

Florida State Report State Ratings 2014

The Polaris annual state ratings process tracks the presence or absence of 10 categories of state statutes that Polaris believes are critical to a comprehensive anti-trafficking legal framework. It is important to note that these 10 categories are not exhaustive of all the important legislation that helps combat human trafficking in a given state. Moreover, the ratings do not assess the effectiveness or implementation of these laws, nor the anti-trafficking efforts of task forces, law enforcement, prosecutors, judges, service providers, and advocates in the state. The purpose of the annual state ratings process is to document laws on the books, to motivate legislators and policy advocates, and to focus the attention of states on the statutes that still need to be enacted in order to achieve a strong anti-trafficking legal framework.

Rating: Tier One (green)

Total Points: 10.5

Credited Categories: 1 Sex Trafficking; 2 Labor Trafficking; 3(a) Asset Forfeiture; 3(b) Investigative Tools; 4(a) Training for Law Enforcement; 4(b) Human Trafficking Task Force; 5 No Requirement of Force, Fraud, or Coercion for Minor Victims of Sex Trafficking; 7 Safe Harbor for Minor; 8 Victim Assistance; 9 Civil Remedy; and 10 Vacating Convictions.

Categories Still Needed: 6 Posting of a Hotline

Category By Category Break-Down:

Category 1: Sex Trafficking Statute

§787.06 - Human trafficking

(1)(a) The Legislature finds that human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, teenagers, and adults. Thousands of victims are trafficked annually across international borders worldwide. Many of these victims are trafficked into this state. Victims of human trafficking also include citizens of the United States and those persons trafficked domestically within the borders of the United States. The Legislature finds that victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.

(b) The Legislature finds that while many victims of human trafficking are forced to work in prostitution or the sexual entertainment industry, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.

(c) The Legislature finds that traffickers use various techniques to instill fear in victims and to keep them enslaved. Some traffickers keep their victims under lock and key. However, the most frequently used practices are less obvious techniques that include isolating victims from the public and family members; confiscating passports, visas, or other identification documents; using or threatening to use violence toward victims or their families; telling victims that they will be imprisoned or deported for immigration violations if they contact authorities; and controlling the victims' funds by holding the money ostensibly for safekeeping.



(d) It is the intent of the Legislature that the perpetrators of human trafficking be penalized for their illegal conduct and that the victims of trafficking be protected and assisted by this state and its agencies. In furtherance of this policy, it is the intent of the Legislature that the state Supreme Court, The Florida Bar, and relevant state agencies prepare and implement training programs in order that judges, attorneys, law enforcement personnel, investigators, and others are able to identify traffickers and victims of human trafficking and direct victims to appropriate agencies for assistance. It is the intent of the Legislature that the Department of Children and Families and other state agencies cooperate with other state and federal agencies to ensure that victims of human trafficking can access social services and benefits to alleviate their plight.

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

(a) “Coercion” means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03 to any person for the purpose of exploitation of that person.

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

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

(d) “Human trafficking” means transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.

(e) “Labor” means work of economic or financial value.

(f) “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.

(g) “Obtain” means, in relation to labor or services, to secure performance thereof.

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

(i) “Sexually explicit performance” means 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.



(j) “Unauthorized alien” means 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). The term shall be interpreted consistently with that section and any applicable federal rules or regulations.

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

(3) 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:

(a)

1. For labor or services of any child under the age of 18 commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services of an adult commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Using coercion for commercial sexual activity of an adult commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)

1. For labor or services of any child under the age of 18 who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services of an adult who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Using coercion for commercial sexual activity of an adult who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e)

1. For labor or services who does so by the transfer or transport of any child under the age of 18 from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services who does so by the transfer or transport of an adult from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(f)

1. For commercial sexual activity who does so by the transfer or transport of any child under the age of 18 from outside this state to within the state commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life, or as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for commercial sexual activity who does so by the transfer or transport of an adult from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(g) For commercial sexual activity in which any child under the age of 18, or in which any person who is mentally defective or mentally incapacitated as those terms are defined in s. 794.011(1), is involved commits a life felony, punishable as provided in s. 775.082(3)(a)6., s. 775.083, or s. 775.084.

For each instance of human trafficking of any individual under this subsection, a separate crime is committed and a separate punishment is authorized.



(4)

(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, with knowledge or in reckless disregard of the fact that, as a consequence of the sale or transfer, the minor will be subject to human trafficking commits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who permanently brands, or directs to be branded, a victim of an offense under this section commits a second degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, the term “permanently branded” means a mark on the individual’s body that, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure.

Category 2: Labor Trafficking Statute

Yes. See §787.06.

Category 3(a): Asset Forfeiture

§787.06 Human trafficking.

(7) Any real property or personal property that was used, attempted to be used, or intended to be used in violation of any provision of this section may be seized and shall be forfeited subject to the provisions of the Florida Contraband Forfeiture Act.

Category 3(b): Investigative Tools

§895.02. Definitions

(1) “**Racketeering activity**” means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes:

26. Chapter 787, relating to kidnapping or human trafficking.

§934.07. Authorization for interception of wire, oral, or electronic communications

(1) The Governor, the Attorney General, the statewide prosecutor, or any state attorney may authorize an application to a judge of competent jurisdiction for, and such judge may grant in conformity with ss. 934.03–934.09 an order authorizing or approving the interception of, wire, oral, or electronic communications by:

(a) The Department of Law Enforcement or any law enforcement agency as defined in s. 934.02 having responsibility for the investigation of the offense as to which the application is made when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, aircraft piracy, arson, gambling, robbery, burglary, theft, dealing in stolen property, criminal usury, bribery, or extortion; any felony violation of ss. 790.161–790.166, inclusive; any violation of s. 787.06; any violation of chapter 893; any violation of the provisions of the Florida Anti-Fencing Act; any violation of chapter 895; any violation of chapter



896; any violation of chapter 815; any violation of chapter 847; any violation of s. 827.071; any violation of s. 944.40; or any conspiracy or solicitation to commit any violation of the laws of this state relating to the crimes specifically enumerated in this paragraph.

Category 4(a): Training for Law Enforcement

§787.06 Human trafficking.—

(4)The Criminal Justice Standards and Training Commission shall establish standards for basic and advanced training programs for law enforcement officers in the subjects of investigating and preventing human trafficking crimes. After January 1, 2007, every basic skills course required for law enforcement officers to obtain initial certification must include training on human trafficking crime prevention and investigation.

(5)Each state attorney shall develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and shall provide for periodic and timely instruction.

Category 4(b): Human Trafficking Task Force

HB 7141 (2014)

16.617 Statewide Council on Human Trafficking; creation; membership; duties.

(1) CREATION.—There is created the Statewide Council on Human Trafficking within the Department of Legal Affairs. The council is created for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and to support victims.

(2) MEMBERSHIP.—

(a) The council shall consist of the following members:

1. The Attorney General, or a designee, who shall serve as chair.
2. The Secretary of Children and Families, or a designee, who shall serve as vice chair.
3. The State Surgeon General, or a designee.
4. The Secretary of Health Care Administration, or a designee.
5. The executive director of the Department of Law Enforcement, or a designee.
6. The Secretary of Juvenile Justice, or a designee.
7. The Commissioner of Education, or a designee.
8. One member of the Senate appointed by the President of the Senate.
9. One member of the House of Representatives appointed by the Speaker of the House of Representatives.
10. An elected sheriff appointed by the Attorney General.
11. An elected state attorney appointed by the Attorney General.
12. Two members appointed by the Governor, and two members appointed by the Attorney General, who have professional experience to assist the council in the development of care and treatment options for victims of human trafficking.

(b) Each member shall be appointed to a 4-year term. However, for the purpose of achieving staggered terms, the members initially appointed by the Attorney General, the President of the Senate, and the Speaker of the House of Representatives shall each serve a 2-year term. All subsequent appointments shall be for 4-year terms. Any vacancy shall



be filled in the same manner as the original appointment for the remainder of the unexpired term.

(c) A member may not receive a commission, fee, or financial benefit in connection with serving on the council. Council members may be reimbursed for per diem and travel expenses in accordance with s. 112.061 by the state agency that the member represents. If a member is not affiliated with a state agency, the member shall be reimbursed by the Department of Legal Affairs.

(3) ORGANIZATION AND SUPPORT.—

(a) The first meeting of the council shall be held no later than September 1, 2014. Thereafter, the council shall meet at least once each calendar quarter. Meetings may be held via teleconference or other electronic means.

(b) A majority of the members of the council shall constitute a quorum.

(c) The Department of Legal Affairs shall provide the council with staff necessary to assist the council in the performance of its duties.

(4) DUTIES.—The council shall:

(a) Develop recommendations for comprehensive programs and services for victims of human trafficking to include recommendations for certification criteria for safe houses and safe foster homes.

(b) Make recommendations for apprehending and prosecuting traffickers and enhancing coordination of responses.

(c) Annually hold a statewide policy summit in conjunction with an institution of higher learning in this state.

(d) Work with the Department of Children and Families to create and maintain an inventory of human trafficking programs and services in each county, including, but not limited to, awareness programs and victim assistance services, which can be used to determine how to maximize existing resources and address unmet needs and emerging trends.

(e) Develop policy recommendations that advance the duties of the council and further the efforts to combat human trafficking in our state.

(5) REPORT.—By October 31 of each year, beginning in 2015, the council shall submit a report to the President of the Senate and the Speaker of the House of Representatives summarizing the accomplishments of the council during the preceding fiscal year and making recommendations regarding the development and coordination of state and local law enforcement and social services responses to fight human trafficking and support victims.

Category 5: No Requirement of Force, Fraud, or Coercion for Sex Trafficking of Minors

Yes. See §787.06(3)(e)(1).

Category 6: Posting of a Human Trafficking Hotline

None.



Category 7: Safe Harbor

HB99 (2012)

(4) SEXUAL EXPLOITATION SERVICES.—

(a) The Legislature recognizes that child sexual exploitation is a serious problem nationwide and in this state. The children at greatest risk of being sexually exploited are runaways and throwaways. Many of these children have a history of abuse and neglect. The vulnerability of these children starts with isolation from family and friends. Traffickers maintain control of child victims through psychological manipulation, force, drug addiction, or the exploitation of economic, physical, or emotional vulnerability. Children exploited through the sex trade often find it difficult to trust adults because of their abusive experiences. These children make up a population that is difficult to serve and even more difficult to rehabilitate.

(b) The Legislature establishes the following goals for the state related to the status and treatment of sexually exploited children in the dependency process:

1. To ensure the safety of children.
2. To provide for the treatment of such children as dependent children rather than as delinquents.
3. To sever the bond between exploited children and traffickers and to reunite these children with their families or provide them with appropriate guardians.
4. To enable such children to be willing and reliable witnesses in the prosecution of traffickers.

(c) The Legislature finds that sexually exploited children need special care and services in the dependency process, including counseling, health care, substance abuse treatment, educational opportunities, and a safe environment secure from traffickers.

(d) The Legislature further finds that sexually exploited children need the special care and services described in paragraph (c) independent of their citizenship, residency, alien, or immigrant status. It is the intent of the Legislature that this state provide such care and services to all sexually exploited children in this state who are not otherwise receiving comparable services, such as those under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

(8) OFFICE OF ADOPTION AND CHILD PROTECTION.—

(c) The office is authorized and directed to:

1. Oversee the preparation and implementation of the state plan established under subsection (9) and revise and update the state plan as necessary.
2. Provide for or make available continuing professional education and training in the prevention of child abuse and neglect.
3. Work to secure funding in the form of appropriations, gifts, and grants from the state, the Federal Government, and other public and private sources in order to ensure that sufficient funds are available for the promotion of adoption, support of adoptive families, and child abuse prevention efforts.
4. Make recommendations pertaining to agreements or contracts for the establishment and development of:
 - a. Programs and services for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect.
 - b. Training programs for the prevention of child abuse and neglect.



- c. Multidisciplinary and discipline-specific training programs for professionals with responsibilities affecting children, young adults, and families.
 - d. Efforts to promote adoption.
 - e. Post adoptive services to support adoptive families.
5. Monitor, evaluate, and review the development and quality of local and statewide services and programs for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect and shall publish and distribute an annual report of its findings on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President of the Senate, the head of each state agency affected by the report, and the appropriate substantive committees of the Legislature. The report shall include:
- a. A summary of the activities of the office.
 - b. A summary of the adoption data collected and reported to the federal Adoption and Foster Care Analysis and Reporting System (AFCARS) and the federal Administration for Children and Families.
 - c. A summary of the child abuse prevention data collected and reported to the National Child Abuse and Neglect Data System (NCANDS) and the federal Administration for Children and Families.
 - d. A summary detailing the timeliness of the adoption process for children adopted from within the child welfare system.
 - e. Recommendations, by state agency, for the further development and improvement of services and programs for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect.
 - f. Budget requests, adoption promotion and support needs, and child abuse prevention program needs by state agency.
6. Work with the direct-support organization established under s. 39.0011 to receive financial assistance.

(10) **FUNDING AND SUBSEQUENT PLANS.—**

(b) The office and the other agencies and organizations listed in paragraph (9)(a) shall readdress the state plan and make necessary revisions every 5 years, at a minimum. Such revisions shall be submitted to the Speaker of the House of Representatives and the President of the Senate no later than June 30 of each year divisible by 5. At least biennially, the office shall review the state plan and make any necessary revisions based on changing needs and program evaluation results. An annual progress report shall be submitted to update the state plan in the years between the 5-year intervals. In order to avoid duplication of effort, these required plans may be made a part of or merged with other plans required by either the state or Federal Government, so long as the portions of the other state or Federal Government plan that constitute the state plan for the promotion of adoption, support of adoptive families, and prevention of child abuse, abandonment, and neglect are clearly identified as such and are provided to the Speaker of the House of Representatives and the President of the Senate as required above.

§ 39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(2) “Abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional



health to be significantly impaired. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

(15) “Child who is found to be dependent” means a child who, pursuant to this chapter, is found by the court:

- (a) To have been abandoned, abused, or neglected by the child’s parent or parents or legal custodians;
- (b) To have been surrendered to the department, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption;
- (c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents or legal custodians have failed to substantially comply with the requirements of the plan;
- (d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a parent or parents have signed a consent pursuant to the Florida Rules of Juvenile Procedure;
- (e) To have no parent or legal custodians capable of providing supervision and care; or
- (f) To be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians; or
- (g) To have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.

(67) “Sexual abuse of a child” for purposes of finding a child to be dependent means one or more of the following acts:

- (a) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.
- (b) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.
- (c) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that this does not include any act intended for a valid medical purpose.
- (d) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of either the child or the perpetrator, except that this does not include:
 - 1. Any act which may reasonably be construed to be a normal caregiver responsibility, any interaction with, or affection for a child; or
 - 2. Any act intended for a valid medical purpose.
- (e) The intentional masturbation of the perpetrator’s genitals in the presence of a child.
- (f) The intentional exposure of the perpetrator’s genitals in the presence of a child, or any other sexual act intentionally perpetrated in the presence of a child, if such exposure or sexual act is for the purpose of sexual arousal or gratification, aggression, degradation, or other similar purpose.
- (g) The sexual exploitation of a child, which includes the act of a child offering to engage in or engaging in prostitution, provided that the child is not under arrest or is not being prosecuted in



a delinquency or criminal proceeding for a violation of any offense in chapter 796 based on such behavior; or allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution;
2. Engage in a sexual performance, as defined by chapter 827; or
3. Participate in the trade of sex trafficking as provided in s. 796.035.

§39.401 Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.—

(2) If the law enforcement officer takes the child into custody, that officer shall:

(b) Deliver the child to an authorized agent of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, or otherwise dependent. For such a child for whom there is also probable cause to believe he or she has been sexually exploited, the law enforcement officer shall deliver the child to the department. The department may place the child in an appropriate short-term safe house as provided for in s. 409.1678 if a short-term safe house is available.

For cases involving allegations of abandonment, abuse, or neglect, or other dependency cases, within 3 days after such release or within 3 days after delivering the child to an authorized agent of the department, the law enforcement officer who took the child into custody shall make a full written report to the department.

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the agent shall review the facts supporting the removal with an attorney representing the department. The purpose of the review is to determine whether there is probable cause for the filing of a shelter petition.

(b) If the facts are sufficient and the child has not been returned to the custody of the parent or legal custodian, the department shall file the petition and schedule a hearing, and the attorney representing the department shall request that a shelter hearing be held within 24 hours after the removal of the child. While awaiting the shelter hearing, the authorized agent of the department may place the child in licensed shelter care, or in a short-term safe house if the child is a sexually exploited child, or may release the child to a parent or legal custodian or responsible adult relative or the adoptive parent of the child's sibling who shall be given priority consideration over a licensed placement, or a responsible adult approved by the department if this is in the best interests of the child. Placement of a child which is not in a licensed shelter must be preceded by a criminal history records check as required under s. 39.0138. In addition, the department may authorize placement of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

§ 39.524 Safe-harbor placement.

(1) Except as provided in s. 39.407 or s. 985.801, a dependent child 6 years of age or older who has been found to be a victim of sexual exploitation as defined in s. 39.01(67)(g) must be assessed for placement in a safe house as provided in s. 409.1678. The assessment shall be conducted by the department or its agent and shall incorporate and address current and historical information from any law enforcement reports; psychological testing or evaluation that has occurred; current and historical information from the guardian ad litem, if one has been assigned; current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; and any other



information concerning the availability and suitability of safe-house placement. If such placement is determined to be appropriate as a result of this assessment, the child may be placed in a safe house, if one is available. As used in this section, the term “available” as it relates to a placement means a placement that is located within the circuit or otherwise reasonably accessible.

(2) The results of the assessment described in subsection (1) and the actions taken as a result of the assessment must be included in the next judicial review of the child. At each subsequent judicial review, the court must be advised in writing of the status of the child’s placement, with special reference regarding the stability of the placement and the permanency planning for the child.

(3)

(a) By December 1 of each year, the department shall report to the Legislature on the placement of children in safe houses during the year, including the criteria used to determine the placement of children, the number of children who were evaluated for placement, the number of children who were placed based upon the evaluation, and the number of children who were not placed.

(b) The department shall maintain data specifying the number of children who were referred to a safe house for whom placement was unavailable and the counties in which such placement was unavailable. The department shall include this data in its report under this subsection so that the Legislature may consider this information in developing the General Appropriations Act.

§ 409.1678 Safe harbor for children who are victims of sexual exploitation.—

(1) As used in this section, the term:

(a) “Child advocate” means an employee of a short-term safe house who has been trained to work with and advocate for the needs of sexually exploited children. The advocate shall accompany the child to all court appearances, meetings with law enforcement officials, and the state attorney’s office and shall serve as a liaison between the short-term safe house and the court.

(b) “Safe house” means a living environment that has set aside gender-specific, separate, and distinct living quarters for sexually exploited children who have been adjudicated dependent or delinquent and need to reside in a secure residential facility with staff members who are awake 24 hours a day. A safe house shall be operated by a licensed family foster home or residential child-caring agency as defined in s. 409.175, including a runaway youth center as defined in s. 409.441. Each facility must be appropriately licensed in this state as a residential child-caring agency as defined in s. 409.175 and must have applied for accreditation within 1 year after being licensed. A safe house serving children who have been sexually exploited must have available staff or contract personnel who have the clinical expertise, credentials, and training to provide services identified in paragraph (2)(b).

(c) “Secure” means that a facility providing services is supervised 24 hours a day by staff members who are awake while on duty.

(d) “Sexually exploited child” means a dependent child who has suffered sexual exploitation as defined in s. 39.01(67)(g) and is ineligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

(e) “Short-term safe house” means a shelter operated by a licensed residential child-caring agency as defined in s. 409.175, including a runaway youth center as defined in s.



409.441, that has set aside gender-specific, separate, and distinct living quarters for sexually exploited children. In addition to shelter, the house shall provide services and care to sexually exploited children, including food, clothing, medical care, counseling, and appropriate crisis-intervention services at the time they are taken into custody by law enforcement officials or department personnel.

(2)

(a) Notwithstanding any other provision of law, pursuant to rules of the department, each circuit of the department shall address the child welfare service needs of sexually exploited children as a component of the circuit's master plan. This determination shall be made in consultation with local law enforcement officials, runaway and homeless youth program providers, local probation departments, local community-based care and social services, local guardians ad litem, public defenders, state attorney's offices, and child advocates and services providers who work directly with sexually exploited youth.

(b) The lead agency, not-for-profit agency, or local governmental entity providing safe-house services is responsible for security, crisis-intervention services, general counseling and victim-witness counseling, a comprehensive assessment, residential care, transportation, access to behavioral health services, recreational activities, food, clothing, supplies, infant care, and miscellaneous expenses associated with caring for these children; for necessary arrangement for or provision of educational services, including life skills services and planning services for the successful transition of residents back to the community; and for ensuring necessary and appropriate health care and dental care.

(c) This section does not prohibit any provider of these services from appropriately billing Medicaid for services rendered, from contracting with a local school district for educational services, or from obtaining federal or local funding for services provided, as long as two or more funding sources do not pay for the same specific service that has been provided to a child.

(d) The lead agency, not-for-profit agency, or local governmental entity providing safe-house services has the legal authority for children served in a safe-house program, as provided in chapter 39 or this chapter, as appropriate, to enroll the child in school, to sign for a driver license for the child, to cosign loans and insurance for the child, to sign for medical treatment of the child, and to authorize other such activities.

(e) All of the services specified in this section may, to the extent possible provided by law and with funding authorized, be available to all sexually exploited children whether they are accessed voluntarily, as a condition of probation, through a diversion program, through a proceeding under chapter 39, or through a referral from a local community-based care or social service agency.

(3) The local circuit administrator may, to the extent that funds are available, in conjunction with local law enforcement officials, contract with an appropriate not-for-profit agency having experience working with sexually exploited children to train law enforcement officials who are likely to encounter sexually exploited children in the course of their law enforcement duties on the provisions of this section and how to identify and obtain appropriate services for sexually exploited children. Circuits may work cooperatively to provide such training, and such training may be provided on a regional basis. The department shall assist circuits in obtaining any available funds for the purposes of conducting law enforcement training from the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice.

(4) The department may adopt rules necessary to administer this section.



§796.07 Prohibiting prostitution and related acts

(1) As used in this section:

- (a) “Prostitution” means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.
- (b) “Lewdness” means any indecent or obscene act.
- (c) “Assignment” means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.
- (d) “Sexual activity” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another; anal or vaginal penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes.

(2) It is unlawful:

- (a) To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignment, or prostitution.
- (b) To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act.
- (c) To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignment, or to permit any person to remain there for such purpose.
- (d) To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignment.
- (e) To offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignment.
- (f) To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignment.
- (g) To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignment.
- (h) To aid, abet, or participate in any of the acts or things enumerated in this subsection.
- (i) To purchase the services of any person engaged in prostitution.

(3)

- (a) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge, testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building, or conveyance, and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.
- (b) Notwithstanding any other provision of law, a police officer may testify as an offended party in an action regarding charges filed pursuant to this section.

(4) A person who violates any provision of this section commits:

- (a) A misdemeanor of the second degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.
- (b) A misdemeanor of the first degree for a second violation, punishable as provided in s. 775.082 or s. 775.083.
- (c) A felony of the third degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



(5) A person who is charged with a third or subsequent violation of this section shall be offered admission to a pretrial intervention program or a substance-abuse treatment program as provided in s. 948.08.

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

A person who violates paragraph (2)(f) shall be assessed a civil penalty of \$5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first \$500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Family Services for the sole purpose of funding safe houses and short-term safe houses as provided in s. 409.1678.

§ 960.065 Eligibility for awards.—

(1) Except as provided in subsection (2), the following persons shall be eligible for awards pursuant to this chapter:

- (a) A victim.
- (b) An intervenor.
- (c) A surviving spouse, parent or guardian, sibling, or child of a deceased victim or intervenor.
- (d) Any other person who is dependent for his or her principal support upon a deceased victim or intervenor.

(2) Any claim filed by or on behalf of a person who:

- (a) Committed or aided in the commission of the crime upon which the claim for compensation was based;
- (b) Was engaged in an unlawful activity at the time of the crime upon which the claim for compensation is based;
- (c) Was in custody or confined, regardless of conviction, in a county or municipal detention facility, a state or federal correctional facility, or a juvenile detention or commitment facility at the time of the crime upon which the claim for compensation is based;
- (d) Has been adjudicated as a habitual felony offender, habitual violent offender, or violent career criminal under s. 775.084; or
- (e) Has been adjudicated guilty of a forcible felony offense as described in s. 776.08, is ineligible for an award.

(3) Any claim filed by or on behalf of a person who was in custody or confined, regardless of adjudication, in a county or municipal facility, a state or federal correctional facility, or a juvenile detention, commitment, or assessment facility at the time of the crime upon which the claim is based, who has been adjudicated as a habitual felony offender under s. 775.084, or who



has been adjudicated guilty of a forcible felony offense as described in s. 776.08 renders the person ineligible, for an award. Notwithstanding the foregoing, upon a finding by the Crime Victims' Services Office of the existence of mitigating or special circumstances that would render such a disqualification unjust, an award may be approved. A decision that mitigating or special circumstances do not exist in a case subject to this section does ~~shall~~ not constitute final agency action subject to review pursuant to ss. 120.569 and 120.57.

(4) Payment may not be made under this chapter if the person who committed the crime upon which the claim is based will receive any direct or indirect financial benefit from such payment, unless such benefit is minimal or inconsequential. Payment may not be denied based on the victim's familial relationship to the offender or based upon the sharing of a residence by the victim and offender, except to prevent unjust enrichment of the offender.

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined in s. 39.01(67)(g).

§985.115 Release or delivery from custody.—

(2) Unless otherwise ordered by the court under s. 985.255 or s. 985.26, and unless there is a need to hold the child, a person taking a child into custody shall attempt to release the child as follows:

(b) Contingent upon specific appropriation, to a shelter approved by the department or to an authorized agent or short-term safe house under s. 39.401(2)(b).

Category 8: Victim Assistance

§402.87 Services to immigrant survivors of human trafficking, domestic violence, and other serious crimes

The Department of Children and Families shall establish a structure by which the department shall:

(1) Provide services to immigrant survivors of human trafficking, domestic violence, and other serious crimes, during the interim period between the time the survivor applies for a visa and receives such visa from the United States Department of Homeland Security or receives certification from the United States Department of Health and Human Services.

(2) Ensure that immigrant survivors of serious crimes are eligible to receive existing state and local benefits and services to the same extent that refugees receive those benefits and services.

(3) Ensure that immigrant survivors of serious crimes have access to state-funded services that are equivalent to the federal programs that provide cash, medical services, and social service for refugees.

(4) Provide survivors of serious crimes with medical care, mental health care, and basic assistance in order to help them secure housing, food, and supportive services.

(5) Create a state-funded component of the cash, medical, and social services programs for refugees for the purpose of serving immigrant survivors during the temporary period while they wait for federal processing to be completed.

(6) Provide that a sworn statement by a survivor is sufficient evidence for the purposes of determining eligibility if that statement is supported by at least one item of additional evidence, including, but not limited to:

- (a) Police and court records;
- (b) News articles;



- (c) Documentation from a professional agency;
- (d) Physical evidence; or
- (e) A statement from an individual having knowledge of the circumstances providing the basis for the claim.

(7) Develop a public awareness program for employers and other organizations that may come into contact with immigrant survivors of human trafficking in order to provide education and raise awareness of the problem.

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960.199 Relocation assistance for victims of sexual battery or human trafficking.—

(1) The department may award a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to a victim of sexual battery, as defined in s. 794.011, or a victim of human trafficking, as described in s. 787.06(3)(b), (d), (f), or (g), who needs relocation assistance.

(2) In order for an award to be granted to a victim for relocation assistance:

- (a) There must be proof that a sexual battery offense or human trafficking offense, as described in s. 787.06(3)(b), (d), (f), or (g), was committed.
- (b) The sexual battery offense or human trafficking offense, as defined in s. 787.06(3)(b), (d), (f), or (g), must be reported to the proper authorities.
- (c) The victim's need for assistance must be certified by a certified rape crisis center in this state or by the state attorney or statewide prosecutor having jurisdiction over the offense. A victim of human trafficking's need for assistance may also be certified by a certified domestic violence center in this state.
- (d) The center's center certification must assert that the victim is cooperating with law enforcement officials, if applicable, and must include documentation that the victim has developed a safety plan. If the victim seeking relocation described in s. 787.06(3)(b), (d), (f), or (g), the certified rape crisis center's or certified domestic violence center's attorney or statewide prosecutor attesting that the victim is cooperating with law enforcement officials.
- (e) The act of sexual battery or human trafficking, as described in s. 787.06(3)(b), (d), (f), or (g), must be that would lead the victim to reasonably fear for his or her continued safety in the place of residence.

(3) Relocation payments for a sexual battery or human department has previously approved or paid out a domestic violence relocation claim under s. 960.198 to the same victim regarding the same incident.

Category 9: Civil Remedy

§ 772.104. Civil cause of action

- (1) Any person who proves by clear and convincing evidence that he or she has been injured by reason of any violation of the provisions of s. 772.103 shall have a cause of action for threefold the actual damages sustained and, in any such action, is entitled to minimum damages in the amount of \$200, and reasonable attorney's fees and court costs in the trial and appellate courts.
- (2) As an alternative to recovery under subsection (1), any person who proves by clear and convincing evidence that he or she has been injured by reason of any violation of the provisions of s. 772.103 due to sex trafficking or human trafficking shall have a cause of action for threefold the amount gained from the sex trafficking or human trafficking and in any such action is



entitled to minimum damages in the amount of \$200 and reasonable attorney's fees and court costs in the trial and appellate courts.

(3) In no event shall punitive damages be awarded under this section. The defendant shall be entitled to recover reasonable attorney's fees and court costs in the trial and appellate courts upon a finding that the claimant raised a claim which was without substantial fact or legal support. In awarding attorney's fees and costs under this section, the court shall not consider the ability of the opposing party to pay such fees and costs. Nothing under this section shall be interpreted as limiting any right to recover attorney's fees or costs provided under other provisions of law.

Category 10: Vacating Convictions

943.0583 Human trafficking victim expunction.

(1) As used in this section, the term:

(a) "Human trafficking" has the same meaning as provided in s. 787.06.

(b) "Official documentation" means any documentation issued by a federal, state, or local agency tending to show a person's status as a victim of human trafficking.

(c) "Victim of human trafficking" means a person subjected to coercion, as defined in s. 787.06, for the purpose of being used in human trafficking, a child under 18 years of age subjected to human trafficking, or an individual subjected to human trafficking as defined by federal law.

(2) Notwithstanding any other provision of law, the court of original jurisdiction over the crime sought to be expunged may order a criminal justice agency to expunge the criminal history record of a victim of human trafficking who complies with the requirements of this section. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the discretion of the court.

(3) A person who is a victim of human trafficking may petition for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed while the person was a victim of human trafficking, which offense was committed or reported to have been committed as a part of the human trafficking scheme of which the person was a victim or at the direction of an operator of the scheme, including, but not limited to, violations under chapters 796 and 847, without regard to the disposition of the arrest or of any charges. However, this section does not apply to any offense listed in s.

775.084(1)(b)1. Determination of the petition under this section should be by a preponderance of the evidence. A conviction expunged under this section is deemed to have been vacated due to a substantive defect in the underlying criminal proceedings. If a person is adjudicated not guilty by reason of insanity or is found to be incompetent to stand trial for any such charge, the expunction of the criminal history record may not prevent the entry of the judgment or finding in state and national databases for use in determining eligibility to purchase or possess a firearm or to carry a concealed firearm, as authorized in s. 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it prevent any governmental agency that is authorized by state or federal law to determine eligibility to purchase or possess a firearm or to carry a concealed firearm from accessing or using the record of the judgment or finding in the course of such agency's official duties.

(4) A petition under this section must be initiated by the petitioner with due diligence after the victim has ceased to be a victim of human trafficking or has sought services for victims of human trafficking, subject to reasonable concerns for the safety of the victim, family members of the



victim, or other victims of human trafficking that may be jeopardized by the bringing of such petition or for other reasons consistent with the purpose of this section.

(5) Official documentation of the victim's status creates a presumption that his or her participation in the offense was a result of having been a victim of human trafficking but is not required for granting a petition under this section. A determination made without such official documentation must be made by a showing of clear and convincing evidence.

(6) Each petition to a court to expunge a criminal history record is complete only when accompanied by:

(a) The petitioner's sworn statement attesting that the petitioner is eligible for such an expunction to the best of his or her knowledge or belief and does not have any other petition to expunge or any petition to seal pending before any court.

(b) Official documentation of the petitioner's status as a victim of human trafficking, if any exists.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7)

(a) In judicial proceedings under this section, a copy of the completed petition to expunge shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to expunge.

(b) The petitioner or the petitioner's attorney may appear at any hearing under this section telephonically, via video conference, or by other electronic means.

(c) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and the arresting agency. The arresting agency is responsible for forwarding the order to any other agency listed in the court order to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to expunge to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency that the records of the court reflect has received the criminal history record from the court.

(8)

(a) Any criminal history record of a minor or an adult that is ordered expunged by the court of original jurisdiction over the charges sought to be expunged pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record, except that any criminal history record in the custody of the department must be retained in all cases.

(b) The person who is the subject of a criminal history record that is expunged under this section may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record is a candidate for employment with a criminal justice agency or is a defendant in a criminal prosecution.

(c) Subject to the exceptions in paragraph (b), a person who has been granted an expunction under this section may not be held under any law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge an expunged criminal history record.



(9) Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference.

(10)

(a) A criminal history record ordered expunged under this section that is retained by the department is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the record shall be made available to criminal justice agencies for their respective criminal justice purposes and to any governmental agency that is authorized by state or federal law to determine eligibility to purchase or possess a firearm or to carry a concealed firearm for use in the course of such agency's official duties. Otherwise, such record shall not be disclosed to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(b) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

If you would like assistance in enacting laws to fill in the gaps, please contact the Polaris Policy Program at policy@polarisproject.org.