

1                                   A bill to be entitled  
2           An act relating to human trafficking; creating s.  
3           90.5037, F.S.; providing definitions; providing that a  
4           communication between a human trafficking victim  
5           advocate or trained volunteer and a human trafficking  
6           victim is confidential in certain circumstances;  
7           specifying what the privilege encompasses; specifying  
8           who may claim the privilege; amending s. 787.06, F.S.;  
9           prohibiting the inclusion of depositions in the  
10          prosecution of a human trafficking crime; providing an  
11          exception; amending s. 943.0583, F.S.; providing for  
12          expunction of driving records; providing that a court  
13          clerk may not charge fees for such a petition;  
14          providing that a petition seeking expunction of more  
15          than one case is a single petition; deleting a  
16          requirement that a petitioner under this section have  
17          no other expunction petitions pending; amending s.  
18          948.30, F.S.; requiring a court to impose specified  
19          conditions, in addition to all other standard and  
20          special conditions imposed, on probationers or  
21          community controllees who are placed under supervision  
22          for violations of sexually related human trafficking  
23          offenses on or after a certain date; requiring a court  
24          to impose specified conditions, in addition to any  
25          other applicable conditions, on probationers or

26 community controllees who are placed on community  
 27 control or sex offender probation for violations of  
 28 sexually related human trafficking offenses on or  
 29 after a certain date; amending s. 960.0015, F.S.;  
 30 authorizing a court to grant a defendant accused of  
 31 human trafficking an extension if the defendant  
 32 demonstrates, upon a showing of need to call witnesses  
 33 or alibi defenses, that such an extension is necessary  
 34 after the filing of a demand for a speedy trial by the  
 35 state attorney; authorizing the court to grant further  
 36 extensions to prevent deprivation of the defendant's  
 37 right to due process; requiring each state attorney to  
 38 adopt a pro-prosecution policy for acts of human  
 39 trafficking; providing an effective date.

41 Be It Enacted by the Legislature of the State of Florida:

42  
 43 Section 1. Section 90.5037, Florida Statutes, is created  
 44 to read:

45 90.5037 Human trafficking victim advocate-victim  
 46 privilege.-

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

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

51 787.06(2).

52 (b) "Human trafficking victim" means a person who consults  
53 a human trafficking victim advocate or a trained volunteer for  
54 the purpose of securing advice, counseling, or services  
55 concerning a need arising from an experience of human  
56 trafficking exploitation.

57 (c) "Human trafficking victim advocate" means an employee  
58 of an anti-human trafficking organization whose primary purpose  
59 is to provide advice, counseling, or services to human  
60 trafficking victims and who has completed at least 30 hours of  
61 human trafficking training. The required training must consist  
62 of 24 hours of human trafficking training delivered by the  
63 Office of the Attorney General, the Bureau of Criminal Justice  
64 Programs in the Division of Victim Services and Criminal Justice  
65 Programs, or the Florida Crime Prevention and Training  
66 Institute, and 6 hours of in-house organizational training.

67 (d) "Trained volunteer" means a person who volunteers with  
68 an anti-human trafficking organization and who has completed at  
69 least 30 hours of human trafficking training. The required  
70 training must consist of 24 hours of human trafficking training  
71 delivered by the Office of the Attorney General, the Bureau of  
72 Criminal Justice Programs in the Division of Victim Services and  
73 Criminal Justice Programs, or the Florida Crime Prevention and  
74 Training Institute, and 6 hours of in-house organizational  
75 training.

76        (2) A communication between a human trafficking victim  
77 advocate or trained volunteer and a human trafficking victim is  
78 confidential if it is not intended to be disclosed to third  
79 persons other than:

80        (a) Those persons present to further the interest of the  
81 human trafficking victim in the consultation, examination, or  
82 interview.

83        (b) Those persons necessary for the transmission of the  
84 communication.

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

88        (3) A human trafficking victim has a privilege to refuse  
89 to disclose, and to prevent any other person from disclosing, a  
90 confidential communication made by the human trafficking victim  
91 to a human trafficking victim advocate or trained volunteer or a  
92 record made in the course of advising, counseling, or providing  
93 services to the human trafficking victim. Such confidential  
94 communication or record may be disclosed only with the prior  
95 written consent of the human trafficking victim. This privilege  
96 includes any advice given by the human trafficking victim  
97 advocate or trained volunteer to the human trafficking victim in  
98 the course of that relationship.

99        (4) The privilege may be claimed by:

100       (a) The human trafficking victim or the human trafficking

101 victim's attorney on his or her behalf.

102 (b) The guardian or conservator of the human trafficking  
103 victim.

104 (c) The personal representative of a deceased human  
105 trafficking victim.

106 (d) The human trafficking victim advocate or trained  
107 volunteer, but only on behalf of the human trafficking victim.  
108 The authority of a human trafficking victim advocate or trained  
109 volunteer to claim the privilege is presumed in the absence of  
110 evidence to the contrary.

111 Section 2. Subsection (12) is added to section 787.06,  
112 Florida Statutes, to read:

113 787.06 Human trafficking.—

114 (12) The prosecution of a crime under this section may not  
115 include depositions, unless good cause is shown, governed by all  
116 of the following factors:

117 (a) The consequences to the defendant.

118 (b) The complexity of the issues involved.

119 (c) The complexity of the witness testimony.

120 (d) The other opportunities available to the defendant to  
121 discover the information sought by deposition.

122 Section 3. Subsections (2) and (3) and paragraph (a) of  
123 subsection (6) of section 943.0583, Florida Statutes, are  
124 amended to read:

125 943.0583 Human trafficking victim expunction.—

126 (2) Notwithstanding any other provision of law, upon the  
127 filing of a petition as provided in this section, any court in  
128 the circuit in which the petitioner was arrested, so long as the  
129 court has jurisdiction over the class of offense or offenses  
130 sought to be expunged, may order a criminal justice agency to  
131 expunge the criminal history record or driving record, or both  
132 of a victim of human trafficking who complies with the  
133 requirements of this section. A petition need not be filed in  
134 the court where the petitioner's criminal proceeding or  
135 proceedings originally occurred. This section does not confer  
136 any right to the expunction of any criminal history record, and  
137 any request for expunction of a criminal history record may be  
138 denied at the discretion of the court. The clerk of court may  
139 not charge a filing fee, service charge, copy fee, or any other  
140 charge for petitions filed under this section. The clerk of  
141 court shall treat a petition seeking to expunge more than one  
142 case as a single petition.

143 (3) A person who is a victim of human trafficking may  
144 petition for the expunction of a criminal history record or  
145 driving record, or both, resulting from the arrest or filing of  
146 charges for one or more offenses ~~an offense~~ committed or  
147 reported to have been committed while the person was a victim of  
148 human trafficking, which offense was committed or reported to  
149 have been committed as a part of the human trafficking scheme of  
150 which the person was a victim or at the direction of an operator

151 of the scheme, including, but not limited to, violations under  
152 chapters 796 and 847, without regard to the disposition of the  
153 arrest or of any charges. However, this section does not apply  
154 to any offense listed in s. 775.084(1)(b)1. where the defendant  
155 was found guilty of, or pled guilty or nolo contendere to, any  
156 such offense. Determination of the petition under this section  
157 should be by a preponderance of the evidence. A conviction  
158 expunged under this section is deemed to have been vacated due  
159 to a substantive defect in the underlying criminal proceedings.  
160 If a person is adjudicated not guilty by reason of insanity or  
161 is found to be incompetent to stand trial for any such charge,  
162 the expunction of the criminal history record may not prevent  
163 the entry of the judgment or finding in state and national  
164 databases for use in determining eligibility to purchase or  
165 possess a firearm or to carry a concealed firearm, as authorized  
166 in s. 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it  
167 prevent any governmental agency that is authorized by state or  
168 federal law to determine eligibility to purchase or possess a  
169 firearm or to carry a concealed firearm from accessing or using  
170 the record of the judgment or finding in the course of such  
171 agency's official duties.

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

174 (a) The petitioner's sworn statement attesting that the  
175 petitioner is eligible for such an expunction to the best of his

176 | or her knowledge or belief ~~and does not have any other petition~~  
 177 | ~~to expunge or any petition to seal pending before any court.~~

178 |  
 179 | Any person who knowingly provides false information on such  
 180 | sworn statement to the court commits a felony of the third  
 181 | degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 182 | 775.084.

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

185 | 948.30 Additional terms and conditions of probation or  
 186 | community control for certain sex offenses.—Conditions imposed  
 187 | pursuant to this section do not require oral pronouncement at  
 188 | the time of sentencing and shall be considered standard  
 189 | conditions of probation or community control for offenders  
 190 | specified in this section.

191 | (1) Effective for probationers or community controllees  
 192 | whose crime was committed on or after October 1, 1995, and who  
 193 | are placed under supervision for violation of s. 787.06(3)(b),  
 194 | (d), (f), or (g), chapter 794, s. 800.04, s. 827.071, s.  
 195 | 847.0135(5), or s. 847.0145, the court must impose the following  
 196 | conditions in addition to all other standard and special  
 197 | conditions imposed:

198 | (a) A mandatory curfew from 10 p.m. to 6 a.m. The court  
 199 | may designate another 8-hour period if the offender's employment  
 200 | precludes the above specified time, and the alternative is



201 recommended by the Department of Corrections. If the court  
202 determines that imposing a curfew would endanger the victim, the  
203 court may consider alternative sanctions.

204 (b) If the victim was under the age of 18, a prohibition  
205 on living within 1,000 feet of a school, child care facility,  
206 park, playground, or other place where children regularly  
207 congregate, as prescribed by the court. The 1,000-foot distance  
208 shall be measured in a straight line from the offender's place  
209 of residence to the nearest boundary line of the school, child  
210 care facility, park, playground, or other place where children  
211 congregate. The distance may not be measured by a pedestrian  
212 route or automobile route. A probationer or community controllee  
213 who is subject to this paragraph may not be forced to relocate  
214 and does not violate his or her probation or community control  
215 if he or she is living in a residence that meets the  
216 requirements of this paragraph and a school, child care  
217 facility, park, playground, or other place where children  
218 regularly congregate is subsequently established within 1,000  
219 feet of his or her residence.

220 (c) Active participation in and successful completion of a  
221 sex offender treatment program with qualified practitioners  
222 specifically trained to treat sex offenders, at the  
223 probationer's or community controllee's own expense. If a  
224 qualified practitioner is not available within a 50-mile radius  
225 of the probationer's or community controllee's residence, the

226 offender shall participate in other appropriate therapy.

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

231 (e) If the victim was under the age of 18, a prohibition  
232 on contact with a child under the age of 18 except as provided  
233 in this paragraph. The court may approve supervised contact with  
234 a child under the age of 18 if the approval is based upon a  
235 recommendation for contact issued by a qualified practitioner  
236 who is basing the recommendation on a risk assessment. Further,  
237 the sex offender must be currently enrolled in or have  
238 successfully completed a sex offender therapy program. The court  
239 may not grant supervised contact with a child if the contact is  
240 not recommended by a qualified practitioner and may deny  
241 supervised contact with a child at any time. When considering  
242 whether to approve supervised contact with a child, the court  
243 must review and consider the following:

244 1. A risk assessment completed by a qualified  
245 practitioner. The qualified practitioner must prepare a written  
246 report that must include the findings of the assessment and  
247 address each of the following components:

- 248 a. The sex offender's current legal status;  
249 b. The sex offender's history of adult charges with  
250 apparent sexual motivation;

- 251 c. The sex offender's history of adult charges without  
252 apparent sexual motivation;
- 253 d. The sex offender's history of juvenile charges,  
254 whenever available;
- 255 e. The sex offender's offender treatment history,  
256 including consultations with the sex offender's treating, or  
257 most recent treating, therapist;
- 258 f. The sex offender's current mental status;
- 259 g. The sex offender's mental health and substance abuse  
260 treatment history as provided by the Department of Corrections;
- 261 h. The sex offender's personal, social, educational, and  
262 work history;
- 263 i. The results of current psychological testing of the sex  
264 offender if determined necessary by the qualified practitioner;
- 265 j. A description of the proposed contact, including the  
266 location, frequency, duration, and supervisory arrangement;
- 267 k. The child's preference and relative comfort level with  
268 the proposed contact, when age appropriate;
- 269 l. The parent's or legal guardian's preference regarding  
270 the proposed contact; and
- 271 m. The qualified practitioner's opinion, along with the  
272 basis for that opinion, as to whether the proposed contact would  
273 likely pose significant risk of emotional or physical harm to  
274 the child.  
275

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

277 2. A recommendation made as a part of the risk assessment  
278 report as to whether supervised contact with the child should be  
279 approved;

280 3. A written consent signed by the child's parent or legal  
281 guardian, if the parent or legal guardian is not the sex  
282 offender, agreeing to the sex offender having supervised contact  
283 with the child after receiving full disclosure of the sex  
284 offender's present legal status, past criminal history, and the  
285 results of the risk assessment. The court may not approve  
286 contact with the child if the parent or legal guardian refuses  
287 to give written consent for supervised contact;

288 4. A safety plan prepared by the qualified practitioner,  
289 who provides treatment to the offender, in collaboration with  
290 the sex offender, the child's parent or legal guardian, if the  
291 parent or legal guardian is not the sex offender, and the child,  
292 when age appropriate, which details the acceptable conditions of  
293 contact between the sex offender and the child. The safety plan  
294 must be reviewed and approved by the court; and

295 5. Evidence that the child's parent or legal guardian  
296 understands the need for and agrees to the safety plan and has  
297 agreed to provide, or to designate another adult to provide,  
298 constant supervision any time the child is in contact with the  
299 offender.

300

301 The court may not appoint a person to conduct a risk assessment  
302 and may not accept a risk assessment from a person who has not  
303 demonstrated to the court that he or she has met the  
304 requirements of a qualified practitioner as defined in this  
305 section.

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

311 (g) Unless otherwise indicated in the treatment plan  
312 provided by a qualified practitioner in the sexual offender  
313 treatment program, a prohibition on viewing, accessing, owning,  
314 or possessing any obscene, pornographic, or sexually stimulating  
315 visual or auditory material, including telephone, electronic  
316 media, computer programs, or computer services that are relevant  
317 to the offender's deviant behavior pattern.

318 (h) Effective for probationers and community controllees  
319 whose crime is committed on or after July 1, 2005, a prohibition  
320 on accessing the Internet or other computer services until a  
321 qualified practitioner in the offender's sex offender treatment  
322 program, after a risk assessment is completed, approves and  
323 implements a safety plan for the offender's accessing or using  
324 the Internet or other computer services.

325 (i) A requirement that the probationer or community

326 controllee must submit a specimen of blood or other approved  
327 biological specimen to the Department of Law Enforcement to be  
328 registered with the DNA data bank.

329 (j) A requirement that the probationer or community  
330 controllee make restitution to the victim, as ordered by the  
331 court under s. 775.089, for all necessary medical and related  
332 professional services relating to physical, psychiatric, and  
333 psychological care.

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

337 (2) Effective for a probationer or community controllee  
338 whose crime was committed on or after October 1, 1997, and who  
339 is placed on community control or sex offender probation for a  
340 violation of s. 787.06(3)(b), (d), (f), or (g), chapter 794, s.  
341 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, in addition  
342 to any other provision of this section, the court must impose  
343 the following conditions of probation or community control:

344 (a) As part of a treatment program, participation at least  
345 annually in polygraph examinations to obtain information  
346 necessary for risk management and treatment and to reduce the  
347 sex offender's denial mechanisms. A polygraph examination must  
348 be conducted by a polygrapher who is a member of a national or  
349 state polygraph association and who is certified as a  
350 postconviction sex offender polygrapher, where available, and

351 shall be paid for by the probationer or community controllee.  
352 The results of the polygraph examination shall be provided to  
353 the probationer's or community controllee's probation officer  
354 and qualified practitioner and shall not be used as evidence in  
355 court to prove that a violation of community supervision has  
356 occurred.

357 (b) Maintenance of a driving log and a prohibition against  
358 driving a motor vehicle alone without the prior approval of the  
359 supervising officer.

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

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

366 (e) Electronic monitoring when deemed necessary by the  
367 community control or probation officer and his or her  
368 supervisor, and ordered by the court at the recommendation of  
369 the Department of Corrections.

370 Section 5. Subsections (4) and (5) are added to section  
371 960.0015, Florida Statutes, to read:

372 960.0015 Victim's right to a speedy trial; speedy trial  
373 demand by the state attorney.—

374 (4) Upon the filing of a demand for a speedy trial by the  
375 state attorney, the trial court may grant a defendant accused of

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376 human trafficking an extension if the defendant demonstrates,  
377 upon a showing of need to call witnesses or alibi defenses, that  
378 such an extension is necessary. The court may grant whatever  
379 further extension may be required to prevent deprivation of the  
380 defendant's right to due process.

381 (5) Each state attorney shall adopt a pro-prosecution  
382 policy for acts of human trafficking, as defined in s. 787.06.  
383 The filing, nonfiling, or diversion of criminal charges shall be  
384 determined by a prosecutor even when there is no cooperation  
385 from a victim or over the objection of the victim, if necessary.

386 Section 6. This act shall take effect July 1, 2021.