

By Senator Book

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1 A bill to be entitled
2 An act relating to human trafficking; amending s.
3 90.803, F.S.; specifying that an out-of-court
4 statement made by a certain adult victim describing
5 specified acts of human trafficking when he or she was
6 a child is admissible in evidence in civil or criminal
7 proceedings if certain criteria are met; providing an
8 exception; requiring that, in a criminal action, a
9 defendant be notified within a specified timeframe
10 before a trial that such a statement will be offered
11 at trial; providing notice requirements; requiring a
12 court to make specific findings of fact on the record
13 for its ruling; amending s. 787.06, F.S.; prohibiting
14 the inclusion of depositions in the prosecution of a
15 human trafficking crime; providing an exception;
16 amending s. 948.30, F.S.; requiring a court to impose
17 specified conditions, in addition to all other
18 standard and special conditions imposed, on
19 probationers or community controllees who are placed
20 under supervision for violations of sexually related
21 human trafficking offenses on or after a certain date;
22 requiring a court to impose specified conditions, in
23 addition to any other applicable conditions, on
24 probationers or community controllees who are placed
25 on community control or sex offender probation for
26 violations of sexually related human trafficking
27 offenses on or after a certain date; amending s.
28 960.0015, F.S.; authorizing a court to grant a
29 defendant accused of human trafficking an extension if

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30 the defendant demonstrates, upon a showing of need to
31 call witnesses or alibi defenses, that such an
32 extension is necessary after the filing of a demand
33 for a speedy trial by the state attorney; authorizing
34 the court to grant further extensions to prevent
35 deprivation of the defendant's right to due process;
36 requiring each state attorney to adopt a pro-
37 prosecution policy for acts of human trafficking;
38 providing an effective date.

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

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42 Section 1. Present subsection (24) of section 90.803,
43 Florida Statutes, is redesignated as subsection (25), and a new
44 subsection (24) is added to that section, to read:

45 90.803 Hearsay exceptions; availability of declarant
46 immaterial.—The provision of s. 90.802 to the contrary
47 notwithstanding, the following are not inadmissible as evidence,
48 even though the declarant is available as a witness:

49 (24) HEARSAY EXCEPTION; STATEMENT OF ADULT VICTIM.—

50 (a) Unless the source of information or the method or
51 circumstances by which the statement is reported indicates a
52 lack of trustworthiness, an out-of-court statement made by an
53 adult victim with a physical, mental, emotional, or
54 developmental age of 16 years of age or older describing any act
55 of human trafficking performed in the presence of, with, by, or
56 on the declarant adult when he or she was a child, not otherwise
57 admissible, is admissible in evidence in any civil or criminal
58 proceeding if:

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59 1. The court finds in a hearing conducted outside the
60 presence of the jury that the time, content, and circumstances
61 of the statement provide sufficient safeguards of reliability.
62 In making its determination, the court may consider the mental
63 and physical age and maturity of the adult, the nature and
64 duration of the abuse or offense, the relationship of the adult
65 to the offender, the reliability of the assertion, the
66 reliability of the victim, and any other factor deemed
67 appropriate; and

68 2. The adult either:

69 a. Testifies; or

70 b. Is unavailable as a witness, provided that there is
71 other corroborative evidence of the abuse or offense.
72 Unavailability shall include a finding by the court that the
73 adult's participation in the trial or proceeding would result in
74 a substantial likelihood of severe emotional or mental harm, in
75 addition to findings pursuant to s. 90.804(1).

76 (b) In a criminal action, the defendant shall be notified
77 no later than 10 days before trial that a statement that
78 qualifies as a hearsay exception pursuant to this subsection
79 will be offered as evidence at trial. The notice must include a
80 written statement of the content of the adult's statement, the
81 time at which the statement was made, the circumstances
82 surrounding the statement which indicate its reliability, and
83 such other particulars as necessary to provide full disclosure
84 of the statement.

85 (c) The court shall make specific findings of fact on the
86 record as to the basis for its ruling under this subsection.

87 Section 2. Subsection (12) is added to section 787.06,

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88 Florida Statutes, to read:

89 787.06 Human trafficking.—

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

93 (a) The consequences to the defendant.

94 (b) The complexity of the issues involved.

95 (c) The complexity of the witness testimony.

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

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

100 948.30 Additional terms and conditions of probation or
101 community control for certain sex offenses.—Conditions imposed
102 pursuant to this section do not require oral pronouncement at
103 the time of sentencing and shall be considered standard
104 conditions of probation or community control for offenders
105 specified in this section.

106 (1) Effective for probationers or community controllees
107 whose crime was committed on or after October 1, 1995, and who
108 are placed under supervision for violation of s. 787.06(3)(b),
109 (d), (f), or (g), chapter 794, s. 800.04, s. 827.071, s.
110 847.0135(5), or s. 847.0145, the court must impose the following
111 conditions in addition to all other standard and special
112 conditions imposed:

113 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court may
114 designate another 8-hour period if the offender's employment
115 precludes the above specified time, and the alternative is
116 recommended by the Department of Corrections. If the court

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117 determines that imposing a curfew would endanger the victim, the
118 court may consider alternative sanctions.

119 (b) If the victim was under the age of 18, a prohibition on
120 living within 1,000 feet of a school, child care facility, park,
121 playground, or other place where children regularly congregate,
122 as prescribed by the court. The 1,000-foot distance shall be
123 measured in a straight line from the offender's place of
124 residence to the nearest boundary line of the school, child care
125 facility, park, playground, or other place where children
126 congregate. The distance may not be measured by a pedestrian
127 route or automobile route. A probationer or community controllee
128 who is subject to this paragraph may not be forced to relocate
129 and does not violate his or her probation or community control
130 if he or she is living in a residence that meets the
131 requirements of this paragraph and a school, child care
132 facility, park, playground, or other place where children
133 regularly congregate is subsequently established within 1,000
134 feet of his or her residence.

135 (c) Active participation in and successful completion of a
136 sex offender treatment program with qualified practitioners
137 specifically trained to treat sex offenders, at the
138 probationer's or community controllee's own expense. If a
139 qualified practitioner is not available within a 50-mile radius
140 of the probationer's or community controllee's residence, the
141 offender shall participate in other appropriate therapy.

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

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146 (e) If the victim was under the age of 18, a prohibition on
147 contact with a child under the age of 18 except as provided in
148 this paragraph. The court may approve supervised contact with a
149 child under the age of 18 if the approval is based upon a
150 recommendation for contact issued by a qualified practitioner
151 who is basing the recommendation on a risk assessment. Further,
152 the sex offender must be currently enrolled in or have
153 successfully completed a sex offender therapy program. The court
154 may not grant supervised contact with a child if the contact is
155 not recommended by a qualified practitioner and may deny
156 supervised contact with a child at any time. When considering
157 whether to approve supervised contact with a child, the court
158 must review and consider the following:

159 1. A risk assessment completed by a qualified practitioner.
160 The qualified practitioner must prepare a written report that
161 must include the findings of the assessment and address each of
162 the following components:

- 163 a. The sex offender's current legal status;
- 164 b. The sex offender's history of adult charges with
165 apparent sexual motivation;
- 166 c. The sex offender's history of adult charges without
167 apparent sexual motivation;
- 168 d. The sex offender's history of juvenile charges, whenever
169 available;
- 170 e. The sex offender's offender treatment history, including
171 consultations with the sex offender's treating, or most recent
172 treating, therapist;
- 173 f. The sex offender's current mental status;
- 174 g. The sex offender's mental health and substance abuse

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175 treatment history as provided by the Department of Corrections;

176 h. The sex offender's personal, social, educational, and
177 work history;

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

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

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

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

186 m. The qualified practitioner's opinion, along with the
187 basis for that opinion, as to whether the proposed contact would
188 likely pose significant risk of emotional or physical harm to
189 the child.

190
191 The written report of the assessment must be given to the court;

192 2. A recommendation made as a part of the risk assessment
193 report as to whether supervised contact with the child should be
194 approved;

195 3. A written consent signed by the child's parent or legal
196 guardian, if the parent or legal guardian is not the sex
197 offender, agreeing to the sex offender having supervised contact
198 with the child after receiving full disclosure of the sex
199 offender's present legal status, past criminal history, and the
200 results of the risk assessment. The court may not approve
201 contact with the child if the parent or legal guardian refuses
202 to give written consent for supervised contact;

203 4. A safety plan prepared by the qualified practitioner,

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204 who provides treatment to the offender, in collaboration with
205 the sex offender, the child's parent or legal guardian, if the
206 parent or legal guardian is not the sex offender, and the child,
207 when age appropriate, which details the acceptable conditions of
208 contact between the sex offender and the child. The safety plan
209 must be reviewed and approved by the court; and

210 5. Evidence that the child's parent or legal guardian
211 understands the need for and agrees to the safety plan and has
212 agreed to provide, or to designate another adult to provide,
213 constant supervision any time the child is in contact with the
214 offender.

215
216 The court may not appoint a person to conduct a risk assessment
217 and may not accept a risk assessment from a person who has not
218 demonstrated to the court that he or she has met the
219 requirements of a qualified practitioner as defined in this
220 section.

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

226 (g) Unless otherwise indicated in the treatment plan
227 provided by a qualified practitioner in the sexual offender
228 treatment program, a prohibition on viewing, accessing, owning,
229 or possessing any obscene, pornographic, or sexually stimulating
230 visual or auditory material, including telephone, electronic
231 media, computer programs, or computer services that are relevant
232 to the offender's deviant behavior pattern.

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233 (h) Effective for probationers and community controllees
234 whose crime is committed on or after July 1, 2005, a prohibition
235 on accessing the Internet or other computer services until a
236 qualified practitioner in the offender's sex offender treatment
237 program, after a risk assessment is completed, approves and
238 implements a safety plan for the offender's accessing or using
239 the Internet or other computer services.

240 (i) A requirement that the probationer or community
241 controllee must submit a specimen of blood or other approved
242 biological specimen to the Department of Law Enforcement to be
243 registered with the DNA data bank.

244 (j) A requirement that the probationer or community
245 controllee make restitution to the victim, as ordered by the
246 court under s. 775.089, for all necessary medical and related
247 professional services relating to physical, psychiatric, and
248 psychological care.

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

252 (2) Effective for a probationer or community controllee
253 whose crime was committed on or after October 1, 1997, and who
254 is placed on community control or sex offender probation for a
255 violation of s. 787.06(3)(b), (d), (f), or (g), chapter 794, s.
256 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, in addition
257 to any other provision of this section, the court must impose
258 the following conditions of probation or community control:

259 (a) As part of a treatment program, participation at least
260 annually in polygraph examinations to obtain information
261 necessary for risk management and treatment and to reduce the

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262 sex offender's denial mechanisms. A polygraph examination must
263 be conducted by a polygrapher who is a member of a national or
264 state polygraph association and who is certified as a
265 postconviction sex offender polygrapher, where available, and
266 shall be paid for by the probationer or community controllee.
267 The results of the polygraph examination shall be provided to
268 the probationer's or community controllee's probation officer
269 and qualified practitioner and shall not be used as evidence in
270 court to prove that a violation of community supervision has
271 occurred.

272 (b) Maintenance of a driving log and a prohibition against
273 driving a motor vehicle alone without the prior approval of the
274 supervising officer.

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

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

281 (e) Electronic monitoring when deemed necessary by the
282 community control or probation officer and his or her
283 supervisor, and ordered by the court at the recommendation of
284 the Department of Corrections.

285 Section 4. Subsections (4) and (5) are added to section
286 960.0015, Florida Statutes, to read:

287 960.0015 Victim's right to a speedy trial; speedy trial
288 demand by the state attorney.-

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

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

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

301 Section 5. This act shall take effect October 1, 2021.