

By the Committee on Criminal Justice; and Senator Berman

591-01938-22

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1                   A bill to be entitled  
2           An act relating to human trafficking; amending s.  
3           787.06, F.S.; revising the definition of the term  
4           "coercion"; amending s. 796.07, F.S.; prohibiting  
5           facilitating or enabling the receiving of persons in  
6           any place, structure, building, or conveyance for the  
7           purpose of prostitution, lewdness, or assignation, or  
8           facilitating or enabling any person to remain there  
9           for such purpose; providing that a person may not  
10          procure, facilitate, or entice another to engage in  
11          prostitution for specified purposes; providing  
12          criminal penalties; providing increased criminal  
13          penalties for specified prohibited acts relating to  
14          prostitution, lewdness, or assignation; deleting  
15          provisions relating to the reclassification of  
16          penalties if a massage establishment is used for  
17          lewdness, assignation, or prostitution; amending ss.  
18          456.074, 480.041, and 943.0433, F.S.: conforming  
19          provisions and cross-references to changes made by the  
20          act; providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Subsection (2) of section 787.06, Florida  
25 Statutes, is amended to read:

26           787.06 Human trafficking.—

27           (2) As used in this section, the term:

28           (a) "Coercion" includes, but is not limited to ~~means~~:

29           1. Using or threatening to use physical force against any

591-01938-22

2022760c1

30 person;

31 2. Restraining, isolating, or confining, or threatening to  
32 restrain, isolate, or confine, any person without lawful  
33 authority and against her or his will;

34 3. Using lending or other credit methods to establish a  
35 debt by any person when labor or services are pledged as a  
36 security for the debt, if the value of the labor or services as  
37 reasonably assessed is not applied toward the liquidation of the  
38 debt, the length and nature of the labor or services are not  
39 respectively limited and defined;

40 4. Destroying, concealing, removing, confiscating,  
41 withholding, or possessing any actual or purported passport,  
42 visa, or other immigration document, or any other actual or  
43 purported government identification document, of any person;

44 5. Causing or threatening to cause financial harm to any  
45 person or withholding income from a person which he or she  
46 earned;

47 6. Enticing or luring any person by fraud or deceit; or

48 7. Providing a controlled substance ~~as~~ outlined in ~~Schedule~~  
49 ~~I or Schedule II~~ of s. 893.03, alcohol, or any other drug to any  
50 person for the purpose of exploitation of that person.

51 (b) "Commercial sexual activity" means any violation of  
52 chapter 796 or an attempt to commit any such offense, and  
53 includes sexually explicit performances and the production of  
54 pornography.

55 (c) "Financial harm" includes extortionate extension of  
56 credit, loan sharking as defined in s. 687.071, or employment  
57 contracts that violate the statute of frauds as provided in s.  
58 725.01.

591-01938-22

2022760c1

59 (d) "Human trafficking" means transporting, soliciting,  
60 recruiting, harboring, providing, enticing, maintaining,  
61 purchasing, patronizing, procuring, or obtaining another person  
62 for the purpose of exploitation of that person.

63 (e) "Labor" means work of economic or financial value.

64 (f) "Maintain" means, in relation to labor or services, to  
65 secure or make possible continued performance thereof,  
66 regardless of any initial agreement on the part of the victim to  
67 perform such type service.

68 (g) "Obtain" means, in relation to labor, commercial sexual  
69 activity, or services, to receive, take possession of, or take  
70 custody of another person or secure performance thereof.

71 (h) "Services" means any act committed at the behest of,  
72 under the supervision of, or for the benefit of another. The  
73 term includes, but is not limited to, forced marriage,  
74 servitude, or the removal of organs.

75 (i) "Sexually explicit performance" means an act or show,  
76 whether public or private, that is live, photographed, recorded,  
77 or videotaped and intended to arouse or satisfy ~~the~~ sexual  
78 desires or appeal to a ~~the~~ prurient interest.

79 (j) "Unauthorized alien" means an alien who is not  
80 authorized under federal law to be employed in the United  
81 States, as provided in 8 U.S.C. s. 1324a(h)(3). The term shall  
82 be interpreted consistently with that section and any applicable  
83 federal rules or regulations.

84 (k) "Venture" means any group of two or more individuals  
85 associated in fact, whether or not a legal entity.

86 Section 2. Present subsections (5) and (6) of section  
87 796.07, Florida Statutes, are redesignated as subsections (7)

591-01938-22

2022760c1

88 and (8), respectively, new subsections (5) and (6) and  
89 subsection (9) are added to that section, and subsections (2)  
90 and (4) and present subsection (7) of that section are amended,  
91 to read:

92 796.07 Prohibiting prostitution and related acts.—

93 (2) It is unlawful:

94 (a) To own, establish, maintain, or operate any place,  
95 structure, building, or conveyance for the purpose of lewdness,  
96 assignation, or prostitution.

97 (b) To offer, or to offer or agree to secure, another for  
98 the purpose of prostitution or for any other lewd or indecent  
99 act.

100 (c) To receive, or to offer or agree to receive, or  
101 facilitate or enable the receiving of any person into any place,  
102 structure, building, or conveyance for the purpose of  
103 prostitution, lewdness, or assignation, or to facilitate,  
104 enable, or permit any person to remain there for such purpose.

105 (d) To direct, take, or transport, or to offer or agree to  
106 direct, take, or transport, any person to any place, structure,  
107 or building, or to any other person, with knowledge or  
108 reasonable cause to believe that the purpose of such directing,  
109 taking, or transporting is prostitution, lewdness, or  
110 assignation.

111 (e) For a person 18 years of age or older to offer to  
112 commit, or to commit, or to engage in, prostitution, lewdness,  
113 or assignation.

114 (f) To solicit, induce, entice, or procure another to  
115 commit prostitution, lewdness, or assignation.

116 (g) To reside in, enter, or remain in, any place,

591-01938-22

2022760c1

117 structure, or building, or to enter or remain in any conveyance,  
118 for the purpose of prostitution, lewdness, or assignation.

119 (h) To aid, abet, or participate in any of the acts or  
120 things enumerated in this subsection.

121 (i) To purchase the services of any person engaged in  
122 prostitution.

123 (j) For a person to knowingly, or in reckless disregard of  
124 the facts:

125 1. Engage in the soliciting, recruiting, harboring,  
126 enticing, purchasing, or procuring of another person for the  
127 purpose of prostitution; and

128 2. Benefit financially or receive anything of value, or  
129 intend to benefit financially or receive anything of value, by  
130 participating in such soliciting, recruiting, harboring,  
131 enticing, purchasing, or procuring, of another person.

132 (4) (a) A person who violates any provision of this section,  
133 other than paragraph (2) (a), paragraph (2) (d), paragraph (2) (f),  
134 or paragraph (2) (j), ~~paragraph (2) (f)~~, commits:

135 1. A misdemeanor of the second degree for a first  
136 violation, punishable as provided in s. 775.082 or s. 775.083.

137 2. A misdemeanor of the first degree for a second  
138 violation, punishable as provided in s. 775.082 or s. 775.083.

139 3. A felony of the third degree for a third or subsequent  
140 violation, punishable as provided in s. 775.082, s. 775.083, or  
141 s. 775.084.

142 (b) A person who is charged with a third or subsequent  
143 violation of this section, other than paragraph (2) (a),  
144 paragraph (2) (d), paragraph (2) (f), or paragraph (2) (j),  
145 ~~paragraph (2) (f)~~, shall be offered admission to a pretrial

591-01938-22

2022760c1

146 intervention program or a substance abuse treatment program as  
147 provided in s. 948.08.

148 (5) A person who violates paragraph (2)(a) commits a felony  
149 of the second degree, punishable as provided in s. 775.082, s.  
150 775.083, or s. 775.084.

151 (6)(a) A person who violates paragraph (2)(d) commits a  
152 felony of the second degree for a first violation, punishable as  
153 provided in s. 775.082, s. 775.083, or s. 775.084.

154 (b) A person who violates paragraph (2)(d) commits a felony  
155 of the first degree for a second or subsequent violation,  
156 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

157 (9) A person who violates paragraph (2)(j) commits a felony  
158 of the second degree, punishable as provided in s. 775.082, s.  
159 775.083, or s. 775.084.

160 ~~(7) If the place, structure, building, or conveyance that~~  
161 ~~is owned, established, maintained, or operated in violation of~~  
162 ~~paragraph (2)(a) is a massage establishment that is or should be~~  
163 ~~licensed under s. 480.043, the offense shall be reclassified to~~  
164 ~~the next higher degree as follows:~~

165 ~~(a) A misdemeanor of the second degree for a first~~  
166 ~~violation is reclassified as a misdemeanor of the first degree,~~  
167 ~~punishable as provided in s. 775.082 or s. 775.083.~~

168 ~~(b) A misdemeanor of the first degree for a second~~  
169 ~~violation is reclassified as a felony of the third degree,~~  
170 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

171 ~~(c) A felony of the third degree for a third or subsequent~~  
172 ~~violation is reclassified as a felony of the second degree,~~  
173 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

174 Section 3. Subsection (4) of section 456.074, Florida

591-01938-22

2022760c1

175 Statutes, is amended to read:

176 456.074 Certain health care practitioners; immediate  
177 suspension of license.—

178 (4) The department shall issue an emergency order  
179 suspending the license of a massage therapist or establishment  
180 as defined in chapter 480 upon receipt of information that the  
181 massage therapist, a person with an ownership interest in the  
182 establishment, or, for a corporation that has more than \$250,000  
183 of business assets in this state, the owner, officer, or  
184 individual directly involved in the management of the  
185 establishment has been convicted or found guilty of, or has  
186 entered a plea of guilty or nolo contendere to, regardless of  
187 adjudication, a violation of s. 796.07(2)(a) ~~which is~~  
188 ~~reclassified under s. 796.07(7)~~ or a felony offense under any of  
189 the following provisions of state law or a similar provision in  
190 another jurisdiction:

191 (a) Section 787.01, relating to kidnapping.

192 (b) Section 787.02, relating to false imprisonment.

193 (c) Section 787.025, relating to luring or enticing a  
194 child.

195 (d) Section 787.06, relating to human trafficking.

196 (e) Section 787.07, relating to human smuggling.

197 (f) Section 794.011, relating to sexual battery.

198 (g) Section 794.08, relating to female genital mutilation.

199 (h) Former s. 796.03, relating to procuring a person under  
200 the age of 18 for prostitution.

201 (i) Former s. 796.035, relating to the selling or buying of  
202 minors into prostitution.

203 (j) Section 796.04, relating to forcing, compelling, or

591-01938-22

2022760c1

204 coercing another to become a prostitute.

205 (k) Section 796.05, relating to deriving support from the  
206 proceeds of prostitution.

207 (l) Section 796.07(4)(a)3., relating to a felony of the  
208 third degree for a third or subsequent violation of s. 796.07,  
209 relating to prohibiting prostitution and related acts.

210 (m) Section 800.04, relating to lewd or lascivious offenses  
211 committed upon or in the presence of persons less than 16 years  
212 of age.

213 (n) Section 825.1025(2)(b), relating to lewd or lascivious  
214 offenses committed upon or in the presence of an elderly or  
215 disabled person.

216 (o) Section 827.071, relating to sexual performance by a  
217 child.

218 (p) Section 847.0133, relating to the protection of minors.

219 (q) Section 847.0135, relating to computer pornography.

220 (r) Section 847.0138, relating to the transmission of  
221 material harmful to minors to a minor by electronic device or  
222 equipment.

223 (s) Section 847.0145, relating to the selling or buying of  
224 minors.

225 Section 4. Subsection (7) of section 480.041, Florida  
226 Statutes, is amended to read:

227 480.041 Massage therapists; qualifications; licensure;  
228 endorsement.—

229 (7) The board shall deny an application for a new or  
230 renewal license if an applicant has been convicted or found  
231 guilty of, or enters a plea of guilty or nolo contendere to,  
232 regardless of adjudication, a violation of s. 796.07(2)(a) ~~which~~



591-01938-22

2022760c1

233 ~~is reclassified under s. 796.07(7)~~ or a felony offense under any  
234 of the following provisions of state law or a similar provision  
235 in another jurisdiction:

236 (a) Section 787.01, relating to kidnapping.

237 (b) Section 787.02, relating to false imprisonment.

238 (c) Section 787.025, relating to luring or enticing a  
239 child.

240 (d) Section 787.06, relating to human trafficking.

241 (e) Section 787.07, relating to human smuggling.

242 (f) Section 794.011, relating to sexual battery.

243 (g) Section 794.08, relating to female genital mutilation.

244 (h) Former s. 796.03, relating to procuring a person under  
245 the age of 18 for prostitution.

246 (i) Former s. 796.035, relating to the selling or buying of  
247 minors into prostitution.

248 (j) Section 796.04, relating to forcing, compelling, or  
249 coercing another to become a prostitute.

250 (k) Section 796.05, relating to deriving support from the  
251 proceeds of prostitution.

252 (l) Section 796.07(4)(a)3., relating to a felony of the  
253 third degree for a third or subsequent violation of s. 796.07,  
254 relating to prohibiting prostitution and related acts.

255 (m) Section 800.04, relating to lewd or lascivious offenses  
256 committed upon or in the presence of persons less than 16 years  
257 of age.

258 (n) Section 825.1025(2)(b), relating to lewd or lascivious  
259 offenses committed upon or in the presence of an elderly or  
260 disabled person.

261 (o) Section 827.071, relating to sexual performance by a

591-01938-22

2022760c1

262 child.

263 (p) Section 847.0133, relating to the protection of minors.

264 (q) Section 847.0135, relating to computer pornography.

265 (r) Section 847.0138, relating to the transmission of  
266 material harmful to minors to a minor by electronic device or  
267 equipment.

268 (s) Section 847.0145, relating to the selling or buying of  
269 minors.

270 Section 5. Subsection (1) and paragraphs (a) and (b) of  
271 subsection (2) of section 943.0433, Florida Statutes, are  
272 amended to read:

273 943.0433 Soliciting for Prostitution Public Database.—

274 (1) The department shall create and administer the  
275 Soliciting for Prostitution Public Database. The clerk of the  
276 court shall forward to the department the criminal history  
277 record of a person in accordance with s. 796.07(7)(e) ~~s.~~  
278 ~~796.07(5)(e)~~, and the department shall add the criminal history  
279 record to the database.

280 (2)(a) The department shall automatically remove the  
281 criminal history record of a person from the database if, after  
282 5 years following the commission of an offense that meets the  
283 criteria set forth in s. 796.07(7)(e) ~~s. 796.07(5)(e)~~, such  
284 person has not subsequently committed a violation that meets  
285 such criteria or any other offense within that time that would  
286 constitute a sexual offense, including, but not limited to,  
287 human trafficking, or an offense that would require registration  
288 as a sexual offender.

289 (b) The department may not remove a criminal history record  
290 from the database if a person commits a violation that meets the

591-01938-22

2022760c1

291 criteria set forth in s. 796.07(7)(e) ~~s. 796.07(5)(e)~~ a second  
292 or subsequent time.

293 Section 6. This act shall take effect October 1, 2022.