

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>      </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice & Public  
 2 Safety Subcommittee

3 Representative Toledo offered the following:

4

5 **Amendment (with title amendment)**

6 Remove lines 60-385 and insert:

7 trafficking victims and who complies with the training  
 8 requirement under subsection (5).

9 (d) "Trained volunteer" means a person who volunteers with  
 10 an anti-human trafficking organization and who complies with the  
 11 training requirement under subsection (5).

12 (2) A communication between a human trafficking victim  
 13 advocate or trained volunteer and a human trafficking victim is  
 14 confidential if it is not intended to be disclosed to third  
 15 persons other than:

16 (a) Those persons present to further the interest of the

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17 human trafficking victim in the consultation, examination, or  
18 interview.

19 (b) Those persons necessary for the transmission of the  
20 communication.

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

24 (3) A human trafficking victim has a privilege to refuse  
25 to disclose, and to prevent any other person from disclosing, a  
26 confidential communication made by the human trafficking victim  
27 to a human trafficking victim advocate or trained volunteer or a  
28 record made in the course of advising, counseling, or providing  
29 services to the human trafficking victim. Such confidential  
30 communication or record may be disclosed only with the prior  
31 written consent of the human trafficking victim. This privilege  
32 includes any advice given by the human trafficking victim  
33 advocate or trained volunteer to the human trafficking victim in  
34 the course of that relationship.

35 (4) The privilege may be claimed by:

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

38 (b) The guardian or conservator of the human trafficking  
39 victim.

40 (c) The personal representative of a deceased human  
41 trafficking victim.

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42 (d) The human trafficking victim advocate or trained  
43 volunteer, but only on behalf of the human trafficking victim.  
44 The authority of a human trafficking victim advocate or trained  
45 volunteer to claim the privilege is presumed in the absence of  
46 evidence to the contrary.

47 (5) A human trafficking victim advocate or a trained  
48 volunteer shall:

49 (a) Complete 24 hours of human trafficking training  
50 delivered by the Office of the Attorney General, the Bureau of  
51 Criminal Justice Programs and Victim Services, and the Florida  
52 Crime Prevention Training Institute; and

53 (b) Within 3 years after completing the training required  
54 under paragraph (a), complete an 8-hour Human Trafficking Update  
55 course.

56 Section 2. Section 92.555, Florida Statutes, is created to  
57 read:

58 92.555 Depositions involving a human trafficking victim;  
59 special protections.—

60 (1) For purposes of this section, the term:

61 (a) "Victim" means a person who was a victim of any human  
62 trafficking offense specified in s. 787.06.

63 (2) Upon motion of a victim, a victim's attorney, the  
64 state attorney, or upon its own motion, the court may enter any  
65 order necessary to protect a victim from severe emotional or  
66 mental harm which may result from the taking of a deposition.

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67 (3) In ruling upon a motion under this subsection, the  
68 court must consider:

69 (a) The current age of the victim.

70 (b) The age of the victim at the time the offense  
71 occurred.

72 (c) The nature of the offense.

73 (d) Whether the evidence sought is reasonably available by  
74 any other means, including the availability of recorded  
75 statements of the victim.

76 (e) Whether the probative value of the victim's testimony  
77 outweighs the potential detriment to the victim of being  
78 deposed.

79 (f) Any other factor that the court deems relevant.

80 (4) In addition to such other relief provided by law, the  
81 court may enter orders, prohibiting depositions of the victim,  
82 requiring the submission of questions before the deposition of  
83 the victim, setting the place and conditions for deposing the  
84 victim, requiring that the deposition specifically include,  
85 exclude, or be limited to inquiry into certain matters, or  
86 ordering the tape or transcript of a victim's deposition be  
87 sealed until further order of the court. The court shall enter  
88 any order necessary to protect the rights of the victim and the  
89 defendant.

90 Section 3. Subsections (12) is added to section 787.06,  
91 Florida Statutes, to read:

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92 787.06 Human trafficking.-

93 (12) The Legislature encourages each state attorney to  
94 adopt a pro-prosecution policy for human trafficking offenses,  
95 as provided in this section. After consulting the victim, or  
96 making a good faith attempt to consult the victim, the state  
97 attorney shall determine the filing, nonfiling, or diversion of  
98 criminal charges even in circumstances when there is no  
99 cooperation from a victim or over the objection of the victim,  
100 if necessary.

101 Section 4. Subsections (2) and (3) and paragraph (a) of  
102 subsection (6) of section 943.0583, Florida Statutes, are  
103 amended to read:

104 943.0583 Human trafficking victim expunction.-

105 (2) Notwithstanding any other provision of law, upon the  
106 filing of a petition as provided in this section, any court in  
107 the circuit in which the petitioner was arrested, so long as the  
108 court has jurisdiction over the class of offense or offenses  
109 sought to be expunged, may order a criminal justice agency to  
110 expunge the criminal history record of a victim of human  
111 trafficking who complies with the requirements of this section.  
112 A petition need not be filed in the court where the petitioner's  
113 criminal proceeding or proceedings originally occurred. This  
114 section does not confer any right to the expunction of any  
115 criminal history record, and any request for expunction of a  
116 criminal history record may be denied at the discretion of the

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117 | court. The clerk of court may not charge a filing fee, service  
118 | charge, copy fee, or any other charge for a petition filed under  
119 | this section. The clerk of court shall treat a petition seeking  
120 | to expunge records in more than one eligible case as a single  
121 | petition.

122 | (3) A person who is a victim of human trafficking may  
123 | petition for the expunction of a criminal history record  
124 | resulting from the arrest or filing of charges for one or more  
125 | offenses ~~an offense~~ committed or reported to have been committed  
126 | while the person was a victim of human trafficking, which  
127 | offense was committed or reported to have been committed as a  
128 | part of the human trafficking scheme of which the person was a  
129 | victim or at the direction of an operator of the scheme,  
130 | including, but not limited to, violations under chapters 796 and  
131 | 847, without regard to the disposition of the arrest or of any  
132 | charges. However, this section does not apply to any offense  
133 | listed in s. 775.084(1)(b)1. if the victim of human trafficking  
134 | was found guilty of, or pled guilty or nolo contendere to, such  
135 | offense. Determination of the petition under this section should  
136 | be by a preponderance of the evidence. A conviction expunged  
137 | under this section is deemed to have been vacated due to a  
138 | substantive defect in the underlying criminal proceedings. If a  
139 | person is adjudicated not guilty by reason of insanity or is  
140 | found to be incompetent to stand trial for any such charge, the  
141 | expunction of the criminal history record may not prevent the

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142 entry of the judgment or finding in state and national databases  
143 for use in determining eligibility to purchase or possess a  
144 firearm or to carry a concealed firearm, as authorized in s.  
145 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it prevent  
146 any governmental agency that is authorized by state or federal  
147 law to determine eligibility to purchase or possess a firearm or  
148 to carry a concealed firearm from accessing or using the record  
149 of the judgment or finding in the course of such agency's  
150 official duties.

151 (6) Each petition to a court to expunge a criminal history  
152 record is complete only when accompanied by:

153 (a) The petitioner's sworn statement attesting that the  
154 petitioner is eligible for such an expunction to the best of his  
155 or her knowledge or belief ~~and does not have any other petition~~  
156 ~~to expunge or any petition to seal pending before any court.~~

157  
158 Any person who knowingly provides false information on such  
159 sworn statement to the court commits a felony of the third  
160 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
161 775.084.

162 Section 4. Subsections (1) and (2) of section 948.30,  
163 Florida Statutes, are amended to read:

164 948.30 Additional terms and conditions of probation or  
165 community control for certain sex offenses.—Conditions imposed  
166 pursuant to this section do not require oral pronouncement at

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167 the time of sentencing and shall be considered standard  
168 conditions of probation or community control for offenders  
169 specified in this section.

170 (1) Effective for probationers or community controllees  
171 whose crime was committed on or after October 1, 1995, and who  
172 are placed under supervision for a violation of chapter 794, s.  
173 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, or whose  
174 crime was committed on or after July 1, 2021, and who are placed  
175 under supervision for a violation of s. 787.06(3)(b), (d), (f),  
176 or (g), the court must impose the following conditions in  
177 addition to all other standard and special conditions imposed:

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

184 (b) If the victim was under the age of 18, a prohibition  
185 on living within 1,000 feet of a school, child care facility,  
186 park, playground, or other place where children regularly  
187 congregate, as prescribed by the court. The 1,000-foot distance  
188 shall be measured in a straight line from the offender's place  
189 of residence to the nearest boundary line of the school, child  
190 care facility, park, playground, or other place where children  
191 congregate. The distance may not be measured by a pedestrian



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192 route or automobile route. A probationer or community controllee  
193 who is subject to this paragraph may not be forced to relocate  
194 and does not violate his or her probation or community control  
195 if he or she is living in a residence that meets the  
196 requirements of this paragraph and a school, child care  
197 facility, park, playground, or other place where children  
198 regularly congregate is subsequently established within 1,000  
199 feet of his or her residence.

200 (c) Active participation in and successful completion of a  
201 sex offender treatment program with qualified practitioners  
202 specifically trained to treat sex offenders, at the  
203 probationer's or community controllee's own expense. If a  
204 qualified practitioner is not available within a 50-mile radius  
205 of the probationer's or community controllee's residence, the  
206 offender shall participate in other appropriate therapy.

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

211 (e) If the victim was under the age of 18, a prohibition  
212 on contact with a child under the age of 18 except as provided  
213 in this paragraph. The court may approve supervised contact with  
214 a child under the age of 18 if the approval is based upon a  
215 recommendation for contact issued by a qualified practitioner  
216 who is basing the recommendation on a risk assessment. Further,

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217 the sex offender must be currently enrolled in or have  
218 successfully completed a sex offender therapy program. The court  
219 may not grant supervised contact with a child if the contact is  
220 not recommended by a qualified practitioner and may deny  
221 supervised contact with a child at any time. When considering  
222 whether to approve supervised contact with a child, the court  
223 must review and consider the following:

224 1. A risk assessment completed by a qualified  
225 practitioner. The qualified practitioner must prepare a written  
226 report that must include the findings of the assessment and  
227 address each of the following components:

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

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

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

233 d. The sex offender's history of juvenile charges,  
234 whenever available;

235 e. The sex offender's offender treatment history,  
236 including consultations with the sex offender's treating, or  
237 most recent treating, therapist;

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

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

241 h. The sex offender's personal, social, educational, and

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242 work history;

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

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

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

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

251 m. The qualified practitioner's opinion, along with the  
252 basis for that opinion, as to whether the proposed contact would  
253 likely pose significant risk of emotional or physical harm to  
254 the child.

255

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

257 2. A recommendation made as a part of the risk assessment  
258 report as to whether supervised contact with the child should be  
259 approved;

260 3. A written consent signed by the child's parent or legal  
261 guardian, if the parent or legal guardian is not the sex  
262 offender, agreeing to the sex offender having supervised contact  
263 with the child after receiving full disclosure of the sex  
264 offender's present legal status, past criminal history, and the  
265 results of the risk assessment. The court may not approve  
266 contact with the child if the parent or legal guardian refuses

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267 to give written consent for supervised contact;

268 4. A safety plan prepared by the qualified practitioner,  
269 who provides treatment to the offender, in collaboration with  
270 the sex offender, the child's parent or legal guardian, if the  
271 parent or legal guardian is not the sex offender, and the child,  
272 when age appropriate, which details the acceptable conditions of  
273 contact between the sex offender and the child. The safety plan  
274 must be reviewed and approved by the court; and

275 5. Evidence that the child's parent or legal guardian  
276 understands the need for and agrees to the safety plan and has  
277 agreed to provide, or to designate another adult to provide,  
278 constant supervision any time the child is in contact with the  
279 offender.

280

281 The court may not appoint a person to conduct a risk assessment  
282 and may not accept a risk assessment from a person who has not  
283 demonstrated to the court that he or she has met the  
284 requirements of a qualified practitioner as defined in this  
285 section.

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

291 (g) Unless otherwise indicated in the treatment plan

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292 provided by a qualified practitioner in the sexual offender  
293 treatment program, a prohibition on viewing, accessing, owning,  
294 or possessing any obscene, pornographic, or sexually stimulating  
295 visual or auditory material, including telephone, electronic  
296 media, computer programs, or computer services that are relevant  
297 to the offender's deviant behavior pattern.

298 (h) Effective for probationers and community controllees  
299 whose crime is committed on or after July 1, 2005, a prohibition  
300 on accessing the Internet or other computer services until a  
301 qualified practitioner in the offender's sex offender treatment  
302 program, after a risk assessment is completed, approves and  
303 implements a safety plan for the offender's accessing or using  
304 the Internet or other computer services.

305 (i) A requirement that the probationer or community  
306 controllee must submit a specimen of blood or other approved  
307 biological specimen to the Department of Law Enforcement to be  
308 registered with the DNA data bank.

309 (j) A requirement that the probationer or community  
310 controllee make restitution to the victim, as ordered by the  
311 court under s. 775.089, for all necessary medical and related  
312 professional services relating to physical, psychiatric, and  
313 psychological care.

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

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317 (2) Effective for a probationer or community controllee  
318 whose crime was committed on or after October 1, 1997, and who  
319 is placed on community control or sex offender probation for a  
320 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),  
321 or s. 847.0145, or whose crime was committed on or after July 1,  
322 2021, and who is placed on community control or sex offender  
323 probation for a violation of s. 787.06(3)(b), (d), (f), or (g),  
324 in addition to any other provision of this section, the court  
325 must impose the following conditions of probation or community  
326 control:

327 (a) As part of a treatment program, participation at least  
328 annually in polygraph examinations to obtain information  
329 necessary for risk management and treatment and to reduce the  
330 sex offender's denial mechanisms. A polygraph examination must  
331 be conducted by a polygrapher who is a member of a national or  
332 state polygraph association and who is certified as a  
333 postconviction sex offender polygrapher, where available, and  
334 shall be paid for by the probationer or community controllee.  
335 The results of the polygraph examination shall be provided to  
336 the probationer's or community controllee's probation officer  
337 and qualified practitioner and shall not be used as evidence in  
338 court to prove that a violation of community supervision has  
339 occurred.

340 (b) Maintenance of a driving log and a prohibition against  
341 driving a motor vehicle alone without the prior approval of the

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342 supervising officer.

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

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

349 (e) Electronic monitoring when deemed necessary by the  
350 community control or probation officer and his or her  
351 supervisor, and ordered by the court at the recommendation of  
352 the Department of Corrections.

353

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355 **T I T L E A M E N D M E N T**

356 Remove lines 8-39 and insert:

357 who may claim the privilege; creating s. 92.555, F.S.,  
358 authorizing orders limiting the taking of depositions of a human  
359 trafficking victim; providing factors the court must consider in  
360 granting such orders; authorizing the court to set other  
361 conditions appropriate for taking the deposition of such a  
362 victim; amending s. 787.06, F.S.; encouraging each state  
363 attorney to adopt a pro-prosecution policy for acts of human  
364 trafficking; amending s. 943.0583, F.S.; providing that a court  
365 clerk may not charge fees for petitions for expunction of a  
366 human trafficking victim's criminal history record; providing

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367 that a petition seeking expunction of more than one case is a  
368 single petition; deleting a requirement that a petitioner under  
369 this section have no other expunction petitions pending;  
370 amending s. 948.30, F.S.; requiring a court to impose specified  
371 conditions, on probationers or community controllees who are  
372 placed under supervision for committing a specified human  
373 trafficking offense on or after a certain date; requiring a  
374 court to impose specified conditions on probationers or  
375 community controllees who are placed on community control or sex  
376 offender probation for committing a specified human trafficking  
377 offense on or after a certain date; providing an effective date.