

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 Committee on Criminal Justice

BILL: SB 450

INTRODUCER: Senator Wright

SUBJECT: Sheltering or Aiding Unmarried Minors

DATE: January 21, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2.	<u>Hall</u>	<u>Tuszynski</u>	<u>CF</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 450 amends ss. 984.085 and 985.731, F.S., to create a presumption and defense to the crime of sheltering or aiding an unmarried minor. Those sections provide that a person:

- Who is not an authorized agent of the Department of Children and Families (DCF) or the Department of Juvenile Justice (DJJ) may not knowingly shelter an unmarried minor for more than 24 hours without the consent of the minor’s parent or guardian or without notifying a law enforcement office of the minor’s name and the fact that the minor is being provided shelter.
- May not knowingly provide aid to an unmarried minor who has run away from home without first contacting the minor’s parent or guardian or notifying a law enforcement officer. The aid prohibited includes assisting the minor in obtaining shelter, such as hotel lodgings.

The bill increases the crime of sheltering or aiding an unmarried minor from a first degree misdemeanor to a third degree felony.

The bill provides that proof that an unmarried minor has not attained 18 years of age creates a presumption that the person knew the minor’s age or acted in reckless disregard thereof.

This bill creates a defense to the crime of unlawfully sheltering or aiding unmarried minors where the defendant had reasonable cause to believe that his or her action was necessary to preserve the minor from danger to his or her welfare.

The bill may have an indeterminate fiscal impact on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2024.

II. Present Situation:

Federal law provides a definition for the term “homeless children and youths,” which means individuals who lack a fixed, regular, and adequate nighttime residence and includes children and youths who are:

- Sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason;
- Living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations;
- Living in emergency or transitional shelters or are abandoned in hospitals;
- Utilizing for a primary nighttime residence a place that is a public or private place but not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- Living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- Migratory children living in circumstances described above.¹

The term “unaccompanied youth” includes a youth not in the physical custody of a parent or guardian.²

Homeless and Runaway Children and Youth

Florida law defines the term “children and youths who are experiencing homelessness” to have the same meaning as “homeless children and youths” under federal law and described above.³

Homeless Children and Youth

Each year, an estimated 3.5 million youth and young adults experience homelessness in the United States, 700,000 of which are unaccompanied minors—meaning they are not part of a family or accompanied by a parent or guardian. These estimates indicate that approximately one in 10 adults’ ages 18 to 25, and one in 30 youth ages 13 to 17 will experience homelessness each year.⁴

The Voices of Youth Count from Chapin Hall at the University of Chicago found, in part, that one in 10 young adults ages 18-25, and at least one in 30 adolescents ages 13-17, experience some form of homelessness unaccompanied by a parent or guardian over the course of a year.

- 29% of homeless youth report having substance abuse problems.
- 69% of homeless youth report mental health problems.
- 33% of homeless youth report having once been a part of the foster care system.
- 50% of homeless youth have been in the juvenile justice system, in jail, or detention.
- Black youth face an 83% increased risk, and Hispanic youth 33% increased risk, than their white peers.
- LGBTQ youth were more than twice as likely to have experienced homelessness.

¹ 42 USC s. 11434a.

² *Id.*

³ Section 1003.01(4), F.S.

⁴ National Network for Youth, *Youth Homelessness*, available at <https://nn4youth.org/learn/youth-homelessness/> (last visited Jan 18, 2024).

- The lack of a high school diploma or General Equivalency Diploma is the number one correlate for elevated risk of youth homelessness.⁵

As of 2022, Florida had an estimated 19,519 people experiencing homelessness on any given day, as reported by the U.S. Department of Housing and Urban Development (HUD), which is 11.9 in every 10,000 people.⁶ Of that total, 6,440 people were in families with children, 1,011 were unaccompanied homeless youth, 2,279 were veterans, and 4,233 were chronically homeless individuals.⁷

The Florida Department of Education (FDOE) reports that 78,277 students experienced homelessness in the 2021-2022 school year, this is a 23 percent increase from the 2020-2021 school year. While the data shows an increase in youth homelessness in the 2021-2022 school year, research has indicated an estimated 420,000 fewer youth experiencing homelessness were identified during school year 2019-2020.⁸

Runaway Youth

Research shows that almost 7 percent of youth, or 1.5 million children and adolescents, run away each year.⁹ Youth most often runaway from home and become homeless due to family conflicts, abuse, and/or neglect.¹⁰ The risk factors for running away from home or state care are multifaceted, and there is no typical endangered runaway. The National Center for Missing & Exploited Children defines an Endangered Runaway as a child under the age of 18 who is missing on his or her own accord and whose whereabouts are unknown to their parent or legal guardian.¹¹ These children are highly vulnerable and can experience homelessness when they are missing. Research indicates that 77 percent of endangered runaways reported were between 15-17 years old. It also states that 87 percent of missing children reported risk factors that put the youth at an increased risk of running away or becoming homeless. Those risk factors include:

- Physical or sexual abuse
- Family conflict
- Lack of acceptance of gender identity or sexual orientation
- Struggling to manage mental health
- Substance abuse
- Medical issue/developmental or physical disability
- Pregnancy

⁵ *Id.*

⁶ U.S. Department of Housing and Urban Development, *2022 Annual Homelessness Assessment Report (AHAR) to Congress*, available at <https://www.huduser.gov/portal/sites/default/files/pdf/2022-ahar-part-1.pdf> (last visited Jan. 18, 2024).

⁷ *Id.*

⁸ Florida's Council on Homelessness, *2023 Annual Report*, pg. 16, available at <https://www.myflfamilies.com/sites/default/files/2023-07/Florida%27s%20Council%20On%20Homelessness%20Annual%20Report%202023.pdf#:~:text=The%20number%20of%20people%20experiencing%20unsheltered%20homelessness%20in%20Florida%20increased,the%20number%20of%20unsheltered%20homeless> (last visited Jan. 18, 2024).

⁹ National Conference of State Legislatures, *Youth Homelessness Overview*, available at <https://www.ncsl.org/human-services/youth-homelessness-overview> (last visited Jan. 18, 2024).

¹⁰ *Id.*

¹¹ National Center for Missing & Exploited Children, *Endangered Runaways*, available at [Endangered Runaways \(missingkids.org\)](https://www.missingkids.org) (last visited Jan. 18, 2024).

- Online enticement
- To be with a friend, romantic partner, or biological family
- Gang activity
- Child sex trafficking
- Social rejection or bullying¹²

Risk of Human Trafficking

Homeless and runaway youth experience the risk factors of trafficking at a higher rate, such as mental health issues, addiction, poverty, unemployment, and a history of abuse. As a result, they are more susceptible to human trafficking and other forms of exploitation.¹³ According to research, an estimated 4.2 million young people (ages 13-25) experience homelessness annually, including 700,000 unaccompanied minor youth ages 13 to 17. Many of those young people will become victims of sex or labor trafficking. Research from numerous studies have found trafficking rates among youth experiencing homelessness ranging from 19 percent to 40 percent. Using the lower-end estimate of 1 in 5 youth experiencing homelessness also being trafficked for sex, labor, or both, this means that approximately 800,000 youth who experience homelessness are also survivors of trafficking.¹⁴

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.¹⁵ 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.¹⁶

Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,¹⁷ purchasing, patronizing, procuring, or obtaining¹⁸ another person for the purpose of exploitation of that person.¹⁹

¹² National Center for Missing & Exploited Children, *Endangered Runaways*, available at <https://www.missingkids.org/theissues/runaways> (last visited Jan. 18, 2024).

¹³ United Way, *The intersection between Housing Instability and Human Trafficking*, Richards, Daniele, April 25, 2022, available at <https://www.unitedway.org/blog/the-intersection-between-housing-instability-and-human-trafficking> (last visited Jan. 18, 2024).

¹⁴ Human Trafficking Search, *The Intersection Between Youth Homelessness and Human Trafficking*, available at [The Intersection Between Youth Homelessness and Human Trafficking - Human Trafficking Search](https://www.humantraffickingsearch.org/the-intersection-between-youth-homelessness-and-human-trafficking) (last visited Jan. 18, 2024).

¹⁵ Section 787.06, F.S.

¹⁶ *Id.*

¹⁷ 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.

¹⁸ 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.

¹⁹ Section 787.06(2)(d), F.S.

Human trafficking includes two types of exploitation: commercial sexual exploitation (CSE) and forced labor.²⁰ In 2022, according to the Department of Children and Families, 354 youth were verified as victims of commercial sexual exploitation (CSE) in Florida. The number has decreased from 2021, when 379 youth were verified.²¹

Sheltering or Aiding Unmarried Minors

Florida law provides criminal penalties under two sections of law for sheltering or aiding unmarried minors.

Sections 984.085 and 985.731, F.S., provides it is a first degree misdemeanor²² for a person:

- Who is not an authorized agent of the DCF or the DJJ to knowingly shelter an unmarried minor for more than 24 hours without the consent of the minor's parent or guardian or without notifying a law enforcement officer of the minor's name and the fact that the minor is being provided shelter.
- To knowingly provide aid to an unmarried minor who has run away from home without first contacting the minor's parent or guardian or notifying a law enforcement officer. The aid prohibited under this paragraph includes assisting the minor in obtaining shelter, such as hotel lodgings.^{23,24}

III. Effect of Proposed Changes:

The bill amends ss. 984.085 and 985.731, F.S., to create a presumption and defense to the crime of sheltering or aiding an unmarried minor. Those sections provide that a person:

- Who is not an authorized agent of the DCF or the DJJ may not knowingly shelter an unmarried minor for more than 24 hours without the consent of the minor's parent or guardian or without notifying a law enforcement office of the minor's name and the fact that the minor is being provided shelter.
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The bill increases the crime of sheltering or aiding an unmarried minor from a first degree misdemeanor to a third degree felony.

The bill provides that proof that an unmarried minor has not attained 18 years of age creates a presumption that the person knew the minor's age or acted in reckless disregard thereof.

²⁰ Section 787.06, F.S.

²¹ Office of Program Policy Analysis & Government Accountability, *Annual Report on Commercial Sexual Exploitation of Children in Florida, 2023*, available at <https://oppaga.fl.gov/Documents/Reports/23-08.pdf> (last visited Jan. 18, 2024).

²² A misdemeanor of the first degree is punishable by a term of imprisonment not exceeding 1 year, as provided in s. 775.082 or s. 775.083, F.S.

²³ Section 984.085, F.S.

²⁴ Section 985.731, F.S.

This bill creates a defense to the crime of unlawfully sheltering or aiding unmarried minors where the defendant had reasonable cause to believe that his or her action was necessary to preserve the minor from danger to his or her welfare.

The bill provides an effective date of October 1, 2024.

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 bill may have an indeterminate fiscal impact on the Department of Corrections due to the enhanced penalties under the bill and the possibility of offenders receiving prison sentences.

Per FDLE, in FY 22-23, there were 8 arrests and 1 guilty/convicted for a violation of s. 984.085, F.S., and there were 17 arrests and 4 guilty/convicted for a violation of

s. 985.731, F.S. In FY 22-23, the incarceration rate for a Level 1, 3rd degree felony was 9.5 percent. The bill may have a positive insignificant fiscal impact.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 984.085 and 985.731.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

²⁵ Office of Economic and Demographic Research *SB 450 Preliminary Estimate*, (on file with the Senate Committee on Criminal Justice).