

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Toledo offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 31-189 and insert:

5 Section 1. This act may be cited as the "Human Trafficking
6 Reduction Act."

7 Section 2. Section 509.098, Florida Statutes, is created
8 to read:

9 509.098 Prohibition of hourly rates.-

10 (1) An operator of a public lodging establishment may not
11 offer an hourly rate for an accommodation.

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12 (2) This section does not apply to an hourly rate charged
13 by an operator of a public lodging establishment as a late
14 checkout fee.

15 Section 3. Subsections (4), (5), and (6) of section
16 796.07, Florida Statutes, are amended, and paragraphs (f) and
17 (i) of subsection (2) of that section are republished, to read:

18 796.07 Prohibiting prostitution and related acts.—

19 (2) It is unlawful:

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

22 (i) To purchase the services of any person engaged in
23 prostitution.

24 (4)(a) A person who violates any provision of this
25 section, other than paragraph (2)(f) or paragraph (2)(i),
26 commits:

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

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

31 3. A felony of the third degree for a third or subsequent
32 violation, punishable as provided in s. 775.082, s. 775.083, or
33 s. 775.084.

34 (b) A person who is charged with a third or subsequent
35 violation of this section, other than paragraph (2)(f) or
36 paragraph (2)(i), shall be offered admission to a pretrial

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37 intervention program or a substance abuse treatment program as
38 provided in s. 948.08.

39 (5) (a) A person who violates paragraph (2) (f) or paragraph
40 (2) (i) commits:

41 1. A felony of the third ~~misdemeanor of the first~~ degree
42 for a first violation, punishable as provided in s. 775.082, ~~or~~
43 s. 775.083, or s. 775.084.

44 2. A felony of the second ~~third~~ degree for a second
45 violation, punishable as provided in s. 775.082, s. 775.083, or
46 s. 775.084.

47 3. A felony of the first ~~second~~ degree for a third or
48 subsequent violation, punishable as provided in s. 775.082, s.
49 775.083, or s. 775.084.

50 (b) In addition to any other penalty imposed, the court
51 shall order a person convicted of a violation of paragraph
52 (2) (f) or paragraph (2) (i) to:

53 1. Perform 100 hours of community service; and

54 2. Pay for and attend an educational program about the
55 negative effects of prostitution and human trafficking, such as
56 a sexual violence prevention education program, including such
57 programs offered by faith-based providers, if such programs
58 exist in the judicial circuit in which the offender is
59 sentenced.

60 (c) In addition to any other penalty imposed, the court
61 shall sentence a person convicted of a second or subsequent

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62 violation of paragraph (2)(f) or paragraph (2)(i) to a minimum
63 mandatory period of incarceration of 10 days.

64 (d)1. If a person who violates paragraph (2)(f) or
65 paragraph (2)(i) uses a vehicle in the course of the violation,
66 the judge, upon the person's conviction, may issue an order for
67 the impoundment or immobilization of the vehicle for a period of
68 up to 60 days. The order of impoundment or immobilization must
69 include the names and telephone numbers of all immobilization
70 agencies meeting all of the conditions of s. 316.193(13). Within
71 7 business days after the date that the court issues the order
72 of impoundment or immobilization, the clerk of the court must
73 send notice by certified mail, return receipt requested, to the
74 registered owner of the vehicle, if the registered owner is a
75 person other than the defendant, and to each person of record
76 claiming a lien against the vehicle.

77 2. The owner of the vehicle may request the court to
78 dismiss the order. The court must dismiss the order, and the
79 owner of the vehicle will incur no costs, if the owner of the
80 vehicle alleges and the court finds to be true any of the
81 following:

82 a. The owner's family has no other private or public means
83 of transportation;

84 b. The vehicle was stolen at the time of the offense;

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85 c. The owner purchased the vehicle after the offense was
86 committed, and the sale was not made to circumvent the order and
87 allow the defendant continued access to the vehicle; or

88 d. The vehicle is owned by the defendant but is operated
89 solely by employees of the defendant or employees of a business
90 owned by the defendant.

91 3. If the court denies the request to dismiss the order,
92 the petitioner may request an evidentiary hearing. If, at the
93 evidentiary hearing, the court finds to be true any of the
94 circumstances described in sub-subparagraphs (d)2.a.-d., the
95 court must dismiss the order and the owner of the vehicle will
96 incur no costs.

97 (e) The Soliciting for Prostitution Public Database
98 created pursuant to s. 943.0433 must include the criminal
99 history record of a person who is found guilty as a result of a
100 trial or who enters a plea of guilty or nolo contendere,
101 regardless of whether adjudication is withheld, of paragraph
102 (2)(f) or paragraph (2)(i), and there is evidence that such
103 person provided a form of payment or arranged for the payment of
104 such services. Upon conviction, the clerk of the court shall
105 forward the criminal history record of the person to the
106 Department of Law Enforcement, pursuant to s. 943.052(2), for
107 inclusion in the database. This paragraph shall stand repealed
108 on January 1, 2024, unless reviewed and saved from repeal by the
109 Legislature.

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110 (6) A person who violates paragraph (2) (f) or paragraph
111 (2) (i) shall be assessed a civil penalty of \$5,000 if the
112 violation results in any judicial disposition other than
113 acquittal or dismissal. Of the proceeds from each penalty
114 assessed under this subsection, the first \$500 shall be paid to
115 the circuit court administrator for the sole purpose of paying
116 the administrative costs of treatment-based drug court programs
117 provided under s. 397.334. The remainder of the penalty assessed
118 shall be deposited in the Operations and Maintenance Trust Fund
119 of the Department of Children and Families for the sole purpose
120 of funding safe houses and safe foster homes as provided in s.
121 409.1678.

122 Section 4. Subsections (3) and (5) of section 943.0583,
123 Florida Statutes, are amended to read:

124 943.0583 Human trafficking victim expunction.—

125 (3) (a) Except as provided in paragraph (b), a person who
126 is a victim of human trafficking may petition for the expunction
127 of a criminal history record resulting from the arrest or filing
128 of charges for one or more offenses committed or reported to
129 have been committed while the person was a victim of human
130 trafficking, which offense was committed or reported to have
131 been committed as a part of the human trafficking scheme of
132 which the person was a victim or at the direction of an operator
133 of the scheme, including, but not limited to, violations under

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134 chapters 796 and 847, without regard to the disposition of the
135 arrest or of any charges.

136 (b) ~~However,~~ This section does not apply to any offense
137 listed in s. 775.084(1)(b)1. if the defendant was found guilty
138 of, or pled guilty or nolo contendere to, any such offense.

139 (c) Determination of the petition under this section
140 should be by a preponderance of the evidence. A conviction
141 expunged under this section is deemed to have been vacated due
142 to a substantive defect in the underlying criminal proceedings.
143 If a person is adjudicated not guilty by reason of insanity or
144 is found to be incompetent to stand trial for any such charge,
145 the expunction of the criminal history record may not prevent
146 the entry of the judgment or finding in state and national
147 databases for use in determining eligibility to purchase or
148 possess a firearm or to carry a concealed firearm, as authorized
149 in s. 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it
150 prevent any governmental agency that is authorized by state or
151 federal law to determine eligibility to purchase or possess a
152 firearm or to carry a concealed firearm from accessing or using
153 the record of the judgment or finding in the course of such
154 agency's official duties.

155 (5) Official documentation of the victim's status creates
156 a presumption that his or her participation in the offense was a
157 result of having been a victim of human trafficking but is not
158 required for granting a petition under this section. A

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159 ~~determination made without such official documentation must be~~
160 ~~made by a showing of clear and convincing evidence.~~

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T I T L E A M E N D M E N T

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Remove lines 2-19 and insert:

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An act relating to prostitution, lewdness, human

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trafficking, and public lodging; providing a short

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title; creating s. 509.098, F.S.; prohibiting an

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operator of a public lodging establishment from

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offering an hourly rate for an accommodation;

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providing an exception; amending s. 796.07, F.S.;

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increasing criminal penalties for soliciting or

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procuring another person to commit prostitution or

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other specified offenses or purchasing the services of

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a person engaged in prostitution; requiring a person

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convicted of purchasing the services of a person

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engaged in prostitution to complete additional court-

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ordered requirements and to serve a minimum mandatory

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period of incarceration of 10 days under certain

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circumstances; authorizing a court to impound a

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vehicle when used in the course of a specified

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violation; requiring the criminal history record of a

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person with a specified conviction to be included in

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the Soliciting for Prostitution Public Database;

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184 providing that a person who purchases the services of
185 any person engaged in prostitution is subject to a
186 civil penalty; amending s. 943.0583, F.S.; providing
187 that human trafficking victim expunction of criminal
188 history records does not apply to specified offenses;
189 deleting a requirement for a specific evidentiary
190 standard when determining human trafficking victim
191 status in the absence of official documentation;

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