

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.)

Prepared By: The Professional Staff of the Appropriations Committee on Health and Human Services

BILL: CS/SB 1690

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Ingoglia

SUBJECT: Sexual Exploitation and Human Trafficking

DATE: April 11, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Tuszynski</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Sneed</u>	<u>Money</u>	<u>AHS</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1690 creates s. 402.88, F.S., to require the Department of Children and Families (DCF) to certify adult safe houses, and inspect and recertify the safe houses annually. The bill defines an adult safe house as a group residential facility that provides care and housing for adults who have been sexually exploited or trafficked, and requires adult safe houses to:

- Receive and shelter victims of human trafficking and their minor children or other dependents.
- Provide, at a minimum, information and referral services, licensed counseling and case management services, substance abuse screenings and, when necessary, access or referral to treatment, temporary emergency shelter, a 24-hour hotline, outreach services, training for law enforcement personnel, assessment and appropriate referral of resident children, and community awareness educational services.
- Participate in providing orientation and training programs developed for law enforcement and professionals who work with human trafficking victims.
- Provide a safe, therapeutic environment tailored to the needs of commercially sexually exploited (CSE) or trafficked adults.
- Receive an annual written endorsement from local law enforcement agencies.
- File certain information regarding human trafficking employees or volunteers who may claim privilege under s. 90.5037, F.S., to refuse to disclose certain information.

The bill allows the DCF to deny, suspend, or revoke the certification of an adult safe house that fails to comply with the requirements of the bill.

The bill also outlines the training of adult safe house staff and requires the DCF to ensure that staff has completed the training. The bill allows the DCF to exempt the hotline, professional training, or community education requirements for a new adult safe house if already provided by another adult safe house within the same service area.

The bill amends s. 409.1678, F.S., related to specialized residential options for children who are victims of CSE, to:

- Require the DCF to develop for safe houses and safe foster homes age-appropriate educational programming for children regarding the signs and dangers of, and how to report, human trafficking.
- Ensure security for safe houses and safe foster homes provides for, at a minimum, the detection of possible trafficking activity, coordination with law enforcement, and be part of the emergency response to search for absent or missing children. To be in compliance, the safe house must either:
 - Employ or contract with a least one individual that has law enforcement, investigative, or other similar training; or
 - Execute a contract or memorandum of understanding with a law enforcement agency to perform these functions.

The bill requires certain facilities to display signs to warn youth of the dangers of human trafficking and to encourage the reporting of individuals observed attempting to engage in human trafficking activity.

The bill will have a significant negative fiscal impact on state government. See Section V.

The bill takes effect July 1, 2023.

II. Present Situation:

Human Trafficking

The Florida Legislature recognizes human trafficking as a form of modern-day slavery whose victims include young children, teenagers, and adults who may be citizens that are trafficked domestically within the borders of the United States or smuggled across international borders worldwide.¹ While victims of human trafficking are forced to work in prostitution or sexual entertainment, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, factory work, and agricultural work.² Many human trafficking

¹ Section 787.06, F.S.

² *Id.*

victims are induced with false promises of financial or emotional security, but are forced or coerced³ into commercial sexual activity,⁴ domestic servitude, or other types of forced labor.⁵

Human Trafficking in Florida

Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,⁶ purchasing, patronizing, procuring, or obtaining⁷ another person for the purpose of exploitation of that person.⁸ In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking for labor or services, or commercial sexual activity, commits a crime.⁹ Florida law sets out several circumstances which give rise to specified penalties including, in part:

- Labor or services of any child under the age of 18 commits a first degree felony;¹⁰
- Labor or services of any child under the age of 18 who is an unauthorized alien¹¹ commits a first degree felony;¹²
- Labor or services who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;¹³
- Commercial sexual activity¹⁴ who does so by the transfer or transport of any child under the age of 18 from outside of Florida to within Florida commits a first degree felony;¹⁵ or

³ Section 787.06(2)(a), F.S., defines “coercion” in the context of human trafficking as using or threatening physical force; restraining, isolating, or confining or threatening the same without lawful authority and against his or her will; using lending or other credit methods to establish a debt when labor or services are pledged as a security for the debt, if the reasonably assessed value of the labor or services is not applied toward liquidation of the debt, and the length and nature of the labor or service and not limited and defined; destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document of any person; causing or threatening to cause financial harm, enticing or luring by fraud or deceit; or providing controlled substances to any person for the purpose of exploitation.

⁴ Section 787.062(2)(b), F.S., defines “commercial sexual activity” as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.

⁵ The Department of Education, *Healthy Schools – Human Trafficking*, available at <http://www.fldoe.org/schools/healthy-schools/human-trafficking.stml> (last visited March 19, 2023).

⁶ Section 787.06(2)(f), F.S., provides “maintain” means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines “services” as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.

⁷ Section 787.06(2)(g), F.S., provides “obtain” means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides “labor” means work of economic or financial value.

⁸ Section 787.06(2)(d), F.S.

⁹ Section 787.06(3), F.S.

¹⁰ Section 787.06(3)(a)1., F.S. A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

¹¹ Section 787.06(2)(j), F.S., defines “unauthorized alien” as an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3).

¹² Section 787.06(3)(c)1., F.S.

¹³ Section 787.06(3)(e)1., F.S.

¹⁴ Section 787.06(2)(b), F.S., defines “commercial sexual activity” as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography. Section 787.06(2)(i), F.S., defines “sexual explicit performance” as an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

¹⁵ Section 787.06(3)(f)1., F.S., provides that an offense committed under these circumstances is punishable by a term of imprisonment not exceeding life or as provided in ss. 775.082, 775.083, or 775.084, F.S.

- Commercial sexual activity in which any child under the age of 18, or in which any person who is mentally defective¹⁶ or mentally incapacitated¹⁷ is involved commits a life felony.¹⁸

First-degree felonies are reclassified as a life felony if a person causes great bodily harm, permanent disability, or permanent disfigurement to another person during the commission of the offense.¹⁹ Ignorance of the human trafficking victim's age, the victim's misrepresentation of his or her age, or a bona fide belief of the victim's age cannot be raised as a defense by a defendant.²⁰

Florida is ranked the third highest state of reported human trafficking cases in the United States.²¹ Reports of commercially exploited children to the Florida Abuse Hotline (hotline) for 2020 totaled 3,181 and 3,182 in 2021.²²

Child Sexual Exploitation in Florida

It is difficult to obtain an accurate count of commercial sexual exploitation (CSE) victims who are children because these victims are not readily identifiable.²³ CSE victims do not have immediately recognizable characteristics, many do not have identification, and they are often physically or psychologically controlled by adult traffickers; as such, they rarely disclose or provide information on exploitation.²⁴

In 2021, the DCF verified 377 child victims of commercial sexual exploitation from 3,182 reports alleging commercial sexual exploitation made to the hotline.²⁵ Of the reports that were referred for investigation, most came from the Department of Juvenile Justice (DJJ), the Department of Corrections, or criminal justice personnel and law enforcement.²⁶ Of the 377 verified commercially sexually exploited children, 25 percent were in out-of-home care,

¹⁶ Section 794.011(1)(c), F.S., defines “mentally defective” as a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct.

¹⁷ Section 794.011(1)(d), F.S., defines “mental incapacitated” as temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent.

¹⁸ A life felony is punishable by a term of life imprisonment, \$15,000 fine, or both as provided in s. 775.082(3)(a)6., F.S., s. 775.083, F.S., or s. 775.084, F.S.

¹⁹ Section 787.06(8)(b), F.S.

²⁰ Section 787.06(9), F.S.

²¹ Florida Alliance to End Human Trafficking, *The Issue*, available at <https://floridaallianceendht.com/the-issue/> (last visited March 19, 2023).

²² The Office of Program Policy Analysis and Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida*, 2022, p. 2, July 2022, available at <https://oppaga.fl.gov/Documents/Reports/22-05.pdf> (last visited March 19, 2023).

²³ Office of Program Policy Analysis & Government Accountability, *Placement Challenges Persist for Child Victims of Commercial Sexual Exploitation; Questions Regarding Effective Interventions and Outcomes Remain*, (Jul. 2016), available at <https://oppaga.fl.gov/Products/ReportDetail?rn=16-04> (last visited March 22, 2023).

²⁴ U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Commercial Sexual Exploitation of Children and Sex Trafficking*, available at <https://ojjdp.ojp.gov/model-programs-guide/literature-reviews/commercial-sexual-exploitation-of-children-and-sex-trafficking.pdf> (last visited March 22, 2023).

²⁵ Office of Program Policy Analysis & Government Accountability, *Annual Report on the Commercial Sexual Exploitation of Children in Florida*, 2022, Report 22-05, July 2022, pp. i and 2, available at <https://oppaga.fl.gov/Products/ReportDetail?rn=22-05> (last viewed March 22, 2023).

²⁶ *Id.*

including the care of relatives or in foster homes, residential group care, or residential treatment centers.²⁷

Safe Houses and Safe Foster Homes for Child-victims of Human Trafficking

Current law defines and provides for the certification of specialized residential options for children who are victims of human trafficking or commercial sexual exploitation (CSE).²⁸ The law defines a “safe foster home” to mean a foster home certified by the DCF to care for sexually exploited children and a “safe house” to mean a group residential placement certified by the DCF to care for sexually exploited children.²⁹ To be certified, a safe house or safe foster home must:

- Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.
- Serve exclusively one sex.
- Group child victims of CSE by age or maturity level.
- Care for child victims of CSE in a manner that separates those children from children with other needs. Safe houses and safe foster homes may care for other populations if the children who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.
- Have awake staff members on duty 24 hours a day, if a safe house.
- Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.
- Meet other criteria established by department rule,³⁰ including personnel qualifications, staffing ratios, and types of services offered.³¹

At-Risk Houses

At-risk houses are group care homes that are certified to serve children considered to be at-risk for sex trafficking. Children are deemed to be “at risk of sex trafficking” if they have experienced trauma such as abuse, neglect, and/or maltreatment, and present one or more of the accompanying risk factors: history of running away and/or homelessness; history of sexual abuse and/or sexually acting out behavior; inappropriate interpersonal and/or social media boundaries; family history of or exposure to human trafficking; or out-of-home placement instability demonstrated by repeated moves from less restrictive levels of care. There are currently 157 at-risk houses licensed by DCF that provide services to youth who are at risk of sex trafficking.³²

²⁷ *Id.*, p. 4.

²⁸ Section 409.1678, F.S.

²⁹ Section 409.1678(1), F.S.

³⁰ Rule 65C-46.020, F.A.C.

³¹ Section 409.1678(2)(c), F.S.

³² The DCF, 2023 Agency Legislative Bill Analysis, SB 1690, *Human Trafficking*, p. 3 (on file with Committee on Children, Families, and Elder Affairs Staff). (hereinafter cited as DCF Bill Analysis)

Safe Houses for Adult Survivors of Human Trafficking

There are currently 13 adult safe houses in Florida that serve adult survivors of human trafficking.³³ Of these, two allow for the survivor's minor children to also reside in the home.³⁴

The DCF does not regulate or monitor any of these adult safe houses³⁵ and current law provides no framework for any agency to do so.

Privileged Communication between Human Trafficking Victims and Others

Section 90.5037, F.S., creates a privilege to refuse to disclose confidential communications or records between human trafficking victims and human trafficking victim advocates or trained volunteers made in the course of advising, counseling, or providing services. The law gives a human trafficking victim the power to not personally disclose and also prevent disclosure by any other person.³⁶

This privilege may be claimed by:

- The victim of human trafficking.
- The guardian or conservator of a victim.
- The personal representative of a deceased victim.
- The human trafficking victim advocate or trained volunteer, but only on behalf of the human trafficking victim. The authority to claim this privilege is presumed in the absence of evidence to the contrary.³⁷

III. Effect of Proposed Changes:

Adult Safe Houses

The bill creates s. 402.88, F.S., to require the DCF to develop and administer a certification process for adult safe houses that provide care for adults who have been sexually exploited or trafficked.

The bill requires the DCF to establish a process to certify adult safe houses that:

- Provides a facility that serves as an adult safe house to receive and house persons who are victims of human trafficking.
 - Minor children and other dependents of the victim when such dependents are partly or wholly dependent on the victim, may be sheltered with the victim in an adult safe house.
- Receives annual written endorsement of local law enforcement.
- Provides the following minimum services:
 - Information and referral;
 - Licensed counseling and case management;
 - Substance abuse screening and access or referral to treatment;
 - Temporary emergency shelter for more than 24 hours;

³³ DCF Bill Analysis, p. 2.

³⁴ *Id.*

³⁵ *Id.*

³⁶ Section 90.5037(3), F.S.

³⁷ Section 90.5037(4), F.S.

- Operation of a 24-hour hotline;
- Nonresidential outreach services;
- Training for law enforcement personnel;
- Assessment and appropriate referral of resident children; and
- Educational services for community awareness, prevention, and services available for persons subject to human trafficking.
- Participates in providing orientation and training programs developed for law enforcement, social workers, and other professionals who work with human trafficking victims.
- Provides a safe, therapeutic environment tailored to the needs of CSE or trafficked adults who have endured significant trauma using strength-based and trauma-informed treatment models.
- Files with the DCF a list of human trafficking advocates employed or volunteering at the adult safe house who may claim privilege under s. 90.5037, F.S.,³⁸ to refuse to disclose certain information. The list must include the title of the position held by the advocate and a description of the duties of his or her position.
- Comply with rules adopted under the section.

The bill allows the DCF to exempt the hotline, professional training, or community education requirements for a new adult safe house if already provided by another adult safe house within the designated service area to avoid duplication of services.

The bill requires the DCF to inspect and annually certify adult safe houses to ensure compliance with the requirements of the section and allows the denial, suspension, or revocation of certification if an adult safe house fails to comply with those requirements.

The bill also outlines the training of adult safe house staff and requires the DCF to ensure that staff has completed said training, the contents of which are to be specified by rule.

The bill allows the DCF to adopt rules to implement the section, which must include, in part, rules related to health and safety provisions that protect minor children and other dependents of a victim that shelter in the adult safe house from recruitment, and to ensure that the minors do not become at risk of becoming, or become victims of human trafficking.

Education and Signage

The bill amends s. 409.1678, F.S., to require the DCF to develop age-appropriate educational programming for children regarding the signs and dangers of, and how to report, human trafficking. The educational programming must be developed for safe houses and safe foster homes.³⁹

³⁸ Section 90.5037, F.S. makes certain communications between certain human trafficking victim's advocates and human trafficking victims confidential.

³⁹ Section 409.1678, F.S. defines "Safe foster home" as a foster home certified by the DCF to care for sexually exploited children and "Safe house" as a group residential placement certified by the DCF to care for sexually exploited children.

The bill amends ss. 394.875, 409.1678, and 409.175, F.S., to require the following places to display signs to warn youth of the dangers of human trafficking and to encourage the reporting of individuals observed attempting to engage in human trafficking activity:

- Residential treatment centers for children and adolescents;
- Safe houses;
- Foster homes;
- Residential child-caring agencies; and
- Child-placing agencies.

The signs must be in conspicuous locations and must contain the telephone number for either the National Human Trafficking Resource Center or other number that the Florida Department of Law Enforcement uses to detect and stop human trafficking.

The DCF is required to specify the content of the signs by rule. For residential treatment centers for children and adolescents, the DCF is required to consult with the Agency for Health Care Administration on the content of such signs.

The bill amends s. 787.29, F.S., relocating a provision in current law that allows a county commission to adopt an ordinance to enforce human trafficking awareness signage into the subsection that requires the display of such signs.

Certification of Safe Houses

Section 409.1678, F.S., requires safe houses and safe foster homes to provide appropriate security through specified means. The bill amends s. 409.1678, F.S., to detail that appropriate security for Safe Houses must provide for, at a minimum, the detection of possible trafficking activity, coordination with law enforcement, and be part of the emergency response to search for absent or missing children. To be in compliance, the safe house must either:

- Employ or contract with a least one individual that has law enforcement, investigative, or other similar training; or
- Execute a contract or memorandum of understanding with a law enforcement agency to perform these functions.

The bill takes effect July 1, 2023

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 identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DCF is requesting 4 FTE positions and technology development costs to fulfill the requirements of the bill. The total cost to implement the certification process is \$764,420. This will require recurring funds of \$360,145 and nonrecurring funds of \$404,275 from the General Revenue Fund.⁴⁰ Specifically, this includes:

- Three Operation Review Specialists FTEs to serve as regional certification specialists to complete pre-monitoring, travel, inspections, site monitoring and follow up, and administrative duties involved in the annual certification of adult safe houses. The total cost is estimated at \$301,420 (includes \$16,275 nonrecurring costs). Each position requires a base salary of \$50,192, plus travel and operating expenses.⁴¹
- Contract consulting services for the development of the technology platform to support adult safe house certification. These one-time development costs are estimated at \$388,000.
- One technology-related FTE to provide for ongoing maintenance and operations of the platform.⁴² The recurring cost is \$75,000.⁴³

VI. Technical Deficiencies:

None.

⁴⁰ DCF Bill Analysis, p. 7.

⁴¹ *Id.*

⁴² *Id.* at pp. 8-9

⁴³ *Id.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.875, 409.1678, 409.175, and 787.29.

This bill creates section 402.88 of the Florida Statutes.

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 Children, Families, and Elder Affairs on March 27, 2023:

The Committee Substitute moved certain provisions related to signage into the sections of statute related to relevant facility regulation, identified specific health and safety requirements to be considered for rulemaking, and clarified what is required to provide appropriate security in safe houses.

- B. **Amendments:**

None.