

By Senator Berman

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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"; making technical changes; amending s.
5 796.07, F.S.; prohibiting facilitating or enabling the
6 receiving of persons into any place, structure,
7 building, or conveyance for the purpose of
8 prostitution, lewdness, or assignation; prohibiting
9 facilitating or enabling any person to remain in such
10 place, structure, building, or conveyance for such
11 purpose; prohibiting knowingly engaging in specified
12 activities for the purpose of prostitution and thereby
13 benefitting financially or receiving anything of
14 value; providing increased criminal penalties for
15 specified prohibited acts relating to lewdness,
16 assignation, or prostitution; providing criminal
17 penalties; deleting provisions relating to the
18 reclassification of penalties if a massage
19 establishment is used for lewdness, assignation, or
20 prostitution; amending ss. 456.074, 480.041, and
21 943.0433, F.S.; conforming provisions and cross-
22 references to changes made by the act; providing an
23 effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (2) of section 787.06, Florida
28 Statutes, is amended to read:

29 787.06 Human trafficking.—

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

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

32 1. Using or threatening to use physical force against any
33 person;

34 2. Restraining, isolating, or confining, or threatening to
35 restrain, isolate, or confine, any person without lawful
36 authority and against her or his will;

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

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

47 5. Causing or threatening to cause financial harm to any
48 person or withholding income from a person which he or she
49 earned or is entitled to;

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

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

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

58 (c) "Financial harm" includes extortionate extension of

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59 credit, loan sharking as defined in s. 687.071, or employment
60 contracts that violate the statute of frauds as provided in s.
61 725.01.

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

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

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

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

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

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

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

87 (k) "Venture" means any group of two or more individuals

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88 associated in fact, whether or not a legal entity.

89 Section 2. Present subsections (5) and (6) of section
90 796.07, Florida Statutes, are redesignated as subsections (6)
91 and (7), respectively, a new subsection (5) and subsection (8)
92 are added to that section, and subsections (2) and (4) and
93 present subsection (7) of that section are amended, to read:

94 796.07 Prohibiting prostitution and related acts.—

95 (2) It is unlawful:

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

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

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

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

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

116 (f) To solicit, induce, entice, or procure another to

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117 commit prostitution, lewdness, or assignation.

118 (g) To reside in, enter, or remain in, any place,
119 structure, or building, or to enter or remain in any conveyance,
120 for the purpose of prostitution, lewdness, or assignation.

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

123 (i) To purchase the services of any person engaged in
124 prostitution.

125 (j) To knowingly or in reckless disregard of the facts:

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

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

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

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

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

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

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

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

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

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

154 (8) A person who violates paragraph (2) (j) commits a felony
155 of the second degree, punishable as provided in s. 775.082, s.
156 775.083, or s. 775.084.

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

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

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

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

171 Section 3. Subsection (4) of section 456.074, Florida
172 Statutes, is amended to read:

173 456.074 Certain health care practitioners; immediate
174 suspension of license.-

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

188 (a) Section 787.01, relating to kidnapping.

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

190 (c) Section 787.025, relating to luring or enticing a
191 child.

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

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

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

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

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

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

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

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

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

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

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

213 (o) Section 827.071, relating to sexual performance by a
214 child.

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

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

217 (r) Section 847.0138, relating to the transmission of
218 material harmful to minors to a minor by electronic device or
219 equipment.

220 (s) Section 847.0145, relating to the selling or buying of
221 minors.

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

224 480.041 Massage therapists; qualifications; licensure;
225 endorsement.—

226 (7) The board shall deny an application for a new or
227 renewal license if an applicant has been convicted or found
228 guilty of, or enters a plea of guilty or nolo contendere to,
229 regardless of adjudication, a violation of s. 796.07(2)(a) ~~which~~
230 ~~is reclassified under s. 796.07(7)~~ or a felony offense under any
231 of the following provisions of state law or a similar provision
232 in another jurisdiction:

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- 233 (a) Section 787.01, relating to kidnapping.
- 234 (b) Section 787.02, relating to false imprisonment.
- 235 (c) Section 787.025, relating to luring or enticing a
- 236 child.
- 237 (d) Section 787.06, relating to human trafficking.
- 238 (e) Section 787.07, relating to human smuggling.
- 239 (f) Section 794.011, relating to sexual battery.
- 240 (g) Section 794.08, relating to female genital mutilation.
- 241 (h) Former s. 796.03, relating to procuring a person under
- 242 the age of 18 for prostitution.
- 243 (i) Former s. 796.035, relating to the selling or buying of
- 244 minors into prostitution.
- 245 (j) Section 796.04, relating to forcing, compelling, or
- 246 coercing another to become a prostitute.
- 247 (k) Section 796.05, relating to deriving support from the
- 248 proceeds of prostitution.
- 249 (l) Section 796.07(4)(a)3., relating to a felony of the
- 250 third degree for a third or subsequent violation of s. 796.07,
- 251 relating to prohibiting prostitution and related acts.
- 252 (m) Section 800.04, relating to lewd or lascivious offenses
- 253 committed upon or in the presence of persons less than 16 years
- 254 of age.
- 255 (n) Section 825.1025(2)(b), relating to lewd or lascivious
- 256 offenses committed upon or in the presence of an elderly or
- 257 disabled person.
- 258 (o) Section 827.071, relating to sexual performance by a
- 259 child.
- 260 (p) Section 847.0133, relating to the protection of minors.
- 261 (q) Section 847.0135, relating to computer pornography.

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262 (r) Section 847.0138, relating to the transmission of
263 material harmful to minors to a minor by electronic device or
264 equipment.

265 (s) Section 847.0145, relating to the selling or buying of
266 minors.

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

270 943.0433 Soliciting for Prostitution Public Database.-

271 (1) The department shall create and administer the
272 Soliciting for Prostitution Public Database. The clerk of the
273 court shall forward to the department the criminal history
274 record of a person in accordance with s. 796.07(6)(e) ~~s.~~
275 ~~796.07(5)(e)~~, and the department shall add the criminal history
276 record to the database.

277 (2)(a) The department shall automatically remove the
278 criminal history record of a person from the database if, after
279 5 years following the commission of an offense that meets the
280 criteria set forth in s. 796.07(6)(e) ~~s. 796.07(5)(e)~~, such
281 person has not subsequently committed a violation that meets
282 such criteria or any other offense within that time that would
283 constitute a sexual offense, including, but not limited to,
284 human trafficking, or an offense that would require registration
285 as a sexual offender.

286 (b) The department may not remove a criminal history record
287 from the database if a person commits a violation that meets the
288 criteria set forth in s. 796.07(6)(e) ~~s. 796.07(5)(e)~~ a second
289 or subsequent time.

290 Section 6. This act shall take effect October 1, 2023.