

By the Committee on Criminal Justice; and Senator Diaz

591-03238-21

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1 A bill to be entitled
2 An act relating to human trafficking; creating s.
3 90.5034, F.S.; defining terms; providing the
4 circumstances under which certain communications are
5 confidential; creating a human trafficking victim
6 advocate-victim privilege; specifying who may claim
7 such privilege; providing training requirements for
8 human trafficking victim advocates and trained
9 volunteers; amending s. 787.06, F.S.; revising the
10 definitions of the terms "human trafficking" and
11 "obtain"; prohibiting a person from engaging in
12 specified criminal acts relating to human trafficking
13 with an adult believed to be a child younger than 18
14 years of age; providing criminal penalties; reenacting
15 ss. 39.01305(3), 464.013(3)(c), 775.21(4)(a),
16 943.0435(1)(h), 943.0583(1)(a), and 944.606(1)(f),
17 F.S., relating to appointment of an attorney for a
18 dependent child with certain special needs, renewal of
19 license or certificate, the Florida Sexual Predators
20 Act, sexual offenders required to register with the
21 department and penalties, human trafficking victim
22 expunction, and sexual offenders and notification upon
23 release, respectively, to incorporate the amendment
24 made to s. 787.06, F.S., in references thereto;
25 providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 90.5034, Florida Statutes, is created to

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30 read:

31 90.5034 Human trafficking victim advocate-victim
32 privilege.-

33 (1) For purposes of this section:

34 (a) An "anti-trafficking organization" is any public or
35 private agency that offers assistance to victims of human
36 trafficking as defined in s. 787.06.

37 (b) A "human trafficking victim advocate" is any employee
38 of an anti-trafficking organization whose primary purpose is the
39 provision of advice, counseling, or services to victims of human
40 trafficking and who complies with the training requirements
41 under subsection (4).

42 (c) A "trained volunteer" is a person who volunteers with
43 an anti-trafficking organization and who complies with the
44 training requirements under subsection (4).

45 (d) A "victim" is a person who consults a human trafficking
46 victim advocate or a trained volunteer for the purpose of
47 securing advice, counseling, or services concerning any need
48 arising from an experience relating to being a victim of human
49 trafficking.

50 (e) A communication between a human trafficking victim
51 advocate or trained volunteer and a victim is "confidential" if
52 it is not intended to be disclosed to third persons other than:

53 1. Those persons present to further the interest of the
54 victim in the consultation, examination, or interview.

55 2. Those persons necessary for the transmission of the
56 communication.

57 3. Those persons to whom disclosure is reasonably necessary
58 to accomplish the purposes for which the human trafficking

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59 victim advocate or trained volunteer is consulted.

60 (2) A victim has a privilege to refuse to disclose, and to
61 prevent any other person from disclosing, a confidential
62 communication made by the victim to a human trafficking victim
63 advocate or trained volunteer or any record made in the course
64 of advising, counseling, or providing services to the victim.
65 Such confidential communication or record may be disclosed only
66 with the prior written consent of the victim. This privilege
67 includes any advice given by the human trafficking victim
68 advocate or trained volunteer in the course of that
69 relationship.

70 (3) The privilege under subsection (2) may be claimed by:

71 (a) The victim or the victim's attorney on his or her
72 behalf.

73 (b) A guardian or conservator of the victim.

74 (c) The personal representative of a deceased victim.

75 (d) The human trafficking victim advocate or trained
76 volunteer, but only if claiming such privilege on behalf of the
77 victim. The authority of a human trafficking victim advocate or
78 trained volunteer to claim the privilege is presumed in the
79 absence of evidence to the contrary.

80 (4) A human trafficking victim advocate or a trained
81 volunteer shall:

82 (a) Complete 24 hours of human trafficking training
83 delivered by the Office of the Attorney General, the Bureau of
84 Criminal Justice Programs and Victim Services, and the Florida
85 Crime Prevention Training Institute; and

86 (b) To maintain his or her designation, complete an 8-hour
87 Human Trafficking Update course within 3 years after the date of

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88 his or her original designation.

89 Section 2. Paragraphs (d) and (g) of subsection (2) and
90 paragraphs (a), (c), (e), (f), and (g) of subsection (3) of
91 section 787.06, Florida Statutes, are amended to read:

92 787.06 Human trafficking.—

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

94 (d) "Human trafficking" means transporting, soliciting,
95 recruiting, harboring, providing, enticing, maintaining,
96 purchasing, patronizing, procuring, or obtaining another person
97 for the purpose of exploitation of that person.

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

101 (3) Any person who knowingly, or in reckless disregard of
102 the facts, engages in human trafficking, or attempts to engage
103 in human trafficking, or benefits financially by receiving
104 anything of value from participation in a venture that has
105 subjected a person to human trafficking:

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

111 2. Using coercion for labor or services of an adult commits
112 a felony of the first degree, punishable as provided in s.
113 775.082, s. 775.083, or s. 775.084.

114 (c)1. For labor or services of any child younger than 18
115 years of ~~under the age~~ or an adult believed by the person to be
116 a child younger than ~~of~~ 18 years of age who is an unauthorized

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117 alien commits a felony of the first degree, punishable as
118 provided in s. 775.082, s. 775.083, or s. 775.084.

119 2. Using coercion for labor or services of an adult who is
120 an unauthorized alien commits a felony of the first degree,
121 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

139 2. Using coercion for commercial sexual activity who does
140 so by the transfer or transport of an adult from outside this
141 state to within this ~~the~~ state commits a felony of the first
142 degree, punishable as provided in s. 775.082, s. 775.083, or s.
143 775.084.

144 (g) For commercial sexual activity in which any child
145 younger than 18 years of ~~under the age or~~ an adult believed by

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146 the person to be a child younger than ~~of~~ 18 years of age, or in
147 which any person who is mentally defective or mentally
148 incapacitated as those terms are defined in s. 794.011(1), is
149 involved commits a life felony, punishable as provided in s.
150 775.082(3)(a)6., s. 775.083, or s. 775.084.

151

152 For each instance of human trafficking of any individual under
153 this subsection, a separate crime is committed and a separate
154 punishment is authorized.

155 Section 3. For the purpose of incorporating the amendment
156 made by this act to section 787.06, Florida Statutes, in a
157 reference thereto, subsection (3) of section 39.01305, Florida
158 Statutes, is reenacted to read:

159 39.01305 Appointment of an attorney for a dependent child
160 with certain special needs.—

161 (3) An attorney shall be appointed for a dependent child
162 who:

163 (a) Resides in a skilled nursing facility or is being
164 considered for placement in a skilled nursing home;

165 (b) Is prescribed a psychotropic medication but declines
166 assent to the psychotropic medication;

167 (c) Has a diagnosis of a developmental disability as
168 defined in s. 393.063;

169 (d) Is being placed in a residential treatment center or
170 being considered for placement in a residential treatment
171 center; or

172 (e) Is a victim of human trafficking as defined in s.
173 787.06(2)(d).

174 Section 4. For the purpose of incorporating the amendment

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175 made by this act to section 787.06, Florida Statutes, in a
176 reference thereto, paragraph (c) of subsection (3) of section
177 464.013, Florida Statutes, is reenacted to read:

178 464.013 Renewal of license or certificate.—

179 (3) The board shall by rule prescribe up to 30 hours of
180 continuing education biennially as a condition for renewal of a
181 license or certificate.

182 (c) Notwithstanding the exemption in paragraph (a), as part
183 of the maximum biennial continuing education hours required
184 under this subsection, the board shall require each person
185 licensed or certified under this chapter to complete a 2-hour
186 continuing education course on human trafficking, as defined in
187 s. 787.06(2). The continuing education course must consist of
188 data and information on the types of human trafficking, such as
189 labor and sex, and the extent of human trafficking; factors that
190 place a person at greater risk of being a victim of human
191 trafficking; public and private social services available for
192 rescue, food, clothing, and shelter referrals; hotlines for
193 reporting human trafficking which are maintained by the National
194 Human Trafficking Resource Center and the United States
195 Department of Homeland Security; validated assessment tools for
196 identifying a human trafficking victim and general indicators
197 that a person may be a victim of human trafficking; procedures
198 for sharing information related to human trafficking with a
199 patient; and referral options for legal and social services. All
200 licensees must complete this course for every biennial licensure
201 renewal on or after January 1, 2019.

202 Section 5. For the purpose of incorporating the amendment
203 made by this act to section 787.06, Florida Statutes, in a

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204 reference thereto, paragraph (a) of subsection (4) of section
205 775.21, Florida Statutes, is reenacted to read:

206 775.21 The Florida Sexual Predators Act.—

207 (4) SEXUAL PREDATOR CRITERIA.—

208 (a) For a current offense committed on or after October 1,
209 1993, upon conviction, an offender shall be designated as a
210 "sexual predator" under subsection (5), and subject to
211 registration under subsection (6) and community and public
212 notification under subsection (7) if:

213 1. The felony is:

214 a. A capital, life, or first degree felony violation, or
215 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
216 is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a
217 violation of a similar law of another jurisdiction; or

218 b. Any felony violation, or any attempt thereof, of s.
219 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
220 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
221 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding
222 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;
223 s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s.
224 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if
225 the court makes a written finding that the racketeering activity
226 involved at least one sexual offense listed in this sub-
227 subparagraph or at least one offense listed in this sub-
228 subparagraph with sexual intent or motive; s. 916.1075(2); or s.
229 985.701(1); or a violation of a similar law of another
230 jurisdiction, and the offender has previously been convicted of
231 or found to have committed, or has pled nolo contendere or
232 guilty to, regardless of adjudication, any violation of s.

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233 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
234 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
235 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding
236 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;
237 s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
238 excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court
239 makes a written finding that the racketeering activity involved
240 at least one sexual offense listed in this sub-subparagraph or
241 at least one offense listed in this sub-subparagraph with sexual
242 intent or motive; s. 916.1075(2); or s. 985.701(1); or a
243 violation of a similar law of another jurisdiction;

244 2. The offender has not received a pardon for any felony or
245 similar law of another jurisdiction that is necessary for the
246 operation of this paragraph; and

247 3. A conviction of a felony or similar law of another
248 jurisdiction necessary to the operation of this paragraph has
249 not been set aside in any postconviction proceeding.

250 Section 6. For the purpose of incorporating the amendment
251 made by this act to section 787.06, Florida Statutes, in
252 references thereto, paragraph (h) of subsection (1) of section
253 943.0435, Florida Statutes, is reenacted to read:

254 943.0435 Sexual offenders required to register with the
255 department; penalty.—

256 (1) As used in this section, the term:

257 (h)1. "Sexual offender" means a person who meets the
258 criteria in sub-subparagraph a., sub-subparagraph b., sub-
259 subparagraph c., or sub-subparagraph d., as follows:

260 a.(I) Has been convicted of committing, or attempting,
261 soliciting, or conspiring to commit, any of the criminal

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262 offenses proscribed in the following statutes in this state or
263 similar offenses in another jurisdiction: s. 393.135(2); s.
264 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
265 the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former
266 s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s.
267 794.05; former s. 796.03; former s. 796.035; s. 800.04; s.
268 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
269 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
270 s. 895.03, if the court makes a written finding that the
271 racketeering activity involved at least one sexual offense
272 listed in this sub-sub-subparagraph or at least one offense
273 listed in this sub-sub-subparagraph with sexual intent or
274 motive; s. 916.1075(2); or s. 985.701(1); or any similar offense
275 committed in this state which has been redesignated from a
276 former statute number to one of those listed in this sub-sub-
277 subparagraph; and

278 (II) Has been released on or after October 1, 1997, from
279 the sanction imposed for any conviction of an offense described
280 in sub-sub-subparagraph (I). For purposes of sub-sub-
281 subparagraph (I), a sanction imposed in this state or in any
282 other jurisdiction includes, but is not limited to, a fine,
283 probation, community control, parole, conditional release,
284 control release, or incarceration in a state prison, federal
285 prison, private correctional facility, or local detention
286 facility;

287 b. Establishes or maintains a residence in this state and
288 who has not been designated as a sexual predator by a court of
289 this state but who has been designated as a sexual predator, as
290 a sexually violent predator, or by another sexual offender

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291 designation in another state or jurisdiction and was, as a
292 result of such designation, subjected to registration or
293 community or public notification, or both, or would be if the
294 person were a resident of that state or jurisdiction, without
295 regard to whether the person otherwise meets the criteria for
296 registration as a sexual offender;

297 c. Establishes or maintains a residence in this state who
298 is in the custody or control of, or under the supervision of,
299 any other state or jurisdiction as a result of a conviction for
300 committing, or attempting, soliciting, or conspiring to commit,
301 any of the criminal offenses proscribed in the following
302 statutes or similar offense in another jurisdiction: s.
303 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
304 787.025(2) (c), where the victim is a minor; s. 787.06(3) (b),
305 (d), (f), or (g); former s. 787.06(3) (h); s. 794.011, excluding
306 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;
307 s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133;
308 s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138;
309 s. 847.0145; s. 895.03, if the court makes a written finding
310 that the racketeering activity involved at least one sexual
311 offense listed in this sub-subparagraph or at least one offense
312 listed in this sub-subparagraph with sexual intent or motive; s.
313 916.1075(2); or s. 985.701(1); or any similar offense committed
314 in this state which has been redesignated from a former statute
315 number to one of those listed in this sub-subparagraph; or

316 d. On or after July 1, 2007, has been adjudicated
317 delinquent for committing, or attempting, soliciting, or
318 conspiring to commit, any of the criminal offenses proscribed in
319 the following statutes in this state or similar offenses in

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320 another jurisdiction when the juvenile was 14 years of age or
321 older at the time of the offense:

322 (I) Section 794.011, excluding s. 794.011(10);

323 (II) Section 800.04(4)(a)2. where the victim is under 12
324 years of age or where the court finds sexual activity by the use
325 of force or coercion;

326 (III) Section 800.04(5)(c)1. where the court finds
327 molestation involving unclothed genitals;

328 (IV) Section 800.04(5)(d) where the court finds the use of
329 force or coercion and unclothed genitals; or

330 (V) Any similar offense committed in this state which has
331 been redesignated from a former statute number to one of those
332 listed in this sub-subparagraph.

333 2. For all qualifying offenses listed in sub-subparagraph
334 1.d., the court shall make a written finding of the age of the
335 offender at the time of the offense.

336

337 For each violation of a qualifying offense listed in this
338 subsection, except for a violation of s. 794.011, the court
339 shall make a written finding of the age of the victim at the
340 time of the offense. For a violation of s. 800.04(4), the court
341 shall also make a written finding indicating whether the offense
342 involved sexual activity and indicating whether the offense
343 involved force or coercion. For a violation of s. 800.04(5), the
344 court shall also make a written finding that the offense did or
345 did not involve unclothed genitals or genital area and that the
346 offense did or did not involve the use of force or coercion.

347 Section 7. For the purpose of incorporating the amendment
348 made by this act to section 787.06, Florida Statutes, in a

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349 reference thereto, paragraph (a) of subsection (1) of section
350 943.0583, Florida Statutes, is reenacted to read:

351 943.0583 Human trafficking victim expunction.—

352 (1) As used in this section, the term:

353 (a) "Human trafficking" has the same meaning as provided in
354 s. 787.06.

355 Section 8. For the purpose of incorporating the amendment
356 made by this act to section 787.06, Florida Statutes, in a
357 reference thereto, paragraph (f) of subsection (1) of section
358 944.606, Florida Statutes, is reenacted to read:

359 944.606 Sexual offenders; notification upon release.—

360 (1) As used in this section, the term:

361 (f) "Sexual offender" means a person who has been convicted
362 of committing, or attempting, soliciting, or conspiring to
363 commit, any of the criminal offenses proscribed in the following
364 statutes in this state or similar offenses in another
365 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
366 787.02, or s. 787.025(2)(c), where the victim is a minor; s.
367 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
368 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
369 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
370 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
371 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court
372 makes a written finding that the racketeering activity involved
373 at least one sexual offense listed in this paragraph or at least
374 one offense listed in this paragraph with sexual intent or
375 motive; s. 916.1075(2); or s. 985.701(1); or any similar offense
376 committed in this state which has been redesignated from a
377 former statute number to one of those listed in this subsection,

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378 when the department has received verified information regarding
379 such conviction; an offender's computerized criminal history
380 record is not, in and of itself, verified information.

381 Section 9. This act shall take effect July 1, 2021.