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1 A bill to be entitled
2 An act relating to human trafficking, prostitution,
3 and lewdness; amending s. 95.11, F.S.; conforming
4 provisions to changes made by the act; amending s.
5 450.045, F.S.; increasing criminal penalties for
6 specified offenses involving adult theaters; creating
7 s. 787.061, F.S.; providing legislative findings;
8 providing definitions; providing a civil cause of
9 action against a trafficker or facilitator by victims
10 of human trafficking; providing procedures and
11 requirements for claims; providing for damages,
12 penalties, punitive damages, attorney fees, expenses,
13 and costs; providing a statute of limitations;
14 providing an affirmative defense for owners or
15 operators of public lodging establishments under
16 certain circumstances; amending s. 796.07, F.S.;
17 authorizing judicial circuits to establish educational
18 programs for persons convicted of or charged with
19 certain violations; specifying contents of such
20 programs; providing that such programs may be offered
21 by faith-based providers; creating s. 1004.343, F.S.;
22 creating the Statewide Data Repository for Anonymous
23 Human Trafficking Data at the University of Florida;
24 providing purposes of the data repository; specifying
25 duties of university faculty and staff; designating

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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26 required reporting entities; requiring specified
 27 information to be reported; providing timeframes for
 28 reporting; providing an effective date.

30 Be It Enacted by the Legislature of the State of Florida:

32 Section 1. Subsections (7) and (9) of section 95.11,
 33 Florida Statutes, are amended to read:

34 95.11 Limitations other than for the recovery of real
 35 property.—Actions other than for recovery of real property shall
 36 be commenced as follows:

37 (7) FOR INTENTIONAL TORTS BASED ON ABUSE.—An action
 38 founded on alleged abuse, as defined in s. 39.01, s. 415.102, or
 39 s. 984.03; ~~or incest, as defined in s. 826.04;~~ or an action
 40 brought pursuant to s. 787.061, may be commenced at any time
 41 within 7 years after the age of majority, or within 4 years
 42 after the injured person leaves the dependency of the abuser, or
 43 within 4 years from the time of discovery by the injured party
 44 of both the injury and the causal relationship between the
 45 injury and the abuse, whichever occurs later.

46 (9) SPECIFIED ~~SEXUAL BATTERY~~ OFFENSES ON VICTIMS UNDER AGE
 47 16.—An action related to an act constituting a violation of s.
 48 794.011 or an action brought pursuant to s. 787.061 involving a
 49 victim who was under the age of 16 at the time of the act may be
 50 commenced at any time. This subsection applies to any such

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51 | action other than one which would have been time barred on or
 52 | before July 1, 2010.

53 | Section 2. Paragraph (d) of subsection (3) of section
 54 | 450.045, Florida Statutes, is amended, and paragraphs (a), (b),
 55 | and (c) of that subsection are republished, to read:

56 | 450.045 Proof of identity and age; posting of notices.—

57 | (3)(a) In order to provide the department and law
 58 | enforcement agencies the means to more effectively identify,
 59 | investigate, and arrest persons engaging in human trafficking,
 60 | an adult theater, as defined in s. 847.001(2)(b), shall obtain
 61 | proof of the identity and age of each of its employees or
 62 | independent contractors, and shall verify the validity of the
 63 | identification and age verification document with the issuer,
 64 | before his or her employment or provision of services as an
 65 | independent contractor.

66 | (b) The adult theater shall obtain and keep on record a
 67 | photocopy of the person's driver license or state or federal
 68 | government-issued photo identification card, along with a record
 69 | of the verification of the validity of the identification and
 70 | age verification document with the issuer, during the entire
 71 | period of employment or business relationship with the
 72 | independent contractor and for at least 3 years after the
 73 | employee or independent contractor ceases employment or the
 74 | provision of services.

75 | (c) The department and its agents have the authority to

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76 enter during operating hours, unannounced and without prior
 77 notice, and inspect at any time a place or establishment covered
 78 by this subsection and to have access to age verification
 79 documents kept on file by the adult theater and such other
 80 records as may aid in the enforcement of this subsection.

81 (d) A person who owns, operates, or manages an adult
 82 theater ~~owner, operator, or manager~~ who knowingly violates this
 83 subsection commits a felony of misdemeanor in the third first
 84 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or
 85 s. 775.084.

86 Section 3. Section 787.061, Florida Statutes, is created
 87 to read:

88 787.061 Civil actions by victims of human trafficking.-

89 (1) FINDINGS.-The Legislature finds that it is necessary
 90 to provide a civil cause of action for the recovery of specified
 91 damages and costs in order to achieve the intent of the
 92 Legislature relating to human trafficking as expressed in s.
 93 787.06(1)(d).

94 (2) DEFINITIONS.-As used in this section, the term:

95 (a) "Facilitator" means a person who knowingly, or through
 96 gross negligence, assists or provides goods or services to a
 97 trafficker that aids or enables the trafficker to carry out
 98 human trafficking. The term includes an adult entertainment
 99 establishment, as defined in s. 847.001(2), that allows a victim
 100 of human trafficking to work, perform, or dance at an

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101 establishment. The term does not include a person who
 102 facilitates human trafficking while under duress, whether due to
 103 force, threat, or coercion.

104 (b) "Gross negligence" exists when a person has knowledge
 105 of information that would raise suspicions in a reasonable
 106 person and he or she deliberately refrains from obtaining
 107 confirmation of or acting on the information because he or she
 108 wants to remain ignorant, such that having and avoiding such
 109 knowledge or information can reasonably and fairly be imputed to
 110 the person who avoided obtaining such confirmation.

111 (c) "Human trafficking" has the same meaning as provided
 112 in s. 787.06(2).

113 (d) "Trafficker" means any person who:
 114 1. Knowingly engages in human trafficking;
 115 2. Attempts to engage in human trafficking; or
 116 3. Benefits financially by receiving anything of value
 117 from participation in a group of two or more individuals
 118 associated in fact, regardless of whether such group constitutes
 119 a legal entity, that has subjected a person to human
 120 trafficking.

121 (e) "Victim of human trafficking" means a person subjected
 122 to coercion, as defined in s. 787.06(2), or by any other means,
 123 for the purpose of being used in human trafficking; a child
 124 under 18 years of age subjected to human trafficking; or an
 125 individual subjected to human trafficking as defined by federal

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126 law.

127 (3) CIVIL CAUSE OF ACTION.—

128 (a) A victim of human trafficking has a civil cause of
 129 action against a trafficker or facilitator who victimized her or
 130 him and may recover damages as provided in this section.

131 (b) The action may be brought in any circuit court of
 132 competent jurisdiction in this state.

133 (c) A victim who prevails in any such action may recover
 134 economic and noneconomic damages; punitive damages, as provided
 135 in ss. 768.72, 768.725, and 768.73; reasonable attorney fees;
 136 and costs.

137 1. Economic damages include, but are not limited to, past
 138 and future medical and mental health expenses; repatriation
 139 expenses, when a victim elects repatriation; and all other
 140 reasonable costs and expenses incurred by the victim in the past
 141 or estimated to be incurred by the victim in the future as a
 142 result of the human trafficking.

143 2. Noneconomic damages are nonfinancial losses that would
 144 not have occurred but for the victimization, and include pain
 145 and suffering, inconvenience, physical impairment, mental
 146 anguish, disfigurement, loss of capacity for enjoyment of life,
 147 and other nonfinancial losses.

148 (d) The civil remedies provided for in this section do not
 149 preempt any other remedy or cause of action provided by law,
 150 except that a victim may not recover under both this section and

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151 s. 772.104(2).

152 (e) If the factfinder determines a parent or legal
 153 guardian knowingly or through gross negligence trafficked the
 154 victim, facilitated such trafficking, or otherwise participated
 155 in the human trafficking of the victim, the court may not allow
 156 such parent or legal guardian to receive any distribution of
 157 damages awarded under this section.

158 (f) The court shall have specific authority to consolidate
 159 civil actions for the same trafficker or facilitator for the
 160 purpose of case resolution and aggregate jurisdiction.

161 (4) STATUTE OF LIMITATIONS.—The statute of limitations as
 162 specified in s. 95.11(7) or (9), as applicable, governs an
 163 action brought under this section.

164 (5) AFFIRMATIVE DEFENSE.—In any action brought under this
 165 section against the owner or operator of a public lodging
 166 establishment based on a claim of vicarious liability, it is an
 167 affirmative defense if the owner or operator proves that:

168 (a) Employees of the establishment have received human
 169 trafficking awareness training in accordance with s. 509.096 and
 170 rules adopted thereunder.

171 (b) The owner or operator had in place an effective
 172 employee protocol or employee code of conduct to detect and
 173 report suspected human trafficking to the National Human
 174 Trafficking Hotline or to a local law enforcement agency in
 175 accordance with s. 509.096.

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176 (c) The owner or operator has posted a human trafficking
 177 public awareness sign in a conspicuous location in the
 178 establishment in accordance with s. 509.096.

179 (d) The owner or operator exercised reasonable care and
 180 diligence in screening, training, overseeing, and supervising
 181 any employee alleged in the action to have been facilitators of,
 182 or otherwise participants in, human trafficking and made a
 183 reasonable attempt to ensure such employees complied with the
 184 recommendations and practices suggested or required in the
 185 training, protocols, or policies required by this subsection.

186 Section 4. Paragraph (b) of subsection (5) of section
 187 796.07, Florida Statutes, is amended, subsection (8) is added to
 188 that section, and paragraph (f) of subsection (2) and paragraph
 189 (a) of subsection (5) of that section are republished, to read:

190 796.07 Prohibiting prostitution and related acts.—

191 (2) It is unlawful:

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

194 (5)(a) A person who violates paragraph (2)(f) commits:

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

197 2. A felony of the third degree for a second violation,
 198 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

199 3. A felony of the second degree for a third or subsequent
 200 violation, punishable as provided in s. 775.082, s. 775.083, or

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201 s. 775.084.

202 (b) In addition to any other penalty imposed, the court
203 shall order a person convicted of a violation of paragraph

204 (2)(f) to:

205 1. Perform 100 hours of community service ~~;~~ and

206 2. Pay for and attend an educational program as described
207 in subsection (8), ~~about the negative effects of prostitution~~
208 ~~and human trafficking, such as a sexual violence prevention~~
209 ~~education program, including such programs offered by faith-~~
210 ~~based providers,~~ if such a program exists ~~programs exist~~ in the
211 judicial circuit in which the offender is sentenced.

212 (8)(a) A judicial circuit may establish an educational
213 program for persons convicted of or charged with a violation of
214 paragraph (2)(f), to include education on:

215 1. The relationship between demand for commercial sex and
216 human trafficking.

217 2. The impact of human trafficking on victims.

218 3. Coercion, consent, and sexual violence.

219 4. The health and legal consequences of commercial sex.

220 5. The negative impact of commercial sex on prostituted
221 persons and the community.

222 6. The reasons and motivations for engaging in
223 prostitution.

224 (b) An educational program may include a program offered
225 by a faith-based provider.

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226 Section 5. Section 1004.343, Florida Statutes, is created
 227 to read:

228 1004.343 Statewide Data Repository for Anonymous Human
 229 Trafficking Data.—

230 (1) The University of South Florida Trafficking in Persons
 231 - Risk to Resilience Lab shall house and operate the state's
 232 unified Statewide Data Repository for Anonymous Human
 233 Trafficking Data.

234 (a) The purposes of the data repository are to:

235 1. Collect and analyze anonymous human trafficking data to
 236 better understand the magnitude and trends in human trafficking
 237 in the state over time.

238 2. Help evaluate the effectiveness of various state-funded
 239 initiatives to combat human trafficking to determine the impact
 240 of such initiatives and to use evidence-based decisionmaking in
 241 the determination of state investments in such initiatives.

242 3. To inform statewide efforts among law enforcement,
 243 state agencies, and other entities to combat human trafficking
 244 and apprehend and prosecute those persons responsible for human
 245 trafficking.

246 4. To better serve victims of human trafficking through
 247 evidence-based interventions that have proven effective.

248 (b) University of South Florida faculty and staff assigned
 249 to the lab shall:

250 1. Design, operate, maintain, and protect the integrity of

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251 the statewide human trafficking data repository.

252 2. Design, in consultation with the Department of Law
 253 Enforcement and other law enforcement partners, and launch a
 254 user-friendly system for uploading anonymous human trafficking
 255 data to the repository in a manner that can be accomplished
 256 quickly and at no additional cost to the required reporting
 257 entities.

258 3. Analyze such data to identify initiatives and
 259 interventions that worked best in combatting human trafficking,
 260 prosecuting individuals conducting human trafficking, and
 261 assisting victims of human trafficking.

262 4. Work with law enforcement and state agencies to report
 263 data on human trafficking investigations and prosecutions that
 264 can aid those agencies in combatting human trafficking and
 265 prosecuting those individuals responsible for human trafficking.

266 (2) (a) The following agencies and organizations are
 267 considered required reporting entities under this section:

268 1. Law enforcement agencies operating with state or local
 269 government tax proceeds, including, but not limited to,
 270 municipal police departments, county sheriff's departments,
 271 county attorney's offices, and state attorney's offices.

272 2. The Department of Law Enforcement and any other state
 273 agencies that hold any data related to human trafficking.

274 3. Service providers and other nongovernmental
 275 organizations that serve victims of human trafficking through

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276 state or federal funding for such purpose.

277 (b) Notwithstanding paragraph (a), any required reporting
 278 entity that submits the data required under subsection (3) from
 279 its local jurisdiction to the Department of Law Enforcement's
 280 Uniform Crime Report (UCR) system or Florida Incident-Based
 281 Reporting System (FIBRS) may, but is not required to, submit any
 282 additional data to the statewide human trafficking data
 283 repository. However, the Department of Law Enforcement shall
 284 upload or otherwise share with the statewide human trafficking
 285 data repository, at least quarterly, the relevant data required
 286 by this section that has been reported by local jurisdictions to
 287 the UCR system and the FIBRS.

288 (3) The following human trafficking data shall be
 289 submitted by required reporting entities to the statewide human
 290 trafficking data repository unless such entity is exempt from
 291 the reporting under paragraph (2) (b):

292 (a) The alleged offense that was being investigated or
 293 prosecuted and a description of the alleged prohibited conduct.

294 (b) The age, gender, and race or ethnicity of each suspect
 295 and victim and the case number associated with that suspect and
 296 victim.

297 (c) The date, time, and location of the alleged offense.

298 (d) The type of human trafficking involved.

299 (e) Any other related prosecution charges.

300 (f) Information regarding any victim services organization

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301 or program to which the victim was referred, if available.

302 (g) The disposition of the investigation or prosecution,
 303 regardless of its manner of disposition.

304 (4)(a) A required reporting entity located in a county
 305 with a population of more than 500,000 must begin reporting its
 306 jurisdiction's human trafficking data required by this section
 307 to the statewide human trafficking data repository, or to the
 308 UCR system or the FIBRS, on or before July 1, 2023, and at least
 309 quarterly each year thereafter.

310 (b) A required reporting entity located in a county with a
 311 population of 500,000 or fewer must begin reporting its
 312 jurisdiction's human trafficking data required by this section
 313 to the statewide human trafficking data repository, or to the
 314 UCR system or the FIBRS, on or before July 1, 2024, and at least
 315 biannually each year thereafter.

316 (5) Beginning July 1, 2024, and each year thereafter,
 317 University of South Florida Trafficking in Persons - Risk to
 318 Resilience Lab, shall submit an annual report and analysis on
 319 its findings to the Governor, Attorney General, President of the
 320 Senate and Speaker of the House.

321 Section 6. This act shall take effect July 1, 2023.