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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2021	.	
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The Committee on Rules (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 34 - 154

and insert:

(a) "Anti-human trafficking organization" means a registered public or private agency that offers assistance to victims of the offense of human trafficking, as defined in s. 787.06(2).

(b) "Human trafficking victim" means a person who consults a human trafficking victim advocate or a trained volunteer for the purpose of securing advice, counseling, or services



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12 concerning a need arising from an experience of human
13 trafficking exploitation.

14 (c) "Human trafficking victim advocate" means an employee
15 of an anti-human trafficking organization whose primary purpose
16 is to provide advice, counseling, or services to human
17 trafficking victims and who complies with the training
18 requirements under subsection (5).

19 (d) "Trained volunteer" means a person who volunteers with
20 an anti-human trafficking organization and who complies with the
21 training requirements under subsection (5).

22 (2) A communication between a human trafficking victim
23 advocate or trained volunteer and a human trafficking victim is
24 confidential if it is not intended to be disclosed to third
25 persons other than:

26 (a) Those persons present to further the interest of the
27 human trafficking victim in the consultation, examination, or
28 interview.

29 (b) Those persons necessary for the transmission of the
30 communication.

31 (c) Those persons to whom disclosure is reasonably
32 necessary to accomplish the purposes for which the human
33 trafficking victim advocate or trained volunteer is consulted.

34 (3) A human trafficking victim has a privilege to refuse to
35 disclose, and to prevent any other person from disclosing, a
36 confidential communication made by the human trafficking victim
37 to a human trafficking victim advocate or trained volunteer or a
38 record made in the course of advising, counseling, or providing
39 services to the human trafficking victim. Such confidential
40 communication or record may be disclosed only with the prior



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41 written consent of the human trafficking victim. This privilege
42 includes any advice given by the human trafficking victim
43 advocate or trained volunteer to the human trafficking victim in
44 the course of that relationship.

45 (4) The privilege may be claimed by:

46 (a) The human trafficking victim or the human trafficking
47 victim's attorney on his or her behalf.

48 (b) The guardian or conservator of the human trafficking
49 victim.

50 (c) The personal representative of a deceased human
51 trafficking victim.

52 (d) The human trafficking victim advocate or trained
53 volunteer, but only on behalf of the human trafficking victim.
54 The authority of a human trafficking victim advocate or trained
55 volunteer to claim the privilege is presumed in the absence of
56 evidence to the contrary.

57 (5) A human trafficking victim advocate or a trained
58 volunteer shall:

59 (a) Complete 24 hours of human trafficking training
60 delivered by the Office of the Attorney General, the Bureau of
61 Criminal Justice Programs and Victim Services, and the Florida
62 Crime Prevention Training Institute.

63 (b) Within 3 years after completing the training required
64 under paragraph (a), complete an 8-hour human trafficking update
65 course.

66 Section 2. Paragraphs (d) and (g) of subsection (2) and
67 paragraphs (a), (c), (e), (f), and (g) of subsection (3) of
68 section 787.06, Florida Statutes, are amended, and a new
69 subsection (12) is added, to read:



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70 787.06 Human trafficking.-

71 (2) As used in this section, the term:

72 (d) "Human trafficking" means transporting, soliciting,
73 recruiting, harboring, providing, enticing, maintaining,
74 purchasing, patronizing, procuring, or obtaining another person
75 for the purpose of exploitation of that person.

76 (g) "Obtain" means, in relation to labor, commercial sexual
77 activity, or services, to receive, take possession of, or take
78 custody of another person or secure performance thereof.

79 (3) Any person who knowingly, or in reckless disregard of
80 the facts, engages in human trafficking, or attempts to engage
81 in human trafficking, or benefits financially by receiving
82 anything of value from participation in a venture that has
83 subjected a person to human trafficking:

84 (a)1. For labor or services of any child younger than 18
85 years of ~~under the~~ age or an adult believed by the person to be
86 a child younger than ~~of~~ 18 years of age commits a felony of the
87 first degree, punishable as provided in s. 775.082, s. 775.083,
88 or s. 775.084.

89 2. Using coercion for labor or services of an adult commits
90 a felony of the first degree, punishable as provided in s.
91 775.082, s. 775.083, or s. 775.084.

92 (c)1. For labor or services of any child younger than 18
93 years of ~~under the~~ age or an adult believed by the person to be
94 a child younger than ~~of~~ 18 years of age who is an unauthorized
95 alien commits a felony of the first degree, punishable as
96 provided in s. 775.082, s. 775.083, or s. 775.084.

97 2. Using coercion for labor or services of an adult who is
98 an unauthorized alien commits a felony of the first degree,



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99 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

100 (e)1. For labor or services who does so by the transfer or
101 transport of any child younger than 18 years of ~~under the age~~ or
102 an adult believed by the person to be a child younger than ~~of~~ 18
103 years of age from outside this state to within this ~~the~~ state
104 commits a felony of the first degree, punishable as provided in
105 s. 775.082, s. 775.083, or s. 775.084.

106 2. Using coercion for labor or services who does so by the
107 transfer or transport of an adult from outside this state to
108 within this ~~the~~ state commits a felony of the first degree,
109 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

110 (f)1. For commercial sexual activity who does so by the
111 transfer or transport of any child younger than 18 years of
112 ~~under the age~~ or an adult believed by the person to be a child
113 younger than ~~of~~ 18 years of age from outside this state to
114 within this ~~the~~ state commits a felony of the first degree,
115 punishable by imprisonment for a term of years not exceeding
116 life, or as provided in s. 775.082, s. 775.083, or s. 775.084.

117 2. Using coercion for commercial sexual activity who does
118 so by the transfer or transport of an adult from outside this
119 state to within this ~~the~~ state commits a felony of the first
120 degree, punishable as provided in s. 775.082, s. 775.083, or s.
121 775.084.

122 (g) For commercial sexual activity in which any child
123 younger than 18 years of ~~under the age~~ or an adult believed by
124 the person to be a child younger than ~~of~~ 18 years of age, or in
125 which any person who is mentally defective or mentally
126 incapacitated as those terms are defined in s. 794.011(1), is
127 involved commits a life felony, punishable as provided in s.



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128 775.082(3)(a)6., s. 775.083, or s. 775.084.

129

130 For each instance of human trafficking of any individual under
131 this subsection, a separate crime is committed and a separate
132 punishment is authorized.

133 (12) The Legislature encourages each state attorney to
134 adopt a pro-prosecution policy for human trafficking offenses,
135 as provided in this section. After consulting the victim, or
136 making a good faith attempt to consult the victim, the state
137 attorney shall determine the filing, nonfiling, or diversion of
138 criminal charges even in circumstances when there is no
139 cooperation from a victim or over the objection of the victim,
140 if necessary.

141 Section 3. Subsections (1) and (2) of section 948.30,
142 Florida Statutes, are amended to read:

143 948.30 Additional terms and conditions of probation or
144 community control for certain sex offenses.—Conditions imposed
145 pursuant to this section do not require oral pronouncement at
146 the time of sentencing and shall be considered standard
147 conditions of probation or community control for offenders
148 specified in this section.

149 (1) Effective for probationers or community controllees
150 whose crime was committed on or after October 1, 1995, and who
151 are placed under supervision for a violation of chapter 794, s.
152 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, or whose
153 crime was committed on or after July 1, 2021, and who are placed
154 under supervision for a violation of s. 787.06(3)(b), (d), (f),
155 or (g), the court must impose the following conditions in
156 addition to all other standard and special conditions imposed:



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157 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court may
158 designate another 8-hour period if the offender's employment
159 precludes the above specified time, and the alternative is
160 recommended by the Department of Corrections. If the court
161 determines that imposing a curfew would endanger the victim, the
162 court may consider alternative sanctions.

163 (b) If the victim was under the age of 18, a prohibition on
164 living within 1,000 feet of a school, child care facility, park,
165 playground, or other place where children regularly congregate,
166 as prescribed by the court. The 1,000-foot distance shall be
167 measured in a straight line from the offender's place of
168 residence to the nearest boundary line of the school, child care
169 facility, park, playground, or other place where children
170 congregate. The distance may not be measured by a pedestrian
171 route or automobile route. A probationer or community controllee
172 who is subject to this paragraph may not be forced to relocate
173 and does not violate his or her probation or community control
174 if he or she is living in a residence that meets the
175 requirements of this paragraph and a school, child care
176 facility, park, playground, or other place where children
177 regularly congregate is subsequently established within 1,000
178 feet of his or her residence.

179 (c) Active participation in and successful completion of a
180 sex offender treatment program with qualified practitioners
181 specifically trained to treat sex offenders, at the
182 probationer's or community controllee's own expense. If a
183 qualified practitioner is not available within a 50-mile radius
184 of the probationer's or community controllee's residence, the
185 offender shall participate in other appropriate therapy.



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186 (d) A prohibition on any contact with the victim, directly
187 or indirectly, including through a third person, unless approved
188 by the victim, a qualified practitioner in the sexual offender
189 treatment program, and the sentencing court.

190 (e) If the victim was under the age of 18, a prohibition on
191 contact with a child under the age of 18 except as provided in
192 this paragraph. The court may approve supervised contact with a
193 child under the age of 18 if the approval is based upon a
194 recommendation for contact issued by a qualified practitioner
195 who is basing the recommendation on a risk assessment. Further,
196 the sex offender must be currently enrolled in or have
197 successfully completed a sex offender therapy program. The court
198 may not grant supervised contact with a child if the contact is
199 not recommended by a qualified practitioner and may deny
200 supervised contact with a child at any time. When considering
201 whether to approve supervised contact with a child, the court
202 must review and consider the following:

203 1. A risk assessment completed by a qualified practitioner.
204 The qualified practitioner must prepare a written report that
205 must include the findings of the assessment and address each of
206 the following components:

207 a. The sex offender's current legal status;

208 b. The sex offender's history of adult charges with
209 apparent sexual motivation;

210 c. The sex offender's history of adult charges without
211 apparent sexual motivation;

212 d. The sex offender's history of juvenile charges, whenever
213 available;

214 e. The sex offender's offender treatment history, including



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215 consultations with the sex offender's treating, or most recent
216 treating, therapist;

217 f. The sex offender's current mental status;

218 g. The sex offender's mental health and substance abuse
219 treatment history as provided by the Department of Corrections;

220 h. The sex offender's personal, social, educational, and
221 work history;

222 i. The results of current psychological testing of the sex
223 offender if determined necessary by the qualified practitioner;

224 j. A description of the proposed contact, including the
225 location, frequency, duration, and supervisory arrangement;

226 k. The child's preference and relative comfort level with
227 the proposed contact, when age appropriate;

228 l. The parent's or legal guardian's preference regarding
229 the proposed contact; and

230 m. The qualified practitioner's opinion, along with the
231 basis for that opinion, as to whether the proposed contact would
232 likely pose significant risk of emotional or physical harm to
233 the child.

234

235 The written report of the assessment must be given to the court;

236 2. A recommendation made as a part of the risk assessment
237 report as to whether supervised contact with the child should be
238 approved;

239 3. A written consent signed by the child's parent or legal
240 guardian, if the parent or legal guardian is not the sex
241 offender, agreeing to the sex offender having supervised contact
242 with the child after receiving full disclosure of the sex
243 offender's present legal status, past criminal history, and the



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244 results of the risk assessment. The court may not approve
245 contact with the child if the parent or legal guardian refuses
246 to give written consent for supervised contact;

247 4. A safety plan prepared by the qualified practitioner,
248 who provides treatment to the offender, in collaboration with
249 the sex offender, the child's parent or legal guardian, if the
250 parent or legal guardian is not the sex offender, and the child,
251 when age appropriate, which details the acceptable conditions of
252 contact between the sex offender and the child. The safety plan
253 must be reviewed and approved by the court; and

254 5. Evidence that the child's parent or legal guardian
255 understands the need for and agrees to the safety plan and has
256 agreed to provide, or to designate another adult to provide,
257 constant supervision any time the child is in contact with the
258 offender.

259
260 The court may not appoint a person to conduct a risk assessment
261 and may not accept a risk assessment from a person who has not
262 demonstrated to the court that he or she has met the
263 requirements of a qualified practitioner as defined in this
264 section.

265 (f) If the victim was under age 18, a prohibition on
266 working for pay or as a volunteer at any place where children
267 regularly congregate, including, but not limited to, schools,
268 child care facilities, parks, playgrounds, pet stores,
269 libraries, zoos, theme parks, and malls.

270 (g) Unless otherwise indicated in the treatment plan
271 provided by a qualified practitioner in the sexual offender
272 treatment program, a prohibition on viewing, accessing, owning,



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273 or possessing any obscene, pornographic, or sexually stimulating
274 visual or auditory material, including telephone, electronic
275 media, computer programs, or computer services that are relevant
276 to the offender's deviant behavior pattern.

277 (h) Effective for probationers and community controllees
278 whose crime is committed on or after July 1, 2005, a prohibition
279 on accessing the Internet or other computer services until a
280 qualified practitioner in the offender's sex offender treatment
281 program, after a risk assessment is completed, approves and
282 implements a safety plan for the offender's accessing or using
283 the Internet or other computer services.

284 (i) A requirement that the probationer or community
285 controllee must submit a specimen of blood or other approved
286 biological specimen to the Department of Law Enforcement to be
287 registered with the DNA data bank.

288 (j) A requirement that the probationer or community
289 controllee make restitution to the victim, as ordered by the
290 court under s. 775.089, for all necessary medical and related
291 professional services relating to physical, psychiatric, and
292 psychological care.

293 (k) Submission to a warrantless search by the community
294 control or probation officer of the probationer's or community
295 controllee's person, residence, or vehicle.

296 (2) Effective for a probationer or community controllee
297 whose crime was committed on or after October 1, 1997, and who
298 is placed on community control or sex offender probation for a
299 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),
300 or s. 847.0145, or whose crime was committed on or after July 1,
301 2021, and who is placed on community control or sex offender



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302 probation for a violation of s. 787.06(3)(b), (d), (f), or (g),
303 in addition to any other provision of this section, the court
304 must impose the following conditions of probation or community
305 control:

306 (a) As part of a treatment program, participation at least
307 annually in polygraph examinations to obtain information
308 necessary for risk management and treatment and to reduce the
309 sex offender's denial mechanisms. A polygraph examination must
310 be conducted by a polygrapher who is a member of a national or
311 state polygraph association and who is certified as a
312 postconviction sex offender polygrapher, where available, and
313 shall be paid for by the probationer or community controllee.
314 The results of the polygraph examination shall be provided to
315 the probationer's or community controllee's probation officer
316 and qualified practitioner and shall not be used as evidence in
317 court to prove that a violation of community supervision has
318 occurred.

319 (b) Maintenance of a driving log and a prohibition against
320 driving a motor vehicle alone without the prior approval of the
321 supervising officer.

322 (c) A prohibition against obtaining or using a post office
323 box without the prior approval of the supervising officer.

324 (d) If there was sexual contact, a submission to, at the
325 probationer's or community controllee's expense, an HIV test
326 with the results to be released to the victim or the victim's
327 parent or guardian.

328 (e) Electronic monitoring when deemed necessary by the
329 community control or probation officer and his or her
330 supervisor, and ordered by the court at the recommendation of



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331 the Department of Corrections.

332 ===== T I T L E A M E N D M E N T =====

333 And the title is amended as follows:

334 Delete line 14

335 and insert:

336 years of age; providing criminal penalties;
337 encouraging each state attorney to adopt a pro-
338 prosecution policy for acts of human trafficking;
339 amending s. 948.30, F.S.; requiring a court to impose
340 specified conditions, on probationers or community
341 controllees who are placed under supervision for
342 committing a specified human trafficking offense on or
343 after a certain date; requiring a court to impose
344 specified conditions on probationers or community
345 controllees who are placed on community control or sex
346 offender probation for committing a specified human
347 trafficking offense on or after a certain date;
348 reenacting