

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: CS/SB 1852

INTRODUCER: Regulated Industries Committee and Senator Bradley

SUBJECT: Reduction of Human Trafficking

DATE: February 9, 2022

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.	_____	_____	CM	_____
3.	_____	_____	RC	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1852 prohibits public lodging establishments from offering an hourly rate for an accommodation.

The bill increases the criminal penalties for a violation of the prohibition against soliciting, enticing, or procuring another person to commit prostitution, lewdness, or assignation, and the prohibition against purchasing the services of any person engaged in prostitution. Under the bill, a first offense for either crime is a third degree felony. Under current law, a person who solicits, induces, or procures another person to commit prostitution, lewdness, or assignation commits a first degree misdemeanor for a first violation, and a person who purchases the services of another person engaged in prostitution commits a second degree misdemeanor for a first violation. The bill also increases the criminal penalties for a second violation to a second degree felony, and a third or subsequent violation to a first degree felony.

The bill creates the Statewide Data Repository for Anonymous Human Trafficking Data (repository) to be housed in and operated by University of South Florida Trafficking in Persons – Risk to Resilience Lab (TIP Lab). The TIP Lab must work with law enforcement and required reporting entities to collect, analyze, and distribute data relating to human trafficking in Florida.

The bill takes effect upon becoming law.

## II. Present Situation:

### Public Lodging Establishments

The Division of Hotels and Restaurants (DHR) within the Department of Business and Professional Regulation licenses, inspects, and regulates public lodging and food service establishments in Florida. The DHR also licenses and regulates elevators, escalators, and other vertical conveyance devices.<sup>1</sup>

A public lodging establishment includes establishments that are transient or nontransient.<sup>2</sup> A “transient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.<sup>3</sup>

A “nontransient public lodging establishment” means:

any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.<sup>4</sup>

Section 509.013(4)(b), F.S., exempts the following types of establishments from the definition of “public lodging establishment”:

1. Any dormitory or other living or sleeping facility maintained by a public or private school, college, or university for the use of students, faculty, or visitors;
2. Any facility certified or licensed and regulated by the Agency for Health Care Administration or the Department of Children and Families or other similar place regulated under s. 381.0072, F.S.;
3. Any place renting four rental units or less, unless the rental units are advertised or held out to the public to be places that are regularly rented to transients;
4. Any unit or group of units in a condominium, cooperative, or timeshare plan and any individually or collectively owned one-family,

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<sup>1</sup> DBPR, *Division of Hotels and Restaurants*, <http://www.myfloridalicense.com/DBPR/hotels-restaurants/> (last visited Jan. 14, 2022).

<sup>2</sup> See s. 509.013(4)(a), F.S., which provides “license classifications of public lodging establishments, and the definitions therefor,” are set out in s. 509.242, F.S. For the purpose of licensure, the term does not include condominium common elements,” as defined in s. 718.103, F.S.

<sup>3</sup> *Id.* Section s. 509.013(11), F.S., further provides the term “transient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that such guests’ occupancy will be temporary.” Section s. 509.013(14), F.S., further provides the term “nontransient establishment” means any public lodging establishment “that is rented or leased to guests by an operator whose intention is that the dwelling unit occupied will be the sole resident of the guest.”

<sup>4</sup> *Id.*

two-family, three-family, or four-family dwelling house or dwelling unit that is rented for periods of at least 30 days or one calendar month, whichever is less, and that is not advertised or held out to the public as a place regularly rented for periods of less than one calendar month, provided that no more than four rental units within a single complex of buildings are available for rent;

5. Any migrant labor camp or residential migrant housing permitted by the Department of Health under ss. 381.008-381.00895, F.S.;

6. Any establishment inspected by the Department of Health and regulated by ch. 513 F.S.;

7. Any nonprofit organization that operates a facility providing housing only to patients, patients' families, and patients' caregivers and not to the general public;

8. Any apartment building inspected by the United States Department of Housing and Urban Development or other entity acting on the department's behalf that is designated primarily as housing for persons at least 62 years of age. The division may require the operator of the apartment building to attest in writing that such building meets the criteria provided in this subparagraph. The division may adopt rules to implement this requirement; and

9. Any roominghouse, boardinghouse, or other living or sleeping facility that may not be classified as a hotel, motel, timeshare project, vacation rental, nontransient apartment, bed and breakfast inn, or transient apartment under s. 509.242, F.S.

A public lodging establishment is classified as a hotel, motel, vacation rental, nontransient apartment, transient apartment, bed and breakfast inn, or timeshare project.<sup>5</sup>

A "vacation rental" is defined in s. 509.242(1)(c), F.S., as:

...any unit or group of units in a condominium, cooperative, or timeshare plan or any individually or collectively owned single-family, two-family, three-family, or four-family house or dwelling unit that is also a transient public lodging establishment but is not a timeshare project.

Public lodging establishments must be licensed and inspected by the DHR, and are subject to sanitary standards, staff training and test requirements, administrative rules, and immediate closure upon a finding that continued operation presents a severe and immediate threat to the public health.<sup>6</sup>

Operators of public lodging establishments or public food service establishments may establish rules for guests and employees which must be printed in English and posted prominently within the establishment.<sup>7</sup>

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<sup>5</sup> Section 509.242(1), F.S.

<sup>6</sup> See ss. 509.032 and 509.035, F.S.

<sup>7</sup> See s. 509.101, F.S.

In addition, operators of transient establishments must maintain a register in chronological order, signed by or for guests who occupy rental units in the establishment, indicating the dates of occupancy and the rates charged.<sup>8</sup> Registers must be available for inspection by the DHR at any time, but need not be made available if they are more than two years old.<sup>9</sup>

Section 509.241(1), F.S., requires each public lodging establishment and public food service establishment to obtain a license from the DHR and to renew it annually in order to operate. Further, the DHR has adopted an administrative rule establishing a staggered schedule for license issuance and renewal, in which renewal dates are determined by the county in which the establishment is located.<sup>10</sup>

Licenses must be conspicuously displayed in the establishment's office or lobby.<sup>11</sup>

Section 509.251, F.S., provides the method of determining the license fees payable by public lodging establishments. For a public lodging establishment, the aggregate fee may not exceed \$1,000, not including a maximum \$50 fee to cover costs for initiating regulation, or any applicable delinquency fee which may not exceed \$50.<sup>12</sup>

By the end of Fiscal Year 2020-2021 there were 53,492 licensed public lodging establishments, including hotels, motels, transient and nontransient apartments, bed and breakfasts, and vacation rentals.<sup>13</sup>

### **Soliciting or Purchasing Prostitution**

Section 796.07(1)(a), F.S., defines the term "prostitution" to mean the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.

The term "lewdness" is defined in s. 796.07(1)(b), F.S., to mean any indecent or obscene act. Section 796.07(1)(c), F.S., defines "assignation" to mean the making of any appointment or engagement for prostitution or lewdness or any act in furtherance of an appointment or engagement.

It is unlawful:<sup>14</sup>

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution;
- To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act;

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<sup>8</sup> See s. 509.101, F.S.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* See Fla. Admin. Code R. 61C-1.002(6).

<sup>11</sup> See s. 509.241(3), F.S.

<sup>12</sup> See s. 509.251(1), F.S. Vacation rental units or timeshare projects within separate buildings or at separate locations that are managed by one licensed agent may be combined in a single license application, and the DHR must charge a license fee as if all units in the application are in a single licensed establishment. *Id.*

<sup>13</sup> Department of Business and Professional Regulation, *Division of Hotels and Restaurants Annual Report for FY 2020-2021* at page 8, available at [http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2020\\_21.pdf](http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/documents/ar2020_21.pdf) (last visited Feb. 4, 2022).

<sup>14</sup> Sections 796.07(2)(a)-(e) and (g)-(i), F.S.

- To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose;
- To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation;
- For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation;
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation;
- To aid, abet, or participate in any of the acts or things listed above; or
- To purchase the services of any person engaged in prostitution.

The penalty for a violation listed above is punishable as a second degree misdemeanor<sup>15</sup> for a first violation, a first degree misdemeanor<sup>16</sup> for a second violation, and a third degree felony<sup>17</sup> for any third or subsequent violation.<sup>18</sup>

Additionally, s. 796.07(2)(f), F.S., provides that it is unlawful for a person to solicit, induce, or procure another person to commit prostitution, lewdness,<sup>19</sup> or assignation.<sup>20</sup> A person who violates this prohibition commits a first degree misdemeanor for a first violation, a third degree felony for a second violation, and a second degree felony<sup>21</sup> for a third or subsequent violation.<sup>22</sup>

### **Statewide Data Repository for Anonymous Human Trafficking Data**

Currently, human trafficking data is collected across multiple agencies and entities, but there is no singular, uniform statewide data repository for human trafficking data.

The Florida Department of Law Enforcement's (FDLE) Uniform Crime Report (Florida UCR) system provides standardized reports on crime statistics based on statewide data.<sup>23</sup> The fundamental objectives of the Florida UCR program are to:<sup>24</sup>

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<sup>15</sup> Section 775.082, F.S., provides that a misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days. Section 775.083, F.S. provides that a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

<sup>16</sup> Section 775.082, F.S., provides that a misdemeanor of the first degree is punishable by a term of imprisonment not to exceed one year. Section 775.083, F.S. provides that a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

<sup>17</sup> Section 775.082, F.S., provides that a felony of the third degree is punishable by a term of imprisonment not to exceed five years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not to exceed \$5,000.

<sup>18</sup> Section 796.07(4), F.S.

<sup>19</sup> Section 796.07(1)(b), F.S., defines the term "lewdness" to mean any indecent or obscene act.

<sup>20</sup> Section 796.07(1)(c), F.S., defines the term "assignation" to mean the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

<sup>21</sup> Section 775.082, F.S., provides that a felony of the second degree is punishable by a term of imprisonment not exceeding 15 years. Section 775.083, F.S., provides that a felony of the third degree is punishable by a fine not exceeding \$10,000.

<sup>22</sup> Section 796.07(5), F.S.

<sup>23</sup> FDLE, *Uniform Crime Report*, <https://www.fdle.state.fl.us/FSAC/Uniform-Crime-Report> (last visited Feb. 7, 2022).

<sup>24</sup> FDLE, *Uniform Crime Reports Guide Manual*, Nov. 2018, p.1, available at: <https://www.fdle.state.fl.us/FSAC/UCR/UCRGuideManual.aspx> (last visited Feb. 7, 2022).

- Collect accurate summary crime data from all law enforcement agencies in the state;
- Maintain agency crime statistics in a statewide database and provide a barometer of the frequency and clearance rates of certain crimes;
- Publish semi-annual and annual reports to the FDLE Commissioner, Florida Governor, Florida Legislature, and the public of the various crime trends in the state;
- Collect the number of offenses known to UCR Program contributors for murder, manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny, motor vehicle theft, arson, simple assault, domestic violence, and other offenses and related arrest information.

The Florida Incident Based Reporting System (FIBRS) is a statewide database for incident based reporting. FIBRS streamlines several data collection efforts into one system which includes data collections from:<sup>25</sup>

- National Incident Based Reporting System (NIBRS);
- Hate Crimes;
- Cargo Theft;
- Human Trafficking;
- Use-of-Force;
- Law Enforcement Information Exchange (LInX); and
- Police Employee Counts.

The University of South Florida recently established its Trafficking in Persons – Risk to Resilience Lab (TIP Lab), which is dedicated to eradicating human trafficking in the Tampa Bay area.<sup>26</sup> The TIP Lab conducts innovative and interdisciplinary research to address human trafficking issues and trends and shares knowledge and resources with the community through the establishment of a data depository for use by human trafficking researchers.<sup>27</sup> Prior to the creation of the TIP Lab, Florida did not have a unified data center for human trafficking.<sup>28</sup>

### **III. Effect of Proposed Changes:**

#### **Public Lodging Establishments**

The bill creates s. 509.098, F.S., to prohibit public lodging establishments from offering an hourly rate for an accommodation.

#### **Soliciting or Purchasing Prostitution**

The bill amends s. 796.07(2), F.S., to increase the criminal penalties for the offenses of:

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<sup>25</sup> FDLE, *Florida Incident-Based Reporting System (FIBRS)*, <https://www.fdle.state.fl.us/UCR/QR/FIBRS> (last visited Feb. 7, 2022).

<sup>26</sup> See University of South Florida, *USF Trafficking in Persons - Risk to Resilience Lab*, <https://tiplab.cbcs.usf.edu/index.php> (last visited Feb. 7, 2022).

<sup>27</sup> *Id.*

<sup>28</sup> University of South Florida, St. Petersburg Campus, *Grand Opening of New Research Lab to Combat Human Trafficking in Florida*, Sept. 15, 2021, <https://www.stpetersburg.usf.edu/news/2021/grand-opening-human-trafficking-lab.aspx> (last visited Feb. 7, 2022).

- Soliciting, enticing, or procuring another person to commit prostitution, lewdness, or assignation; and
- Purchasing the services of any person engaged in prostitution.

Under the bill, the criminal penalties for soliciting, inducing, enticing, or procuring another person to commit prostitution, lewdness, or assignation increase from a:

- First degree misdemeanor to a third degree felony for a first violation;
- Third degree felony to a second degree felony for a second violation; and
- Second degree felony to a first degree felony for a third or subsequent violation.

The criminal penalties for purchasing the services of any person engaged in prostitution increase from a:

- Second degree misdemeanor to a third degree felony for a first violation;
- First degree misdemeanor to a second degree felony for a second violation; and
- Third degree felony to a first degree felony for a third or subsequent violation.

The bill includes enhanced penalties for habitual felony offenders under s. 775.084, F.S., for any person purchasing the services of any person engaged in prostitution.

### **Statewide Data Repository for Anonymous Human Trafficking Data**

The bill creates s. 1004.343, F.S., to create the Statewide Data Repository for Anonymous Human Trafficking Data (repository) to be housed in and operated by the University of South Florida Trafficking in Persons – Risk to Resilience Lab (TIP Lab).

The bill requires the repository to:

- Collect and analyze anonymous data on human trafficking to identify trends in the state over time;
- Evaluate the effectiveness of various state initiatives and interventions;
- Disseminate relevant data to law enforcement agencies, state agencies, and other entities to assist in combatting human trafficking and apprehending and prosecuting persons responsible for conducting human trafficking; and
- Evaluate the effectiveness of interventions and services provided to assist human trafficking victims.

Under the bill, the TIP Lab is responsible for designing, operating, maintaining and protecting the integrity of the repository and the data collected. The bill requires the TIP Lab to work with the FDLE and other law enforcement partners to launch a user-friendly reporting system by which reporting entities may make reports at no additional cost to the reporting entities.

The TIP Lab must also analyze human trafficking data to identify initiatives and interventions that are effective in addressing the various aspects of human trafficking, including assisting human trafficking victims. The lab is required to report relevant data collected on human trafficking law enforcement agencies, state agencies, and other entities to assist in combating human trafficking and apprehending and prosecuting persons responsible for conducting human trafficking.

The bill requires the following agencies and entities to report anonymous human trafficking data:

- Law enforcement agencies operating with state or local government tax proceeds, including, but not limited to, municipal police departments, county sheriffs, and state attorneys;
- FDLE and any other state agency that holds data related to human trafficking; and
- Service providers and other nongovernmental organizations that serve human trafficking victims and receive state or federal funding to do so.

The bill exempts from the reporting requirement any entity that submits relevant data to FDLE through the Uniform Crime Report System (UCR) or through the FIBRS. The bill requires the FDLE to provide human trafficking data to the repository on a quarterly basis.

An entity that is required to report to the repository must submit the following data:

- The alleged human trafficking offense and description of the prohibited conduct;
- The age, gender, and race or ethnicity of each suspect or defendant;
- The age, gender, and race or ethnicity of the victim;
- The date, time, and location of the alleged offense;
- The type of human trafficking involved, whether for labor or services or commercial sexual activity;
- Any other alleged offense related to the human trafficking offense;
- Information about any victim services referrals provided to the victim, if available; and
- The disposition of the investigation or prosecution.

The bill requires reporting entities in a county with a population of 500,000 or more to begin reporting to the repository or the FDLE by July 1, 2023 and at least quarterly thereafter. Required reporting entities in a county with a population of 500,000 or fewer must begin reporting to the Repository by July 1, 2024 and at least biannually each year thereafter.

#### **Effective Date**

The bill takes effect July 1, 2022.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.



E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Public lodging establishments that offer accommodations for an hourly rate may be negatively affected by this bill.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 796.07 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 509.098 and 1004.343.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Regulated Industries on February 8, 2022:**

The committee substitute:

- Changes the title from an act relating to hourly rates at public lodging establishments to an act relating to the reduction of human trafficking;
- Amends s. 796.07, F.S., to increase criminal penalties;
- Creates s. 1004.343, F.S., to create the Statewide Data Repository for Anonymous Human Trafficking Data at the University of South Florida; and
- Changes the effective date of the bill from July 1, 2022 to upon becoming law.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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