

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; creating s. 92.555, F.S.;  
9           authorizing orders limiting the taking of depositions  
10          of a human trafficking victim; providing factors the  
11          court must consider in granting such orders;  
12          authorizing the court to set other conditions  
13          appropriate for taking the deposition of such a  
14          victim; amending s. 787.06, F.S.; encouraging each  
15          state attorney to adopt a pro-prosecution policy for  
16          acts of human trafficking; amending s. 943.0583, F.S.;  
17          providing that a court clerk may not charge fees for  
18          petitions for expunction of a human trafficking  
19          victim's criminal history record; providing that a  
20          petition seeking expunction of more than one case is a  
21          single petition; deleting a requirement that a  
22          petitioner under this section have no other expunction  
23          petitions pending; amending s. 948.30, F.S.; requiring  
24          a court to impose specified conditions, on  
25          probationers or community controllees who are placed

26 | under supervision for committing a specified human  
 27 | trafficking offense on or after a certain date;  
 28 | requiring a court to impose specified conditions on  
 29 | probationers or community controllees who are placed  
 30 | on community control or sex offender probation for  
 31 | committing a specified human trafficking offense on or  
 32 | after a certain date; providing an effective date.  
 33 |

34 | Be It Enacted by the Legislature of the State of Florida:

35 |  
 36 | Section 1. Section 90.5037, Florida Statutes, is created  
 37 | to read:

38 | 90.5037 Human trafficking victim advocate-victim  
 39 | privilege.-

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

41 | (a) "Anti-human trafficking organization" means a  
 42 | registered public or private agency that offers assistance to  
 43 | victims of the offense of human trafficking, as defined in s.  
 44 | 787.06(2).

45 | (b) "Human trafficking victim" means a person who consults  
 46 | a human trafficking victim advocate or a trained volunteer for  
 47 | the purpose of securing advice, counseling, or services  
 48 | concerning a need arising from an experience of human  
 49 | trafficking exploitation.

50 | (c) "Human trafficking victim advocate" means an employee

51 of an anti-human trafficking organization whose primary purpose  
52 is to provide advice, counseling, or services to human  
53 trafficking victims and who complies with the training  
54 requirements under subsection (5).

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

58 (2) A communication between a human trafficking victim  
59 advocate or trained volunteer and a human trafficking victim is  
60 confidential if it is not intended to be disclosed to third  
61 persons other than:

62 (a) Those persons present to further the interest of the  
63 human trafficking victim in the consultation, examination, or  
64 interview.

65 (b) Those persons necessary for the transmission of the  
66 communication.

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

70 (3) A human trafficking victim has a privilege to refuse  
71 to disclose, and to prevent any other person from disclosing, a  
72 confidential communication made by the human trafficking victim  
73 to a human trafficking victim advocate or trained volunteer or a  
74 record made in the course of advising, counseling, or providing  
75 services to the human trafficking victim. Such confidential

76 communication or record may be disclosed only with the prior  
77 written consent of the human trafficking victim. This privilege  
78 includes any advice given by the human trafficking victim  
79 advocate or trained volunteer to the human trafficking victim in  
80 the course of that relationship.

81 (4) The privilege may be claimed by:

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

84 (b) The guardian or conservator of the human trafficking  
85 victim.

86 (c) The personal representative of a deceased human  
87 trafficking victim.

88 (d) The human trafficking victim advocate or trained  
89 volunteer, but only on behalf of the human trafficking victim.  
90 The authority of a human trafficking victim advocate or trained  
91 volunteer to claim the privilege is presumed in the absence of  
92 evidence to the contrary.

93 (5) A human trafficking victim advocate or a trained  
94 volunteer shall:

95 (a) Complete 24 hours of human trafficking training  
96 delivered by the Office of the Attorney General, the Bureau of  
97 Criminal Justice Programs and Victim Services, and the Florida  
98 Crime Prevention Training Institute.

99 (b) Within 3 years after completing the training required  
100 under paragraph (a), complete an 8-hour human trafficking update

101 course.

102 Section 2. Section 92.555, Florida Statutes, is created to  
103 read:

104 92.555 Depositions involving a human trafficking victim;  
105 special protections.-

106 (1) For purposes of this section, the term "victim" means  
107 a person who was a victim of any human trafficking offense  
108 specified in s. 787.06.

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

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

115 (a) The current age of the victim.

116 (b) The age of the victim at the time the offense  
117 occurred.

118 (c) The nature of the offense.

119 (d) Whether the evidence sought is reasonably available by  
120 any other means, including the availability of recorded  
121 statements of the victim.

122 (e) Whether the probative value of the victim's testimony  
123 outweighs the potential detriment to the victim of being  
124 deposed.

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

126       (4) In addition to such other relief provided by law, the  
 127 court may enter orders, prohibiting depositions of the victim,  
 128 requiring the submission of questions before the deposition of  
 129 the victim, setting the place and conditions for deposing the  
 130 victim, requiring that the deposition specifically include,  
 131 exclude, or be limited to inquiry into certain matters, or  
 132 ordering the tape or transcript of a victim's deposition be  
 133 sealed until further order of the court. The court shall enter  
 134 any order necessary to protect the rights of the victim and the  
 135 defendant.

136       Section 3. Subsection (12) is added to section 787.06,  
 137 Florida Statutes, to read:

138       787.06 Human trafficking.—

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

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

150       943.0583 Human trafficking victim expunction.—

151 (2) Notwithstanding any other provision of law, upon the  
152 filing of a petition as provided in this section, any court in  
153 the circuit in which the petitioner was arrested, so long as the  
154 court has jurisdiction over the class of offense or offenses  
155 sought to be expunged, may order a criminal justice agency to  
156 expunge the criminal history record of a victim of human  
157 trafficking who complies with the requirements of this section.  
158 A petition need not be filed in the court where the petitioner's  
159 criminal proceeding or proceedings originally occurred. This  
160 section does not confer any right to the expunction of any  
161 criminal history record, and any request for expunction of a  
162 criminal history record may be denied at the discretion of the  
163 court. The clerk of court may not charge a filing fee, service  
164 charge, copy fee, or any other charge for a petition filed under  
165 this section. The clerk of court shall treat a petition seeking  
166 to expunge more than one eligible case as a single petition.

167 (3) A person who is a victim of human trafficking may  
168 petition for the expunction of a criminal history record  
169 resulting from the arrest or filing of charges for one or more  
170 offenses ~~an offense~~ committed or reported to have been committed  
171 while the person was a victim of human trafficking, which  
172 offense was committed or reported to have been committed as a  
173 part of the human trafficking scheme of which the person was a  
174 victim or at the direction of an operator of the scheme,  
175 including, but not limited to, violations under chapters 796 and

176 847, without regard to the disposition of the arrest or of any  
177 charges. However, this section does not apply to any offense  
178 listed in s. 775.084(1)(b)1. if the victim of human trafficking  
179 was found guilty of, or pled guilty or nolo contendere to, such  
180 an offense. Determination of the petition under this section  
181 should be by a preponderance of the evidence. A conviction  
182 expunged under this section is deemed to have been vacated due  
183 to a substantive defect in the underlying criminal proceedings.  
184 If a person is adjudicated not guilty by reason of insanity or  
185 is found to be incompetent to stand trial for any such charge,  
186 the expunction of the criminal history record may not prevent  
187 the entry of the judgment or finding in state and national  
188 databases for use in determining eligibility to purchase or  
189 possess a firearm or to carry a concealed firearm, as authorized  
190 in s. 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it  
191 prevent any governmental agency that is authorized by state or  
192 federal law to determine eligibility to purchase or possess a  
193 firearm or to carry a concealed firearm from accessing or using  
194 the record of the judgment or finding in the course of such  
195 agency's official duties.

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

198 (a) The petitioner's sworn statement attesting that the  
199 petitioner is eligible for such an expunction to the best of his  
200 or her knowledge or belief ~~and does not have any other petition~~



201 ~~to expunge or any petition to seal pending before any court.~~

202  
203 Any person who knowingly provides false information on such  
204 sworn statement to the court commits a felony of the third  
205 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
206 775.084.

207 Section 5. Subsections (1) and (2) of section 948.30,  
208 Florida Statutes, are amended to read:

209 948.30 Additional terms and conditions of probation or  
210 community control for certain sex offenses.—Conditions imposed  
211 pursuant to this section do not require oral pronouncement at  
212 the time of sentencing and shall be considered standard  
213 conditions of probation or community control for offenders  
214 specified in this section.

215 (1) Effective for probationers or community controllees  
216 whose crime was committed on or after October 1, 1995, and who  
217 are placed under supervision for a violation of chapter 794, s.  
218 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, or whose  
219 crime was committed on or after July 1, 2021, and who are placed  
220 under supervision for a violation of s. 787.06(3)(b), (d), (f),  
221 or (g), the court must impose the following conditions in  
222 addition to all other standard and special conditions imposed:

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

226 recommended by the Department of Corrections. If the court  
227 determines that imposing a curfew would endanger the victim, the  
228 court may consider alternative sanctions.

229 (b) If the victim was under the age of 18, a prohibition  
230 on living within 1,000 feet of a school, child care facility,  
231 park, playground, or other place where children regularly  
232 congregate, as prescribed by the court. The 1,000-foot distance  
233 shall be measured in a straight line from the offender's place  
234 of residence to the nearest boundary line of the school, child  
235 care facility, park, playground, or other place where children  
236 congregate. The distance may not be measured by a pedestrian  
237 route or automobile route. A probationer or community controllee  
238 who is subject to this paragraph may not be forced to relocate  
239 and does not violate his or her probation or community control  
240 if he or she is living in a residence that meets the  
241 requirements of this paragraph and a school, child care  
242 facility, park, playground, or other place where children  
243 regularly congregate is subsequently established within 1,000  
244 feet of his or her residence.

245 (c) Active participation in and successful completion of a  
246 sex offender treatment program with qualified practitioners  
247 specifically trained to treat sex offenders, at the  
248 probationer's or community controllee's own expense. If a  
249 qualified practitioner is not available within a 50-mile radius  
250 of the probationer's or community controllee's residence, the

251 offender shall participate in other appropriate therapy.

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

256 (e) If the victim was under the age of 18, a prohibition  
257 on contact with a child under the age of 18 except as provided  
258 in this paragraph. The court may approve supervised contact with  
259 a child under the age of 18 if the approval is based upon a  
260 recommendation for contact issued by a qualified practitioner  
261 who is basing the recommendation on a risk assessment. Further,  
262 the sex offender must be currently enrolled in or have  
263 successfully completed a sex offender therapy program. The court  
264 may not grant supervised contact with a child if the contact is  
265 not recommended by a qualified practitioner and may deny  
266 supervised contact with a child at any time. When considering  
267 whether to approve supervised contact with a child, the court  
268 must review and consider the following:

269 1. A risk assessment completed by a qualified  
270 practitioner. The qualified practitioner must prepare a written  
271 report that must include the findings of the assessment and  
272 address each of the following components:

- 273 a. The sex offender's current legal status;  
274 b. The sex offender's history of adult charges with  
275 apparent sexual motivation;

- 276 c. The sex offender's history of adult charges without
- 277 apparent sexual motivation;
- 278 d. The sex offender's history of juvenile charges,
- 279 whenever available;
- 280 e. The sex offender's offender treatment history,
- 281 including consultations with the sex offender's treating, or
- 282 most recent treating, therapist;
- 283 f. The sex offender's current mental status;
- 284 g. The sex offender's mental health and substance abuse
- 285 treatment history as provided by the Department of Corrections;
- 286 h. The sex offender's personal, social, educational, and
- 287 work history;
- 288 i. The results of current psychological testing of the sex
- 289 offender if determined necessary by the qualified practitioner;
- 290 j. A description of the proposed contact, including the
- 291 location, frequency, duration, and supervisory arrangement;
- 292 k. The child's preference and relative comfort level with
- 293 the proposed contact, when age appropriate;
- 294 l. The parent's or legal guardian's preference regarding
- 295 the proposed contact; and
- 296 m. The qualified practitioner's opinion, along with the
- 297 basis for that opinion, as to whether the proposed contact would
- 298 likely pose significant risk of emotional or physical harm to
- 299 the child.

300

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

302 2. A recommendation made as a part of the risk assessment  
303 report as to whether supervised contact with the child should be  
304 approved;

305 3. A written consent signed by the child's parent or legal  
306 guardian, if the parent or legal guardian is not the sex  
307 offender, agreeing to the sex offender having supervised contact  
308 with the child after receiving full disclosure of the sex  
309 offender's present legal status, past criminal history, and the  
310 results of the risk assessment. The court may not approve  
311 contact with the child if the parent or legal guardian refuses  
312 to give written consent for supervised contact;

313 4. A safety plan prepared by the qualified practitioner,  
314 who provides treatment to the offender, in collaboration with  
315 the sex offender, the child's parent or legal guardian, if the  
316 parent or legal guardian is not the sex offender, and the child,  
317 when age appropriate, which details the acceptable conditions of  
318 contact between the sex offender and the child. The safety plan  
319 must be reviewed and approved by the court; and

320 5. Evidence that the child's parent or legal guardian  
321 understands the need for and agrees to the safety plan and has  
322 agreed to provide, or to designate another adult to provide,  
323 constant supervision any time the child is in contact with the  
324 offender.

325

326 The court may not appoint a person to conduct a risk assessment  
327 and may not accept a risk assessment from a person who has not  
328 demonstrated to the court that he or she has met the  
329 requirements of a qualified practitioner as defined in this  
330 section.

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

336 (g) Unless otherwise indicated in the treatment plan  
337 provided by a qualified practitioner in the sexual offender  
338 treatment program, a prohibition on viewing, accessing, owning,  
339 or possessing any obscene, pornographic, or sexually stimulating  
340 visual or auditory material, including telephone, electronic  
341 media, computer programs, or computer services that are relevant  
342 to the offender's deviant behavior pattern.

343 (h) Effective for probationers and community controllees  
344 whose crime is committed on or after July 1, 2005, a prohibition  
345 on accessing the Internet or other computer services until a  
346 qualified practitioner in the offender's sex offender treatment  
347 program, after a risk assessment is completed, approves and  
348 implements a safety plan for the offender's accessing or using  
349 the Internet or other computer services.

350 (i) A requirement that the probationer or community

351 controllee must submit a specimen of blood or other approved  
352 biological specimen to the Department of Law Enforcement to be  
353 registered with the DNA data bank.

354 (j) A requirement that the probationer or community  
355 controllee make restitution to the victim, as ordered by the  
356 court under s. 775.089, for all necessary medical and related  
357 professional services relating to physical, psychiatric, and  
358 psychological care.

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

362 (2) Effective for a probationer or community controllee  
363 whose crime was committed on or after October 1, 1997, and who  
364 is placed on community control or sex offender probation for a  
365 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),  
366 or s. 847.0145, or whose crime was committed on or after July 1,  
367 2021, and who is placed on community control or sex offender  
368 probation for a violation of s. 787.06(3)(b), (d), (f), or (g),  
369 in addition to any other provision of this section, the court  
370 must impose the following conditions of probation or community  
371 control:

372 (a) As part of a treatment program, participation at least  
373 annually in polygraph examinations to obtain information  
374 necessary for risk management and treatment and to reduce the  
375 sex offender's denial mechanisms. A polygraph examination must

376 | be conducted by a polygrapher who is a member of a national or  
377 | state polygraph association and who is certified as a  
378 | postconviction sex offender polygrapher, where available, and  
379 | shall be paid for by the probationer or community controllee.  
380 | The results of the polygraph examination shall be provided to  
381 | the probationer's or community controllee's probation officer  
382 | and qualified practitioner and shall not be used as evidence in  
383 | court to prove that a violation of community supervision has  
384 | occurred.

385 |       (b) Maintenance of a driving log and a prohibition against  
386 | driving a motor vehicle alone without the prior approval of the  
387 | supervising officer.

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

390 |       (d) If there was sexual contact, a submission to, at the  
391 | probationer's or community controllee's expense, an HIV test  
392 | with the results to be released to the victim or the victim's  
393 | parent or guardian.

394 |       (e) Electronic monitoring when deemed necessary by the  
395 | community control or probation officer and his or her  
396 | supervisor, and ordered by the court at the recommendation of  
397 | the Department of Corrections.

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