012, F.S.

³⁴ S. 409.1754(2)(b), F.S.

³⁵ S. 409.1754(2)(c), F.S.

³⁶ Florida Department of Children and Families, *Annual Human Trafficking Report 2016-2017 State Fiscal Year*, (Oct. 2017), at p. 7, available at, <http://www.dcf.state.fl.us/programs/childwelfare/docs/2017LMRs/Human%20Trafficking%20Annual%20Report.pdf> (last visited January 28, 2018).

³⁷ Id.

³⁸ Id.

children.⁴⁰ Statute outlines a certification process to ensure that these specialized homes provide the environment and services most conducive to a victim's recovery. To be certified, a safe home or safe foster home must provide certain services, including:⁴¹

- Victim-witness counseling;
- Family counseling;
- Behavioral health care;
- Treatment and intervention for sexual assault;
- Education tailored to the child's individual needs, including remedial education if necessary;
- Life skills training;
- Mentoring by a survivor of sexual exploitation, if available and appropriate for the child;
- Substance abuse screening and, when necessary, access to treatment;
- Planning services for the successful transition of each child back to the community; and
- Activities structured in a manner that provides child victims of sexual exploitation with a full schedule.

Residential Treatment Centers

Residential treatment centers licensed under s. 394.875, F.S., and hospitals licensed under ch. 395, F.S., that provide residential mental health treatment, must provide specialized treatment for CSE victims who are in DCF custody and who are placed there.⁴² These hospitals and residential treatment centers (RTCs) must meet specific statutory requirements to serve child CSE victims. Specifically, they must:⁴³

- Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.
- Group sexually exploited children by age or maturity level.
- Care for CSE children in a manner that separates those children from children with other needs.
- Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.
- Meet other criteria established by department rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered.
- Serve children in single-sex groups.
- Ensure that staff working are adequately trained in the effects of trauma and sexual exploitation, the needs of child CSE victims, and how to address those needs using strength-based and trauma-informed approaches.

Additionally, hospitals and RTCs must provide services tailored to the needs of sexually exploited children and to conduct a comprehensive assessment of the service needs of each resident.⁴⁴ Hospitals and RTCs arrange for or coordinate for CSE survivors the same services as certified safe houses and certified safe foster homes.

The Services and Resources Committee of the Statewide Council on Human Trafficking⁴⁵ noted in its 2016 report that CSE providers, community-based lead agencies (CBCs), and community advocates

³⁹ S. 409.1678(1)(b), F.S.

⁴⁰ S. 409.1678(1)(a), F.S.

⁴¹ S. 409.1678(2), F.S.

⁴² S. 409.1678(3), F.S.,

⁴³ Id.

⁴⁴ Id.

⁴⁵ The council is a legislatively created body, housed within the Department of Legal Affairs (the Office of the Attorney General) for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to fight CSE as a form of human trafficking and to support victims. See, s. 16.617(1), F.S.

have raised concerns that there are unnecessary barriers to accessing residential treatment centers for children who are CSE victims.⁴⁶ Specifically, the report notes that an unintended consequence of the requirement that children who are CSE survivors have to be separated from other youth reduces the availability of housing for them because isolation results in providers needing twice the resources.⁴⁷ Additionally, isolation can be counter to the child's therapeutic needs.

DCF has also acknowledged that the financial and staffing impacts of this isolation requirement has decreased the number of beds available for CSE children who were in need of deeper-end mental health services.⁴⁸ From July 1, 2016 to June 30, 2017, DCF reports that community-based care lead agencies evaluated 141 CSE children for placement in a safe house or safe foster home.⁴⁹ For 25 of the children referred for CSE placement, such placement was unavailable; CBCs cited one of several reasons to be program refusal due to children's mental health issues.⁵⁰ Safe homes frequently refuse to accept CSE children who have complex unmet needs, including non-compliant mental health treatment;⁵¹ these children be best suited for a placement in a hospital or RTC, but may not be able to be placed there due to a lack of capacity resulting from the isolation requirement.

Effect of Proposed Changes

CS/HB 487 removes the requirements that RTCs care for CSE children in a manner that separates those children from children with other needs. By removing the isolation requirement, RTCs will be able to serve CSE children without the financial and staffing strains, which should allow more beds to be made available to CSE children. The bill also allows an RTC or a hospital to prioritize among the required services it must provide to CSE children to meet the specific needs of the child.

The bill provides an effective date of July 1, 2018.

B. SECTION DIRECTORY:

Section 1: Amends s. 409.1678, F.S., relating to specialized residential options for children who are victims of commercial sexual exploitation.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁴⁶ Services and Resources Committee, Statewide Council on Human Trafficking, *2016 Report to the Council*, p. 46, available at [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AF9P43/\\$file/2016HumanTraffickingAnnualReportSupplemt.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-AF9P43/$file/2016HumanTraffickingAnnualReportSupplemt.pdf) (last visited January 28, 2018).

⁴⁷ Id.

⁴⁸ Information from Department of Children and Families (on file with Health and Human Services Committee Staff).

⁴⁹ *Supra*, note 38 at p. 8.

⁵⁰ Id. at p. 9

⁵¹ Id.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By eliminating the isolation requirement, more beds at hospitals and RTCs may be available to serve CSE survivors. This may increase the total number of clients served, in which case these facilities will receive additional revenue. Alternatively, this may reduce these facilities' costs to serve the CSE survivors who are current clients. To the extent that CSE survivors who would have been placed in a foster home or group home are now able to be placed in a hospital or RTC, those foster homes and group homes may see a decrease in the number of children they serve, resulting in reduced revenue.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 23, 2018, the Children, Families, and Seniors 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 original bill's prohibition on placing a CSE survivor in a generic shelter when a safe-harbor or trauma informed housing placement is unavailable and requirement that DCF assemble a team to determine the safest placement for a CSE survivor.
- Implementing the Services and Resources Committee of the Statewide Council on Human Trafficking recommendation to remove the requirements that RTCs care for CSE children in a manner that separates those children from children with other needs.

This analysis is drafted to the committee substitute as passed by the Children, Families, and Seniors Subcommittee.