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# **Health Care Services Policy Committee**

## **Meeting Packet**

**Monday, March 22, 2010  
3:30 - 5:00 PM  
306 HOB**

**Larry Cretul  
Speaker**

**Paige Kreegel  
Chair**



# The Florida House of Representatives

## Health Care Services Policy Committee

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### **Agenda**

March 22, 2010

3:30 – 5:00 PM

306 HOB

- I. **Call to Order/Roll Call**
- II. **CS/HB 1291 regarding Domestic Violence Fatality Review Teams by Coley.**
- III. **HB 567 regarding Assault and Battery by Bemby.**
- IV. **HB 535 regarding Sexual Exploitation by Fresen.**
- V. **Adjournment.**





## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation:**

In Florida, domestic violence is defined as:

[A]ny assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.<sup>1</sup>

In 2008, the total number of domestic violence offenses reported across Florida was 113,123. Of the total, 194 offenses were classified as murder or manslaughter.<sup>2</sup>

Domestic Violence Fatality Review Teams (FRTs) were first formed in Florida in the mid-1990's. These teams began as local initiatives supported with federal grant funds.<sup>3</sup> In 2000, the Legislature enacted s. 741.316, F.S., which allows organizations to establish FRTs at the local, regional, or state level. The teams, which are not funded by the state, work independently and may be composed of representatives from municipal, county, state and federal agencies, as well as individuals or organizations that are involved with, or affected by, a domestic violence fatality.<sup>4</sup> The goals of the FRTs are to review fatal and near-fatal incidents of domestic violence, related domestic violence matters, and suicides, and to identify changes in policy or procedure that may prevent future deaths.<sup>5</sup> There are currently 19 active FRTs in Florida.<sup>6</sup>

##### **Public Records and Meeting Exemptions for Domestic Violence Fatality Review Teams**

Fatality Review Teams are immune from liability for "any act or proceeding undertaken or performed within the scope of the functions of the team" unless the act or proceeding was undertaken in bad faith.<sup>7</sup> Information gathered by FRTs is protected from discovery and introduction into evidence in civil

<sup>1</sup> Section 741.28(2), F.S.

<sup>2</sup> Florida Department of Law Enforcement (FDLE), Crime in Florida, 2008 Florida Uniform Crime Report (2009).

<sup>3</sup> FDLE, Florida Domestic Violence Fatality Review Team 2008 Annual Report, Executive Summary (2008).

<sup>4</sup> *Id.* See also, s. 741.316, F.S.

<sup>5</sup> *Id.*

<sup>6</sup> As of June 19, 2009, there were active FRTs in the following counties: Alachua, Brevard, Broward, Columbia, Duval, Escambia, Highlands, Hillsborough, Lee, Manatee, Miami-Dade, Orange, Palm Beach, Pasco, Pinellas, Santa Rosa, Sarasota, Seminole and St. John's. Department of Children and Families 2010 Analysis of HB 1291.

<sup>7</sup> Section 741.316(4)(a), F.S.

or disciplinary proceedings. In addition, persons attending FRT meetings are prohibited from testifying in civil or disciplinary actions regarding records or information produced or presented at the meeting.<sup>8</sup> These provisions do not apply to criminal or administrative proceedings. Because FRT members are not protected from criminal subpoenas, case reviews typically occur after the final disposition of the related criminal case. For this reason, fatality reviews are conducted years after the crimes occurred, which can result in the loss of key information and people.<sup>9</sup> In contrast, child abuse death review team members are protected from subpoenas in criminal cases as well as in civil proceedings.<sup>10</sup>

The Governor's Task Force on Domestic Violence (task force) was created to serve the public purpose of directing policies on reducing and eliminating domestic violence and domestic violence fatalities. The task force was required to produce an annual report including a summary of task force findings, other special areas of interest, and efforts of the local FRTs.<sup>11</sup> Before it expired on June 30, 2001, the task force provided support and technical assistance to FRTs. Since its expiration, the task force has not been reauthorized.<sup>12</sup>

FRTs are now assigned to the Department of Children and Families (department) for administrative purposes.<sup>13</sup> The department provides technical support to FRTs and, although not directed, has assumed the responsibility of supporting FRTs with the collection and reporting of data from their reviews.<sup>14</sup>

#### **Effect of Proposed Changes:**

HB 1291 deletes the requirement that the Governor's Task Force on Domestic Violence provide information and technical assistance to local domestic violence fatality review teams (FRTs). The Governor's Task Force on Domestic Violence was part of an Executive Order that expired on June 30, 2001.

The bill provides that information and records acquired by the FRTs are not subject to discovery or introduction into evidence in any criminal or administrative proceeding in certain circumstances.

The bill provides that a person who has attended a meeting of the FRT may not testify in criminal or administrative proceedings regarding certain records or information that was produced or presented by the team.

The bill deletes "report by the Department of Law Enforcement" from the title of s. 741.316, F.S. This reporting requirement was repealed in 2008.<sup>15</sup>

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 741.316, F.S., relating to Domestic violence fatality review teams; definition; membership; duties; report by the Department of Law Enforcement.

Section 2. Provides an effective date of July 1, 2010.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

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<sup>8</sup> Section 741.316(5), F.S.

<sup>9</sup> Florida Senate, Committee on Children, Families, and Elder Affairs. Interim Report 2010-208. Open Government Sunset Review of Section 741.3165, F.S., Domestic Violence Fatality Review Teams. (September 2009).

<sup>10</sup> Section 383.402(14), F.S.

<sup>11</sup> The Governor's Task Force on Domestic Violence was created by Executive Order 93-269, and amended by Executive Orders 94-17, 94-256, 95-473, and 99-99, with the mission to end domestic violence. (Executive Order 00-226).

<sup>12</sup> Department of Children and Families 2010 Analysis of HB 1291.

<sup>13</sup> Section 741.316(6), F.S.

<sup>14</sup> Department of Children and Families 2010 Analysis of HB 1291.

<sup>15</sup> Ch. 2008-112 L.O.F., SB 1792.

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 16, 2010, the Public Safety & Domestic Security Policy Committee adopted an amendment to the bill. The amendment:

- Removes a repealed reporting requirement from the title of s. 741.316, F.S.

The bill was reported favorably as a Committee Substitute. This analysis reflects the committee substitute.

A bill to be entitled

An act relating to domestic violence fatality review teams; amending s. 741.316, F.S.; deleting a requirement that the Governor's Task Force on Domestic Violence provide information and technical assistance to local domestic violence fatality review teams; providing that information and records acquired by a domestic violence fatality review team are not subject to discovery or introduction into evidence in criminal or administrative proceedings in certain circumstances; providing that a person who has attended a meeting of a domestic violence fatality review team may not testify in criminal or administrative proceedings as to certain records or information produced or presented to the team; providing an effective date.

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

Section 1. Section 741.316, Florida Statutes, is amended to read:

741.316 Domestic violence fatality review teams; definition; membership; duties; ~~report by the Department of Law Enforcement.~~

(1) As used in this section, the term "domestic violence fatality review team" means an organization that includes, but is not limited to, representatives from the following agencies or organizations:

(a) Law enforcement agencies.



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- 29 (b) The state attorney.
- 30 (c) The medical examiner.
- 31 (d) Certified domestic violence centers.
- 32 (e) Child protection service providers.
- 33 (f) The office of court administration.
- 34 (g) The clerk of the court.
- 35 (h) Victim services programs.
- 36 (i) Child death review teams.
- 37 (j) Members of the business community.
- 38 (k) County probation or corrections agencies.
- 39 (l) Any other persons who have knowledge regarding
- 40 domestic violence fatalities, nonlethal incidents of domestic
- 41 violence, or suicide, including research, policy, law, and other
- 42 matters connected with fatal incidents.
- 43 (m) Other representatives as determined by the review
- 44 team.
- 45 (2) A domestic violence fatality review team may be
- 46 established at a local, regional, or state level in order to
- 47 review fatal and near-fatal incidents of domestic violence,
- 48 related domestic violence matters, and suicides. The review may
- 49 include a review of events leading up to the domestic violence
- 50 incident, available community resources, current laws and
- 51 policies, actions taken by systems and individuals related to
- 52 the incident and the parties, and any information or action
- 53 deemed relevant by the team, including a review of public
- 54 records and records for which public records exemptions are
- 55 granted. The purpose of the teams is to learn how to prevent
- 56 domestic violence by intervening early and improving the

57 | response of an individual and the system to domestic violence.  
 58 | The structure and activities of a team shall be determined at  
 59 | the local level. The team may determine the number and type of  
 60 | incidents it wishes to review and shall make policy and other  
 61 | recommendations as to how incidents of domestic violence may be  
 62 | prevented.

63 | ~~(3) The Governor's Task Force on Domestic Violence shall~~  
 64 | ~~provide information and technical assistance to local domestic~~  
 65 | ~~violence fatality review teams.~~

66 | (3)~~(4)~~(a) There may not be any monetary liability on the  
 67 | part of, and a cause of action for damages may not arise  
 68 | against, any member of a domestic violence fatality review team  
 69 | or any person acting as a witness to, incident reporter to, or  
 70 | investigator for a domestic violence fatality review team for  
 71 | any act or proceeding undertaken or performed within the scope  
 72 | of the functions of the team, unless such person acted in bad  
 73 | faith, with malicious purpose, or in a manner exhibiting wanton  
 74 | and willful disregard of human rights, safety, or property.

75 | (b) This subsection does not affect the provisions of s.  
 76 | 768.28.

77 | (4)~~(5)~~ All information and records acquired by a domestic  
 78 | violence fatality review team are not subject to discovery or  
 79 | introduction into evidence in any civil or criminal action or  
 80 | administrative or disciplinary proceeding by any department or  
 81 | employing agency if the information or records arose out of  
 82 | matters that are the subject of evaluation and review by the  
 83 | domestic violence fatality review team. However, information,  
 84 | documents, and records otherwise available from other sources

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85 are not immune from discovery or introduction into evidence  
 86 solely because the information, documents, or records were  
 87 presented to or reviewed by such a team. A person who has  
 88 attended a meeting of a domestic violence fatality review team  
 89 may not testify in any civil, criminal, administrative, or  
 90 disciplinary proceedings as to any records or information  
 91 produced or presented to the team during meetings or other  
 92 activities authorized by this section. This subsection does not  
 93 preclude any person who testifies before a team or who is a  
 94 member of a team from testifying as to matters otherwise within  
 95 his or her knowledge.

96 ~~(5)(6)~~ The domestic violence fatality review teams are  
 97 assigned to the Department of Children and Family Services for  
 98 administrative purposes.

99 Section 2. This act shall take effect July 1, 2010.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 567

Assault and Battery

SPONSOR(S): Bemby

TIED BILLS:

IDEN./SIM. BILLS: SB 1094

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Services Policy Committee		Schoonover <i>CWS</i>	Schoolfield <i>[Signature]</i>
2) Public Safety & Domestic Security Policy Committee			
3) Criminal & Civil Justice Appropriations Committee			
4) Criminal & Civil Justice Policy Council			
5)			

SUMMARY ANALYSIS

HB 567 will create a section of law to reclassify the felony or misdemeanor degree of assault and battery offenses committed against a licensed psychologist, a licensed mental health counselor, a licensed marriage and family therapist, a licensed clinical social worker, and a social worker.

The bill creates additional fine and sentence guidelines for aggravated assault or aggravated battery committed against the individuals the bill protects.

For battery offenses committed against the above individuals the bill protects, the bill will allow for an additional sentence if the person is convicted of a battery and, during the commission of the offense, possessed weapons including a firearm, a destructive device, a semi-automatic firearm and its magazine, or a machine gun.

According to the Criminal Justice Impact Conference this bill has an indeterminate fiscal impact.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Currently, sections of law increase the maximum sentence that could be imposed for an assault<sup>1</sup> and aggravated assault<sup>2</sup> or battery<sup>3</sup> and aggravated battery<sup>4</sup> committed against specified individuals, including, but not limited to, law enforcement officers, employees or protective investigators of the Department of Children and Family Services (DCF), employees of the Department of Health (DOH) or its direct service providers, and employees of a community-based provider and its direct service providers.<sup>5</sup>

Current law does not increase the maximum sentence that could be imposed for an assault and aggravated assault or battery and aggravated battery committed against licensed psychologists, licensed mental health counselors, licensed marriage and family therapists, licensed clinical social workers, and social workers.

Reclassification of an offense has the effect of increasing the maximum sentence that a judge can impose for the offense. The maximum sentence for a second degree misdemeanor is 60 days in jail; for a first degree misdemeanor is one year in jail; for a third degree felony is five years imprisonment; for a second degree felony is fifteen years imprisonment and for a first degree felony is thirty years imprisonment.<sup>6</sup>

#### *Professions to be Affected*

A licensed psychologist's work includes, but is not limited to, the observation, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological

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<sup>1</sup> An assault is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent. s. 784.011, F.S.

<sup>2</sup> An aggravated assault is an assault with a deadly weapon without intent to kill or with an intent to commit a felony. s. 784.021, F.S.

<sup>3</sup> A battery occurs when a person actually and intentionally touches or strikes another person against the will of the other or intentionally causes bodily harm to another person. s. 784.03, F.S.

<sup>4</sup> An aggravated battery occurs when a person in committing battery intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or uses a deadly weapon. Aggravated battery also occurs if the victim of the battery was pregnant at the time of the offense and the offender knew or should have known that the victim was pregnant. s. 784.045, F.S.

<sup>5</sup> s. 784.07, F.S.; s. 784.081, F.S.

<sup>6</sup> s. 775.082, F.S.

principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating undesired behavior and mental health.<sup>7</sup>

A licensed mental health counselor's work includes, but is not limited to, using scientific and applied behavioral science theories, methods, and techniques for the purpose of describing, preventing, and treating undesired behavior and enhancing mental health and human development.<sup>8</sup> Except to relate specifically to the definition of practice authorized in s. 491.003, F.S., mental health counselors are not permitted to describe or label any test, report, or procedure as "psychological."<sup>9</sup>

A licensed marriage and family therapist's work includes, but is not limited to, using scientific and applied marriage and family theories, methods and procedures for the purpose of describing, evaluating, and modifying marital and family systems. The therapist also evaluates, assesses, diagnoses, treats, and prevents emotional and mental disorders or dysfunctions, sexual dysfunction, behavioral disorders, alcoholism, and substance abuse.<sup>10</sup>

A licensed clinical social worker's duties include, but are not limited to, counseling, behavioral modification, consultation, client-centered advocacy, crisis intervention. A clinical social worker provides services in the prevention and treatment of undesired behavior and enhancement of mental health.<sup>11</sup> In order to become a licensed clinical social worker, one must fulfill specific education requirements and specific state requirements for licensure. Those requirements include a master's degree in social work and completion of two years of supervised clinical experience.<sup>12</sup>

A social worker has a bachelor's, master's, or doctoral degree in social work.<sup>13</sup> A social worker cannot practice clinical social work unless licensed to do so.<sup>14</sup> Social workers help people function the best they can in their environment by assisting them in dealing with their relationships and personal and family problems. Social workers are concerned with social problems and their causes, their solutions and their human impacts.<sup>15</sup>

### Effect of Proposed Changes

This bill will create a section of law to reclassify the felony or misdemeanor degree of assault and battery offenses committed against a licensed psychologist, a licensed mental health counselor, a licensed marriage and family therapist, a licensed clinical social worker, and a social worker. A requirement of the reclassification is that the person committing the offense knows or has reason to know the identity or position or employment of the victim. Additionally, the victim must be performing his or her duties in that position of employment at the time of the incident.

Specifically, the bill will reclassify offenses as follows:

- Assault: A misdemeanor of second degree is reclassified to a misdemeanor of the first degree.
- Battery: A misdemeanor of the first degree is reclassified to a felony of the third degree.
- Aggravated Battery: A felony of the third degree is reclassified to a felony of the second degree.
- Aggravated Assault: A felony of the second degree is reclassified to a felony of the first degree.

The bill creates additional fine and sentence guidelines for aggravated assault or aggravated battery committed against the individuals the bill protects.

- Fined no more than \$10,000.00
- Ordered to make restitution to the victim
- Perform up to 500 hours of community service work

<sup>7</sup> s. 490.003, F.S.

<sup>8</sup> s. 491.003(9)

<sup>9</sup> Id.

<sup>10</sup> s. 491.003(8), F.S.

<sup>11</sup> s. 491.003(7), F.S.

<sup>12</sup> Email from Jacqui Sosa, Department of Health, February 15, 2010. (On file with committee staff).

<sup>13</sup> s. 491.003(17), F.S.

<sup>14</sup> s. 491.016(1), F.S.

<sup>15</sup> Email from Jacqui Sosa, Department of Health, February 15, 2010. (On file with committee staff).

- Sentenced to a minimum term of 5 years.

The minimum sentence of 5 years for aggravated assault is greater than the minimum sentence of 3 years for aggravated assault committed against law enforcement officers, firefighters, and the other individuals specified in s. 784.07, F.S.

Additionally, the bill provides for an additional sentence against a person convicted of a battery and during the commission of the offense the person possessed certain weapons, including:

- A firearm or destructive device: Sentenced to an additional minimum imprisonment of 3 years.
- An automatic firearm and its high-capacity detachable box magazine or a machine gun: Sentenced to an additional minimum term of 8 years.

#### B. SECTION DIRECTORY:

Section 1. Creates s. 784.071, F.S., relating to assault or battery on social workers and other specified persons.

Section 2. Provides an effective date of October 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

#### D. FISCAL COMMENTS:

According to the Criminal Justice Impact Conference this bill has an indeterminate fiscal impact.

## III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.



2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                   A bill to be entitled  
 2           An act relating to assault and battery; creating s.  
 3           784.071, F.S.; providing for the upgrading of the degree  
 4           of specified assault and battery offenses committed  
 5           against specified persons based on their position or  
 6           employment; providing for sentencing; providing for  
 7           additional imprisonment in certain circumstances;  
 8           prohibiting gain-time and discretionary early release for  
 9           offenders; providing an exception; providing an effective  
 10          date.

11  
 12   Be It Enacted by the Legislature of the State of Florida:

13  
 14          Section 1. Section 784.071, Florida Statutes, is created  
 15   to read:

16          784.071 Assault or battery on social workers and other  
 17   specified persons.-

18          (1) (a) Whenever a person is charged with committing an  
 19   assault or aggravated assault or a battery or aggravated battery  
 20   upon a person who is licensed under chapter 490 or chapter 491  
 21   or is a social worker as described in s. 491.016(2) and when the  
 22   person committing the offense knows or has reason to know the  
 23   identity or position or employment of the victim and at the time  
 24   of the incident the victim is in the course of performing his or  
 25   her duties in that position or employment or the incident is  
 26   related to that position or employment, the offense for which  
 27   the person is charged shall be reclassified as follows:

28 1. In the case of assault, from a misdemeanor of the  
 29 second degree to a misdemeanor of the first degree.

30 2. In the case of battery, from a misdemeanor of the first  
 31 degree to a felony of the third degree.

32 3. In the case of aggravated assault, from a felony of the  
 33 third degree to a felony of the second degree.

34 4. In the case of aggravated battery, from a felony of the  
 35 second degree to a felony of the first degree.

36 (b) Notwithstanding any other provision of law, any person  
 37 convicted of aggravated assault or aggravated battery of a  
 38 person defined in paragraph (a) shall be fined not more than  
 39 \$10,000, shall be ordered by the sentencing judge to make  
 40 restitution to the victim of such offense and perform up to 500  
 41 hours of community service work, and, except as provided in  
 42 subsection (2), shall be sentenced to a minimum term of  
 43 imprisonment of 5 years. Restitution and community service work  
 44 shall be in addition to any fine or sentence which may be  
 45 imposed and shall not be in lieu thereof.

46 (2) Any person who is convicted of a battery under  
 47 subparagraph (1)(a)2. and, during the commission of the offense,  
 48 possessed:

49 (a) A "firearm" or "destructive device" as those terms are  
 50 defined in s. 790.001, shall be sentenced to a minimum term of  
 51 imprisonment of 3 years in addition to that provided in  
 52 subsection (1).

53 (b) A semiautomatic firearm and its high-capacity  
 54 detachable box magazine, as defined in s. 775.087(3), or a  
 55 machine gun as defined in s. 790.001, shall be sentenced to a

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56 minimum term of imprisonment of 8 years in addition to that  
 57 provided in subsection (1).

58 (3) Notwithstanding s. 948.01, adjudication of guilt or  
 59 imposition of sentence shall not be suspended, deferred, or  
 60 withheld, and the defendant is not eligible for statutory gain-  
 61 time under s. 944.275 or any form of discretionary early  
 62 release, other than pardon or executive clemency, or conditional  
 63 medical release under s. 947.149, prior to serving the minimum  
 64 sentence.

65 Section 2. This act shall take effect October 1, 2010.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 535 Sexual Exploitation

SPONSOR(S): Fresen and others

TIED BILLS: IDEN./SIM. BILLS: SB 1700

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Care Services Policy Committee		Schoonover <i>MS</i>	Schoolfield <i>MS</i>
2) Public Safety & Domestic Security Policy Committee			
3) Full Appropriations Council on Education & Economic Development			
4) Health & Family Services Policy Council			
5)			

SUMMARY ANALYSIS

HB 535 creates the Florida Safe Harbor Act and makes several amendments to protect and provide shelter for sexually exploited children. Specifically, the bill makes the following changes:

- Makes several amendments to definitions relating to sexual exploitation.
- Requires delivery of children alleged to be dependent and sexually exploited to short-term safe houses;
- Provides rebuttable presumptions of law that placement in safe houses is necessary for sexually exploited children;
- Provides requirement that implementation of safe houses is contingent on funding;
- Requires the operation of short-term safe houses and 1 statewide long term safe house
- Revises prostitution laws so that certain acts related to prostitution are unlawful only if committed by any person 16 years of age or older.
- Prohibits juvenile probation officers and the state attorney from filing a petition for delinquency for an act related to prostitution unless the child has been previously adjudicated delinquent.

While implementation is contingent upon available funding, an estimate of \$350 per bed per day could be expected for the safe homes that would be established, both short-term and long term.

The bill has effective date of July 1, 2010.

## HOUSE PRINCIPLES

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- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### *Sexual Exploitation*

Current law references sexual exploitation in the definition of "sexual abuse of a child."<sup>1</sup> Sexual exploitation of a child includes allowing, encouraging, or forcing a child to either solicit for or engage in prostitution; or engage in a sexual performance, as defined by ch. 827, F.S.<sup>2</sup>

Prostitution is the giving or receiving of the body for sexual activity for hire, excluding sexual activity between spouses.<sup>3</sup> It is unlawful to offer to commit, to commit, or to engage in prostitution, lewdness, or assignation.<sup>4</sup> The prohibition against these acts exists without respect to the age of the person offering, committing, or engaging in prostitution.

A first offense for prostitution is a 2nd degree misdemeanor, a second offense is a 1st degree misdemeanor, and a third or subsequent offense is a third degree felony.<sup>5</sup> In addition to the criminal penalties, a civil penalty of \$500 can be assessed against individuals that solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation.<sup>6</sup>

Any person who knowingly recruits, entices, harbors, transports, provides, or obtains by any means a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution, commits the offense of sex trafficking, a second degree felony.<sup>7</sup> However, a person commits a first degree felony if the offense of sex trafficking is committed against a person who is under the age of 14 or if such offense results in death.<sup>8</sup>

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<sup>1</sup> s. 39.01(67), F.S.

<sup>2</sup> s. 39.01(67)(g), F.S.

<sup>3</sup> s. 796.07(1)(a), F.S.

<sup>4</sup> s. 796.07(e), F.S.,

<sup>5</sup> s. 796.07(4), F.S.,

<sup>6</sup> s. 769.07(6), F.S.

<sup>7</sup> s. 796.045, F.S.

<sup>8</sup> Id.

## *Sex-Trafficking and Prostitution of Children*

It is estimated that about 293,000 American youth are currently at risk of becoming victims of commercial sexual exploitation. The majority of American victims of commercial sexual exploitation tend to be runaway youth living on the streets who are highly susceptible to become victims of prostitution. These children generally come from homes where they have been abused, or from families that have abandoned them, and often become involved in prostitution as a way to support themselves financially or to get the things they want or need.<sup>9</sup> Other young people are recruited into prostitution through forced abduction, pressure from adults, or through deceptive agreements between parents and traffickers.<sup>10</sup> In a study conducted at the University of New Hampshire in 2009, researchers found that among a sampling of law enforcement agencies for information concerning youth involved in prostitution, of the estimated 1,450 arrests /detentions for crimes related to juvenile prostitution in the U.S. in 2005, 95% involved third party exploiters, 31% were for what they labeled solo types of prostitution cases, and 12% involved sexual exploitation.<sup>11</sup>

Third party or pimp-controlled commercial sexual exploitation of children is linked to escort and massage services, private dancing, drinking and photographic clubs, major sporting and recreational events, major cultural events, conventions, and tourist destinations. About one-fifth of these children become involved in nationally organized crime networks and is trafficked nationally. They are transported around the United States by a variety of means – cars, buses, vans, trucks or planes, and are often provided counterfeit identification to use in the event of arrest.<sup>12</sup> The average age at which girls first become victims of prostitution is 12-14; for boys and transgender youth it is 11-13.<sup>13</sup>

### *Services Currently Available for Shelter*

If a child in the Department of Children and Family Services' (DCF) care is missing, the case worker fills out a Missing Child Report, which details the child's disappearance, including involvement in prostitution.<sup>14</sup> Involvement in prostitution was cited in an estimated 109 cases for children that had runaway while under the care of DCF.<sup>15</sup>

DCF acknowledges that minimal and inappropriate shelters exist for victims of sexual exploitation since victims in runaway shelters or group homes can continue to be psychologically manipulated and return to the control of the trafficker. Foster homes, group homes, and shelters are not ideal for several reasons including the fact that these residences are not equipped to deal with sexual exploitation trauma and also that the trafficker/pimp could easily find the child and threaten to harm the foster family or residents unless contact with the child is permitted.<sup>16</sup>

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<sup>9</sup> Id.; Richard J. Estes and Neil Alan Weiner, *Commercial Sexual Exploitation of Children in the U.S, Canada and Mexico*, University of Pennsylvania (2001), available at [www.sp2.upenn.edu/~restes/CSEC\\_Files/Exec\\_Sum\\_020220.pdf](http://www.sp2.upenn.edu/~restes/CSEC_Files/Exec_Sum_020220.pdf). (last visited 3/17/10)

<sup>10</sup> Staff Analysis, HB 535 (2010); Department of Children and Family Services. (on file with committee staff); Francis T. Miko & Grace Park, *Trafficking in Women and Children: The U.S. and International Response*, p. 7. (Updated July 10, 2003), at <http://www.usembassy.it/pdf/other/RL30545.pdf>. (last visited 2/17/2010).

<sup>11</sup> Staff Analysis, HB 535 (2010); Department of Children and Family Services. (on file with committee staff); Kimberly J. Mitchell, David Finkelhor and Janis Wolak, *Conceptualizing Juvenile Prostitution as Child Maltreatment: Findings from the National Juvenile Prostitution Study*, p.22-26, University of New Hampshire Sage Publications

<sup>12</sup> Analysis, HB 535 (2010); Department of Children and Family Services. (on file with committee staff); Richard J. Estes and Neil Alan Weiner, *Commercial Sexual Exploitation of Children in the U.S, Canada and Mexico*, pp. 7-8. University of Pennsylvania (2001), available at [www.sp2.upenn.edu/~restes/CSEC\\_Files/Exec\\_Sum\\_020220.pdf](http://www.sp2.upenn.edu/~restes/CSEC_Files/Exec_Sum_020220.pdf).

<sup>13</sup> Id.

<sup>14</sup> Staff Analysis, HB 535 (2010); Department of Children and Family Services. (on file with committee staff).

<sup>15</sup> Telephone Conversation with Hans Soder at the Department of Children and Families Services (3/19/2010) – Out of 29,000 kids in DCF care, it is estimated that 110-120 may have had some involvement in prostitution based on box checked on missing person form.

<sup>16</sup> Staff Analysis, HB 535 (2010); Department of Children and Family Services. (on file with committee staff).



DCF may also use the State Inpatient Psychiatric Placement (SIPP), which provides secure housing and services. The program includes lengthy assessment that must be performed prior to placement.<sup>17</sup> Unfortunately, exploited children tend to leave before services and placement is finalized.<sup>18</sup>

Services are available through the Children In Need of Services (CINS) program to provide short-term shelter, counseling, services, and case management in one of the 28 youth shelters statewide that are operated by the Department of Juvenile Justice (DJJ).<sup>19</sup> These shelters are primarily voluntary and a court may order the child to stay in shelter for a period no longer than 120 days.<sup>20</sup> Even under this longer stay option, only 10 are available statewide<sup>21</sup>. But since most sexually exploited children are adjudicated dependent, they would not be eligible for CINS service.<sup>22</sup>

If a judge finds that a child is either in contempt of the court or in need of an extremely safe treatment environment, the judge may place the child in a locked setting for up to 120 days.<sup>23</sup> Reductions in funding have resulted in fewer than 10 children served per year under this type of physically secure placement.<sup>24</sup> There is simply not enough availability to consider this placement as a viable option for exploited children.

### **Effect of Proposed Changes**

The bill creates the Florida Safe Harbor Act in s.39.001(4), F.S., to provide special care and services to all sexually exploited children in the dependency process. One of the policy changes the bill makes is creating a rebuttable presumption that children have been sexually exploited when committing acts such as prostitution. Under this change, if a law enforcement officer encounters a child (under age 18) for an act of prostitution, the officer must presume the child has been sexually exploited and must transfer the child to a short-term safe house. Additionally, the bill also makes a policy change for the crime of prostitution by making certain acts related to prostitution unlawful only if committed by a person 16 years of age or older.

### *Definitions*

Specifically, the bill amends the following definitions in s. 39.01, F.S.:

- “abuse” is amended so that it includes sexual abuse.
- “child who is found to be dependent” is amended so it includes children that have been sexually exploited and have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care. The effect of this change will place sexually exploited children within dependency actions.
- “sexual abuse of a child” is amended so that sexual exploitation includes the act of a child offering to engage in or engaging in prostitution or sexual acts. The definition is also amended to include participation in sex trafficking as an act of sexual exploitation of a child. The effect of these changes to the definition of “sexual exploitation of a child” will create additional grounds for sexual exploitation so that an individual is also held responsible for the voluntary act of the child offering to engage in or engaging in prostitution.

### *Transfer to a Short-term Safe House*

The bill amends s. 39.401, F.S., by requiring law enforcement officers to deliver a sexually exploited child to a short-term safe house if one is available. The effect of this change will require a law enforcement officer to deliver a youth who is being sexually exploited to a safe house, regardless of whether the child is a repeat offender or voluntarily engaging in prostitution.

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<sup>17</sup> s. 39.407, F.S.

<sup>18</sup> Staff Analysis, HB 535 (2010); Department of Children and Family Services. (on file with committee staff).

<sup>19</sup> Id.

<sup>20</sup> s. 984.226, F.S.

<sup>21</sup> Staff Analysis, HB 535 (2010); Department of Children and Family Services. (on file with committee staff).

<sup>22</sup> Id.

<sup>23</sup> s. 984.226, F.S.

<sup>24</sup> Staff Analysis, HB 535 (2010); Department of Children and Family Services. (on file with committee staff).

### *Shelter Placement*

The bill amends s. 39.402, F.S., by creating a rebuttable presumption on placement of a sexually exploited child in a short-term safe house. The bill requires DCF, at the hearing to continue shelter care, to establish probable cause that the child has been sexually exploited, and that placement in a short-term safe house is most appropriate. The bill also adds sexual exploitation to the list of conditions which show reasonable effort by DCF to prevent or eliminate the need for removal. The effect of these changes will get a sexually exploited child into shelter and treatment for prostitution rather than processed through the criminal justice system.

### *Disposition Hearings*

The bill also amends s. 39.521, F.S., to add sexual exploitation as one of the reasons a child cannot safely remain at home in findings by the court during a disposition hearing. Additionally, the bill requires the court to commit a victim of sexual exploitation to a safe house when the child has been adjudicated dependent. The effect of these changes will provide cause for the court in a dependency action to remove a child from the home who has been sexually exploited to place the child in a safe house and therefore removal is warranted.

### *Safe-Harbor Placement*

The bill creates s. 39.524, F.S., relating to safe-harbor placement. The section requires any child 6 years of age or older who has been found to be a victim of sexual exploitation to be assessed for placement in a safe house, and if placement is warranted, it shall be granted, if available. It also requires all safe houses that receive children to report to DCF its success in achieving permanency for those children. The section clarifies that safe houses can be used as placement of children who are not sexually exploited if such placement is appropriate. It also requires DCF to report to the Legislature on the placement of children in safe homes during the year and include a detailed account of expenditures incurred.

### *Funding*

Section 39.524, F.S., also makes creation of the safe houses contingent upon available appropriations from the General Appropriations Act. Specifically the bill directs lump sum funding for safe houses and short-term safe houses to a special category designated as "Special Categories: Grants and Aids-Safe Houses." The bill also requires DCF to submit a spending plan that identifies the safe-house capacity shortage throughout the state. The bill permits the use of funds as one-time startup funding costs including, but limited to, fixed capital outlay and renovations.

### *Safe Harbors for Sexually Exploited Children*

The bill also creates s. 409.1678, F.S., relating to safe harbor for children who are victims of sexual exploitation. The section requires DCF to enter into an interagency agreement with the Department of Juvenile Justice to identify agency responsibilities for referrals, placement, service, coordination, terms and conditions, and performance outcomes. It also creates a definition for "child advocate" for sexually exploited children to ensure short-term safe houses are employed by individuals trained to best assist the child. The section also creates definitions for both "safe house" and "short-term safe house." Both facilities would be required to be licensed by DCF as a child-caring agency under s. 409.175, F.S. A "safe house" is different from a "short-term safe house" in that it has gender specific and separate living quarters for sexually exploited children who have been adjudicated dependent or delinquent and need to reside in a secure facility with 24-hour-awake staff. The section also defines "sexually exploited child" to mean a dependent child who has suffered sexual abuse, as defined in 39.01(67)(g).

### *Short-term Safe Houses*

Also in s. 409.1678, F.S., the bill directs each of the 15 DCF child service districts to address the needs of sexually exploited children and to the extent funds are available ensure that preventative services, including a short-term safe house is available to children in the district. The bill directs DCF or a lead agency to contract with an appropriate not-for-profit agency with experience working with sexually exploited children to operate the short-term safe house.

### *Long-term Safe House*

The bill also requires DCF to contract with an appropriate not-for-profit agency to operate at least one statewide long term safe house to provide safe and secure long-term housing and specialized services for sexually exploited children throughout the state. The bill provides DCF with rule-making authority to implement the provisions of 409.1678, F.S.

### *Prohibitions of Prostitution*

The bill amends s. 796.07, F.S., by adding additional prohibitions of prostitution. Specifically, the bill makes it unlawful to use a deadly weapon during the commission of offenses relating to prostitution. The bill also makes certain acts related to prostitution unlawful only if committed by any person 16 years of age or older. The effect of this change could result in individuals under the age of 16 not being held criminally responsible for acts of prostitution that are voluntary.

### *Juvenile Delinquency*

The bills amends s. 985.145, F.S. and s. 985.15, F.S., by prohibiting juvenile probation officers and the state attorney from filing a petition for delinquency for an act related to prostitution unless the child has been previously adjudicated delinquent.

## B. SECTION DIRECTORY:

Section 1. Provides a name for the act.

Section 2. Amends s. 39.001, F.S., relating to purposes and intent; personnel standards and screening.

Section 3. Amends s. 39.01, F.S., relating to definitions.

Section 4. Amends s. 39.401, F.S., relating to taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.

Section 5. Amends s. 39.402, F.S., relating to placement in a shelter.

Section 6. Amends s. 39.521, F.S., relating to disposition hearings; powers of disposition.

Section 7. Creates s. 39.524, F.S., relating to safe-harbor placement.

Section 8. Amends s. 322.28, F.S., relating to period of suspension or revocation.

Section 9. Creates s. 409.1678, F.S., relating to safe harbor for children who are victims of sexual exploitation.

Section 10. Amends s. 796.07, F.S., relating to prohibiting prostitution, etc.; evidence; penalties; definitions.

Section 11. Amends s. 985.145, F.S., relating to responsibilities of juvenile probation officer during intake; screenings and assessments.

Section 12. Amends s. 985.15, F.S., relating to filing decisions.

Section 13. Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

2. Expenditures:

An indeterminate cost will impact state government. While implementation is contingent upon available funding, an estimate of \$350 per bed per day could be expected for the safe homes that would be established.<sup>25</sup>

The following two examples can be used to predict the cost of the short-term safe homes and the statewide safe home.

Short Term Safe-Homes

A) 15 short-term safe homes (one in each DCF circuit), which has 3 beds. At \$350 per day per bed, under this scenario, an expected estimated cost would be approximately **\$5.8 million**.

B) 7 short-term safe homes (2 circuits share one), which has 3 beds. At \$350 per bed per day, under this scenario, an expected cost would be approximately **\$2.7 million**.

Statewide Long Term Safe-Home

A) Assuming 24 beds at \$350 per bed per day, an expected cost would be approximately **\$3.0 million**

B) Assuming 15 beds at \$350 per bed per day, an expected cost would be approximately **\$1.9 million**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

While implementation is contingent upon available funding, an estimate of \$350 per bed per day could be expected for the safe homes that would be established.<sup>26</sup>

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

<sup>25</sup> Staff Analysis, HB 535 (2010); Department of Children and Family Services. (on file with committee staff).

<sup>26</sup> Staff Analysis, HB 535 (2010); Department of Children and Family Services. (on file with committee staff).

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill creates rule-making authority for DCF relating to the safe harbor of sexually exploited children.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                                    A bill to be entitled

2            An act relating to sexual exploitation; providing a short  
 3            title; amending s. 39.001, F.S.; providing legislative  
 4            intent and goals; conforming cross-references; amending s.  
 5            39.01, F.S.; revising the definitions of the terms  
 6            "abuse," "child who is found to be dependent," and "sexual  
 7            abuse of a child"; amending s. 39.401, F.S.; requiring  
 8            delivery of children alleged to be dependant and sexually  
 9            exploited to short-term safe houses; amending s. 39.402,  
 10          F.S.; providing for a presumption that placement of a  
 11          child alleged to have been sexually exploited in a short-  
 12          term safe house is necessary; providing requirements for  
 13          findings in a shelter hearing relating to placement of an  
 14          allegedly sexually exploited child in a short-term safe  
 15          house; amending s. 39.521, F.S.; providing for a  
 16          presumption that placement of children alleged to have  
 17          been sexually exploited in a safe house is necessary;  
 18          creating s. 39.524, F.S.; requiring assessment of certain  
 19          children for placement in a safe house; providing for use  
 20          of such assessments; providing requirements for safe  
 21          houses receiving such children; providing for placement of  
 22          other children in safe houses when appropriate; requiring  
 23          an annual report concerning safe-house placements;  
 24          providing requirements relating to appropriations for safe  
 25          houses; amending s. 322.28, F.S.; conforming a cross-  
 26          reference; creating s. 409.1678, F.S.; providing  
 27          legislative intent relating to safe houses; providing  
 28          definitions; requiring districts of the Department of

29 Children and Family Services to address child welfare  
 30 service needs of sexually exploited children as a  
 31 component of their master plans; providing for operation  
 32 of safe houses; providing duties, responsibilities, and  
 33 requirements for safe houses and their operators;  
 34 providing for training for law enforcement officials who  
 35 are likely to encounter sexually exploited children;  
 36 amending s. 796.07, F.S.; revising prohibitions on  
 37 prostitution and related acts; conforming a cross-  
 38 reference; amending ss. 985.145 and 985.15, F.S.;  
 39 providing a presumption against filing a delinquency  
 40 petition for certain prostitution-related offenses in  
 41 certain circumstances; providing an effective date.

42

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

44

45 Section 1. This act may be cited as the "Florida Safe  
 46 Harbor Act."

47 Section 2. Subsections (4) through (12) of section 39.001,  
 48 Florida Statutes, are renumbered as subsections (5) through  
 49 (13), respectively, paragraph (c) of present subsection (7) and  
 50 paragraph (b) of present subsection (9) are amended, and a new  
 51 subsection (4) is added to that section, to read:

52 39.001 Purposes and intent; personnel standards and  
 53 screening.-

54 (4) SEXUAL EXPLOITATION SERVICES.-

55 (a) The Legislature recognizes that child sexual  
 56 exploitation is a serious problem nationwide and in this state.

57 The children at greatest risk of being sexually exploited are  
 58 runaways and throwaways. Many of these children have a history  
 59 of abuse and neglect. The vulnerability of these children starts  
 60 with isolation from family and friends. Traffickers maintain  
 61 control of child victims through psychological manipulation,  
 62 force, drug addiction, or the exploitation of economic,  
 63 physical, or emotional vulnerability. Children exploited through  
 64 the sex trade often find it difficult to trust adults because of  
 65 their abusive experiences. These children make up a population  
 66 that is hard to serve and harder to rehabilitate. Although  
 67 minors are by law unable to consent to sexual activity, they are  
 68 most often treated as perpetrators of crime rather than victims.  
 69 Moreover, the historical treatment of such children as  
 70 delinquents has too often resulted in the failure to  
 71 successfully prosecute the trafficker, who is the true wrongdoer  
 72 and threat to society.

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

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



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

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

97        (8) ~~(7)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.-

98        (c) The office is authorized and directed to:

99        1. Oversee the preparation and implementation of the state  
 100 plan established under subsection (9) ~~(8)~~ and revise and update  
 101 the state plan as necessary.

102        2. Provide for or make available continuing professional  
 103 education and training in the prevention of child abuse and  
 104 neglect.

105        3. Work to secure funding in the form of appropriations,  
 106 gifts, and grants from the state, the Federal Government, and  
 107 other public and private sources in order to ensure that  
 108 sufficient funds are available for the promotion of adoption,  
 109 support of adoptive families, and child abuse prevention  
 110 efforts.

111        4. Make recommendations pertaining to agreements or

112 contracts for the establishment and development of:

113 a. Programs and services for the promotion of adoption,  
 114 support of adoptive families, and prevention of child abuse and  
 115 neglect.

116 b. Training programs for the prevention of child abuse and  
 117 neglect.

118 c. Multidisciplinary and discipline-specific training  
 119 programs for professionals with responsibilities affecting  
 120 children, young adults, and families.

121 d. Efforts to promote adoption.

122 e. Postadoptive services to support adoptive families.

123 5. Monitor, evaluate, and review the development and  
 124 quality of local and statewide services and programs for the  
 125 promotion of adoption, support of adoptive families, and  
 126 prevention of child abuse and neglect and shall publish and  
 127 distribute an annual report of its findings on or before January  
 128 1 of each year to the Governor, the Speaker of the House of  
 129 Representatives, the President of the Senate, the head of each  
 130 state agency affected by the report, and the appropriate  
 131 substantive committees of the Legislature. The report shall  
 132 include:

133 a. A summary of the activities of the office.

134 b. A summary of the adoption data collected and reported  
 135 to the federal Adoption and Foster Care Analysis and Reporting  
 136 System (AFCARS) and the federal Administration for Children and  
 137 Families.

138 c. A summary of the child abuse prevention data collected  
 139 and reported to the National Child Abuse and Neglect Data System

140 (NCANDS) and the federal Administration for Children and  
 141 Families.

142 d. A summary detailing the timeliness of the adoption  
 143 process for children adopted from within the child welfare  
 144 system.

145 e. Recommendations, by state agency, for the further  
 146 development and improvement of services and programs for the  
 147 promotion of adoption, support of adoptive families, and  
 148 prevention of child abuse and neglect.

149 f. Budget requests, adoption promotion and support needs,  
 150 and child abuse prevention program needs by state agency.

151 6. Work with the direct-support organization established  
 152 under s. 39.0011 to receive financial assistance.

153 (10)~~(9)~~ FUNDING AND SUBSEQUENT PLANS.—

154 (b) The office and the other agencies and organizations  
 155 listed in paragraph (9)~~(8)~~(a) shall readdress the state plan and  
 156 make necessary revisions every 5 years, at a minimum. Such  
 157 revisions shall be submitted to the Speaker of the House of  
 158 Representatives and the President of the Senate no later than  
 159 June 30 of each year divisible by 5. At least biennially, the  
 160 office shall review the state plan and make any necessary  
 161 revisions based on changing needs and program evaluation  
 162 results. An annual progress report shall be submitted to update  
 163 the state plan in the years between the 5-year intervals. In  
 164 order to avoid duplication of effort, these required plans may  
 165 be made a part of or merged with other plans required by either  
 166 the state or Federal Government, so long as the portions of the  
 167 other state or Federal Government plan that constitute the state

168 plan for the promotion of adoption, support of adoptive  
 169 families, and prevention of child abuse, abandonment, and  
 170 neglect are clearly identified as such and are provided to the  
 171 Speaker of the House of Representatives and the President of the  
 172 Senate as required above.

173 Section 3. Subsections (2) and (15) and paragraph (g) of  
 174 subsection (67) of section 39.01, Florida Statutes, are amended  
 175 to read:

176 39.01 Definitions.—When used in this chapter, unless the  
 177 context otherwise requires:

178 (2) "Abuse" means any willful act or threatened act that  
 179 results in any physical, mental, or sexual abuse or injury or  
 180 harm that causes or is likely to cause the child's physical,  
 181 mental, or emotional health to be significantly impaired. Abuse  
 182 of a child includes acts or omissions. Corporal discipline of a  
 183 child by a parent or legal custodian for disciplinary purposes  
 184 does not in itself constitute abuse when it does not result in  
 185 harm to the child.

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

188 (a) To have been abandoned, abused, or neglected by the  
 189 child's parent or parents or legal custodians;

190 (b) To have been surrendered to the department, the former  
 191 Department of Health and Rehabilitative Services, or a licensed  
 192 child-placing agency for purpose of adoption;

193 (c) To have been voluntarily placed with a licensed child-  
 194 caring agency, a licensed child-placing agency, an adult  
 195 relative, the department, or the former Department of Health and

196 Rehabilitative Services, after which placement, under the  
 197 requirements of this chapter, a case plan has expired and the  
 198 parent or parents or legal custodians have failed to  
 199 substantially comply with the requirements of the plan;

200 (d) To have been voluntarily placed with a licensed child-  
 201 placing agency for the purposes of subsequent adoption, and a  
 202 parent or parents have signed a consent pursuant to the Florida  
 203 Rules of Juvenile Procedure;

204 (e) To have no parent or legal custodians capable of  
 205 providing supervision and care; ~~or~~

206 (f) To be at substantial risk of imminent abuse,  
 207 abandonment, or neglect by the parent or parents or legal  
 208 custodians; or

209 (g) To have been sexually exploited and to have no parent,  
 210 legal custodian, or responsible adult relative currently known  
 211 and capable of providing the necessary and appropriate  
 212 supervision and care.

213 (67) "Sexual abuse of a child" means one or more of the  
 214 following acts:

215 (g) The sexual exploitation of a child, which includes the  
 216 act of a child offering to engage in or engaging in  
 217 prostitution; or allowing, encouraging, or forcing a child to:

- 218 1. Solicit for or engage in prostitution; ~~or~~
- 219 2. Engage in a sexual performance, as defined by chapter  
 220 827; or

221 3. Participate in the trade of sex trafficking as provided  
 222 in s. 796.035.

223 Section 4. Paragraph (b) of subsection (2) and paragraph  
 224 (b) of subsection (3) of section 39.401, Florida Statutes, are  
 225 amended to read:

226 39.401 Taking a child alleged to be dependent into  
 227 custody; law enforcement officers and authorized agents of the  
 228 department.—

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

231 (b) Deliver the child to an authorized agent of the  
 232 department, stating the facts by reason of which the child was  
 233 taken into custody and sufficient information to establish  
 234 probable cause that the child is abandoned, abused, or  
 235 neglected, or otherwise dependent. In the case of a child who is  
 236 sexually exploited, the law enforcement officer shall deliver  
 237 the child to the appropriate short-term safe house as provided  
 238 for in s. 409.1678 if a short-term safe house is available.

239  
 240 For cases involving allegations of abandonment, abuse, or  
 241 neglect, or other dependency cases, within 3 days after such  
 242 release or within 3 days after delivering the child to an  
 243 authorized agent of the department, the law enforcement officer  
 244 who took the child into custody shall make a full written report  
 245 to the department.

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

251 shelter petition.

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

271 Section 5. Subsection (2) and paragraphs (a), (d), and (h)  
 272 of subsection (8) of section 39.402, Florida Statutes, are  
 273 amended to read:

274 39.402 Placement in a shelter.—

275 (2) A child taken into custody may be placed or continued  
 276 in a shelter only if one or more of the criteria in subsection  
 277 (1) applies and the court has made a specific finding of fact  
 278 regarding the necessity for removal of the child from the home

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279 and has made a determination that the provision of appropriate  
 280 and available services will not eliminate the need for  
 281 placement. In the case of a child who is alleged to have been  
 282 sexually exploited, there is a rebuttable presumption that  
 283 placement in a short-term safe house is necessary.

284 (8) (a) A child may not be held in a shelter longer than 24  
 285 hours unless an order so directing is entered by the court after  
 286 a shelter hearing. In the interval until the shelter hearing is  
 287 held, the decision to place the child in a shelter or release  
 288 the child from a shelter lies with the protective investigator.  
 289 In the case of a child who is alleged to have been sexually  
 290 exploited, there is a rebuttable presumption that placement in a  
 291 short-term safe house is necessary.

292 (d) At the shelter hearing, in order to continue the child  
 293 in shelter care:

294 1. The department must establish probable cause that  
 295 reasonable grounds for removal exist and that the provision of  
 296 appropriate and available services will not eliminate the need  
 297 for placement; ~~or~~

298 2. The department must establish probable cause for the  
 299 belief that the child has been sexually exploited and,  
 300 therefore, that placement in a short-term safe house is the most  
 301 appropriate environment for the child; or

302 ~~3.2.~~ The court must determine that additional time is  
 303 necessary, which may not exceed 72 hours, in which to obtain and  
 304 review documents pertaining to the family in order to  
 305 appropriately determine the risk to the child during which time  
 306 the child shall remain in the department's custody, if so



307 | ordered by the court.

308 |       (h) The order for placement of a child in shelter care  
 309 | must identify the parties present at the hearing and must  
 310 | contain written findings:

311 |       1. That placement in shelter care is necessary based on  
 312 | the criteria in subsections (1) and (2).

313 |       2. That placement in shelter care is in the best interest  
 314 | of the child.

315 |       3. That continuation of the child in the home is contrary  
 316 | to the welfare of the child because the home situation presents  
 317 | a substantial and immediate danger to the child's physical,  
 318 | mental, or emotional health or safety which cannot be mitigated  
 319 | by the provision of preventive services.

320 |       4. That based upon the allegations of the petition for  
 321 | placement in shelter care, there is probable cause to believe  
 322 | that the child is dependent or that the court needs additional  
 323 | time, which may not exceed 72 hours, in which to obtain and  
 324 | review documents pertaining to the family in order to  
 325 | appropriately determine the risk to the child.

326 |       5. That the department has made reasonable efforts to  
 327 | prevent or eliminate the need for removal of the child from the  
 328 | home. A finding of reasonable effort by the department to  
 329 | prevent or eliminate the need for removal may be made and the  
 330 | department is deemed to have made reasonable efforts to prevent  
 331 | or eliminate the need for removal if:

332 |       a. The first contact of the department with the family  
 333 | occurs during an emergency;

334 |       b. The appraisal of the home situation by the department

335 indicates that the home situation presents a substantial and  
 336 immediate danger to the child's physical, mental, or emotional  
 337 health or safety which cannot be mitigated by the provision of  
 338 preventive services;

339 c. The child cannot safely remain at home, either because  
 340 there are no preventive services that can ensure the health and  
 341 safety of the child or because, even with appropriate and  
 342 available services being provided, the health and safety of the  
 343 child cannot be ensured; ~~or~~

344 d. The child has been sexually exploited; or

345 e.d. The parent or legal custodian is alleged to have  
 346 committed any of the acts listed as grounds for expedited  
 347 termination of parental rights in s. 39.806(1)(f)-(i).

348 6. That the court notified the parents, relatives that are  
 349 providing out-of-home care for the child, or legal custodians of  
 350 the time, date, and location of the next dependency hearing and  
 351 of the importance of the active participation of the parents,  
 352 relatives that are providing out-of-home care for the child, or  
 353 legal custodians in all proceedings and hearings.

354 7. That the court notified the parents or legal custodians  
 355 of their right to counsel to represent them at the shelter  
 356 hearing and at each subsequent hearing or proceeding, and the  
 357 right of the parents to appointed counsel, pursuant to the  
 358 procedures set forth in s. 39.013.

359 8. That the court notified relatives who are providing  
 360 out-of-home care for a child as a result of the shelter petition  
 361 being granted that they have the right to attend all subsequent  
 362 hearings, to submit reports to the court, and to speak to the

363 court regarding the child, if they so desire.

364 Section 6. Paragraph (f) of subsection (1) and paragraph  
 365 (d) of subsection (3) of section 39.521, Florida Statutes, are  
 366 amended to read:

367 39.521 Disposition hearings; powers of disposition.—

368 (1) A disposition hearing shall be conducted by the court,  
 369 if the court finds that the facts alleged in the petition for  
 370 dependency were proven in the adjudicatory hearing, or if the  
 371 parents or legal custodians have consented to the finding of  
 372 dependency or admitted the allegations in the petition, have  
 373 failed to appear for the arraignment hearing after proper  
 374 notice, or have not been located despite a diligent search  
 375 having been conducted.

376 (f) If the court places the child in an out-of-home  
 377 placement, the disposition order must include a written  
 378 determination that the child cannot safely remain at home with  
 379 reunification or family preservation services and that removal  
 380 of the child is necessary to protect the child. If the child is  
 381 removed before the disposition hearing, the order must also  
 382 include a written determination as to whether, after removal,  
 383 the department made a reasonable effort to reunify the parent  
 384 and child. Reasonable efforts to reunify are not required if the  
 385 court finds that any of the acts listed in s. 39.806(1)(f)-(l)  
 386 have occurred. The department has the burden of demonstrating  
 387 that it made reasonable efforts.

388 1. For the purposes of this paragraph, the term  
 389 "reasonable effort" means the exercise of reasonable diligence  
 390 and care by the department to provide the services ordered by

391 the court or delineated in the case plan.

392 2. In support of its determination as to whether  
 393 reasonable efforts have been made, the court shall:

394 a. Enter written findings as to whether prevention or  
 395 reunification efforts were indicated.

396 b. If prevention or reunification efforts were indicated,  
 397 include a brief written description of what appropriate and  
 398 available prevention and reunification efforts were made.

399 c. Indicate in writing why further efforts could or could  
 400 not have prevented or shortened the separation of the parent and  
 401 child.

402 3. A court may find that the department made a reasonable  
 403 effort to prevent or eliminate the need for removal if:

404 a. The first contact of the department with the family  
 405 occurs during an emergency;

406 b. The appraisal by the department of the home situation  
 407 indicates a substantial and immediate danger to the child's  
 408 safety or physical, mental, or emotional health which cannot be  
 409 mitigated by the provision of preventive services;

410 c. The child cannot safely remain at home, because there  
 411 are no preventive services that can ensure the health and safety  
 412 of the child or, even with appropriate and available services  
 413 being provided, the health and safety of the child cannot be  
 414 ensured. There is a rebuttable presumption that a sexually  
 415 exploited child as defined in s. 39.01(67)(g) meets the terms of  
 416 this subparagraph; or

417 d. The parent is alleged to have committed any of the acts  
 418 listed as grounds for expedited termination of parental rights

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419 under s. 39.806(1)(f)-(1).

420 4. A reasonable effort by the department for reunification  
 421 has been made if the appraisal of the home situation by the  
 422 department indicates that the severity of the conditions of  
 423 dependency is such that reunification efforts are inappropriate.  
 424 The department has the burden of demonstrating to the court that  
 425 reunification efforts were inappropriate.

426 5. If the court finds that the prevention or reunification  
 427 effort of the department would not have permitted the child to  
 428 remain safely at home, the court may commit the child to the  
 429 temporary legal custody of the department or take any other  
 430 action authorized by this chapter.

431 (3) When any child is adjudicated by a court to be  
 432 dependent, the court shall determine the appropriate placement  
 433 for the child as follows:

434 (d) If the child cannot be safely placed in a nonlicensed  
 435 placement, the court shall commit the child to the temporary  
 436 legal custody of the department. Such commitment invests in the  
 437 department all rights and responsibilities of a legal custodian.  
 438 The department shall not return any child to the physical care  
 439 and custody of the person from whom the child was removed,  
 440 except for court-approved visitation periods, without the  
 441 approval of the court. Any order for visitation or other contact  
 442 must conform to the provisions of s. 39.0139. There is a  
 443 rebuttable presumption that any child who has been found to be a  
 444 victim of sexual exploitation as defined in s. 39.01(67)(g) be  
 445 committed to a safe house as provided for in s. 409.1678. The  
 446 term of such commitment continues until terminated by the court

447 or until the child reaches the age of 18. After the child is  
 448 committed to the temporary legal custody of the department, all  
 449 further proceedings under this section are governed by this  
 450 chapter.

451  
 452 Protective supervision continues until the court terminates it  
 453 or until the child reaches the age of 18, whichever date is  
 454 first. Protective supervision shall be terminated by the court  
 455 whenever the court determines that permanency has been achieved  
 456 for the child, whether with a parent, another relative, or a  
 457 legal custodian, and that protective supervision is no longer  
 458 needed. The termination of supervision may be with or without  
 459 retaining jurisdiction, at the court's discretion, and shall in  
 460 either case be considered a permanency option for the child. The  
 461 order terminating supervision by the department shall set forth  
 462 the powers of the custodian of the child and shall include the  
 463 powers ordinarily granted to a guardian of the person of a minor  
 464 unless otherwise specified. Upon the court's termination of  
 465 supervision by the department, no further judicial reviews are  
 466 required, so long as permanency has been established for the  
 467 child.

468 Section 7. Section 39.524, Florida Statutes, is created to  
 469 read:

470 39.524 Safe-harbor placement.-

471 (1) Except as provided in s. 39.407, any dependent child 6  
 472 years of age or older who has been found to be a victim of  
 473 sexual exploitation as defined in s. 39.01(67)(g) must be  
 474 assessed for placement in a safe house as provided in s.

475 | 409.1678. The assessment shall be conducted by the department or  
476 | its agent and shall incorporate and address current and  
477 | historical information from any law enforcement reports;  
478 | psychological testing or evaluation that has occurred; current  
479 | and historical information from the guardian ad litem, if one  
480 | has been assigned; current and historical information from any  
481 | current therapist, teacher, or other professional who has  
482 | knowledge of the child and has worked with the child; and any  
483 | other information concerning the availability and suitability of  
484 | safe-house placement. If such placement is determined to be  
485 | appropriate as a result of this procedure, the child must be  
486 | placed in a safe house, if available.

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

494 |       (3) Any safe house that receives children under this  
495 | section shall establish special permanency teams dedicated to  
496 | overcoming the special permanency challenges presented by this  
497 | population of children. Each facility shall report to the  
498 | department its success in achieving permanency for children  
499 | placed by the department in its care at intervals that allow the  
500 | current information to be provided to the court at each judicial  
501 | review for the child.

502       (4) This section does not prohibit the department from  
 503 assessing and placing children who do not meet the criteria in  
 504 subsection (1) in a safe house if such placement is the most  
 505 appropriate placement for such children.

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

513       2. The department shall maintain data specifying the  
 514 number of children who were referred to a safe house for whom  
 515 placement was unavailable and the counties in which such  
 516 placement was unavailable. The department shall include this  
 517 data in its report under this paragraph, so that the Legislature  
 518 may consider this information in developing the General  
 519 Appropriations Act.

520       (b) As part of the report required in paragraph (a), the  
 521 department shall also provide a detailed account of the  
 522 expenditures incurred for "Special Categories: Grants and Aids-  
 523 Safe Houses" for the fiscal year immediately preceding the date  
 524 of the report. This section of the report must include whatever  
 525 supporting data is necessary to demonstrate full compliance with  
 526 paragraph (6)(c). The document must present the information by  
 527 district and must specify, at a minimum, the number of  
 528 additional beds, the average rate per bed, the number of



529 additional persons served, and a description of the enhanced and  
 530 expanded services provided.

531 (6) (a) The provisions of this section shall be implemented  
 532 to the extent of available appropriations contained in the  
 533 annual General Appropriations Act for such purpose.

534 (b) Each year, funds included in the General  
 535 Appropriations Act for safe houses and short-term safe houses as  
 536 provided in s. 409.1678 shall be appropriated in a separately  
 537 identified special category that is designated in the act as  
 538 "Special Categories: Grants and Aids-Safe Houses."

539 (c) Each fiscal year, all funding increases for safe  
 540 houses and short-term safe houses as provided in s. 409.1678  
 541 which are included in the General Appropriations Act shall be  
 542 appropriated in a lump-sum appropriation as defined in s.  
 543 216.011. In accordance with s. 216.181(6) (a), the Executive  
 544 Office of the Governor shall require the department to submit a  
 545 spending plan that identifies the safe-house capacity shortage  
 546 throughout the state and proposes a distribution formula by  
 547 district which addresses the reported deficiencies. The spending  
 548 plan must have as its first priority the reduction or  
 549 elimination of any bed shortage identified and must also provide  
 550 for program enhancements to ensure that safe houses and short-  
 551 term safe houses meet a minimum level of expected performance  
 552 and provide for expansion of services for sexually exploited  
 553 children described in s. 409.1678. Annual appropriation  
 554 increases appropriated in the lump-sum appropriation must be  
 555 used in accordance with the provisions of the spending plan.

556        (d) Funds from "Special Categories: Grants and Aids-Safe  
 557 Houses" may be used as one-time startup funding for safe-house  
 558 and short-term safe-house purposes that include, but are not  
 559 limited to, remodeling or renovation of existing facilities,  
 560 construction costs, leasing costs, purchase of equipment and  
 561 furniture, site development, and other necessary and reasonable  
 562 costs associated with the startup of facilities or programs upon  
 563 the recommendation of the lead community-based provider if one  
 564 exists and upon specific approval of the terms and conditions by  
 565 the secretary of the department.

566        Section 8. Subsection (7) of section 322.28, Florida  
 567 Statutes, is amended to read:

568        322.28 Period of suspension or revocation.—

569        (7) Following a second or subsequent violation of s.  
 570 796.07(2) ~~(e)-(f)~~ which involves a motor vehicle and which results  
 571 in any judicial disposition other than acquittal or dismissal,  
 572 in addition to any other sentence imposed, the court shall  
 573 revoke the person's driver's license or driving privilege,  
 574 effective upon the date of the disposition, for a period of not  
 575 less than 1 year. A person sentenced under this subsection may  
 576 request a hearing under s. 322.271.

577        Section 9. Section 409.1678, Florida Statutes, is created  
 578 to read:

579        409.1678 Safe harbor for children who are victims of  
 580 sexual exploitation.—

581        (1) It is the intent of the Legislature to provide safe  
 582 houses and short-term safe houses for sexually exploited  
 583 children to give them a secure residential environment; to allow

584 them to be reintegrated into society as stable and productive  
 585 members; and, if appropriate, to enable them to testify as  
 586 witnesses in criminal proceedings related to their exploitation.  
 587 Such children require a full range of services in addition to  
 588 security, which include medical care, counseling, education, and  
 589 mentoring. These services are to be provided in a secure  
 590 residential setting by a not-for-profit corporation or a local  
 591 government entity under a contract with the department or by a  
 592 lead agency as described in s. 409.1671. These contracts should  
 593 be designed to provide an identified number of children with  
 594 access to a full array of services for a fixed price. Further,  
 595 it is the intent of the Legislature that the department and the  
 596 Department of Juvenile Justice establish an interagency  
 597 agreement by December 1, 2010, which describes respective agency  
 598 responsibilities for referral, placement, service provision, and  
 599 service coordination for dependent and delinquent youth who are  
 600 referred to these residential group care facilities. The  
 601 agreement must require interagency collaboration in the  
 602 development of terms, conditions, and performance outcomes for  
 603 safe-house contracts serving these children who have been  
 604 adjudicated dependent or delinquent.

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

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

612           (b) "Safe house" means a living environment that has set  
 613 aside gender-specific, separate, and distinct living quarters  
 614 for sexually exploited children who have been adjudicated  
 615 dependent or delinquent and need to reside in a secure  
 616 residential facility with 24-hour-awake staff. A safe house  
 617 shall be operated by a licensed family foster home or  
 618 residential child-caring agency as defined in s. 409.175,  
 619 including a runaway youth center as defined in s. 409.441. Each  
 620 facility must be appropriately licensed in this state as a  
 621 residential child-caring agency as defined in s. 409.175 and  
 622 must be accredited by July 1, 2011. A safe house serving  
 623 children who have been sexually exploited must have available  
 624 staff or contract personnel with the clinical expertise,  
 625 credentials, and training to provide services identified in  
 626 paragraph (3)(e).

627           (c) "Sexually exploited child" means a dependent child who  
 628 has suffered sexual abuse as defined in s. 39.01(67)(g) and is  
 629 ineligible for relief and benefits under the federal Trafficking  
 630 Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

631           (d) "Short-term safe house" means a shelter operated by a  
 632 licensed family foster home or residential child-caring agency  
 633 as defined in s. 409.175, including a runaway youth center as  
 634 defined in s. 409.441, that has set aside gender-specific,  
 635 separate, and distinct living quarters for sexually exploited  
 636 children. In addition to shelter, the house shall provide  
 637 services and care to sexually exploited children, including  
 638 food, clothing, medical care, counseling, and appropriate crisis

639 intervention services at the time they are taken into custody by  
 640 law enforcement or the department.

641 (3) (a) Notwithstanding any other provision of law,  
 642 pursuant to regulations of the department, every district of the  
 643 department shall address the child welfare service needs of  
 644 sexually exploited children as a component of the district's  
 645 master plan and, to the extent that funds are available, ensure  
 646 that preventive services, including a short-term safe house to  
 647 serve sexually exploited children, are available to children  
 648 residing in the district. The department or a lead agency that  
 649 has been established in accordance with s. 409.1671 shall  
 650 contract with an appropriate not-for-profit agency with  
 651 experience working with sexually exploited children to operate  
 652 such a short-term safe house. Nothing in this section shall  
 653 prohibit a district from using a homeless youth program or  
 654 services for victims of human trafficking for such purposes so  
 655 long as the staff members have received appropriate training  
 656 approved by the department regarding sexually exploited children  
 657 and the existing programs and facilities provide a safe, secure,  
 658 and appropriate environment for sexually exploited children.  
 659 Crisis intervention services, short-term safe-house care, and  
 660 community programming may, where appropriate, be provided by the  
 661 same not-for-profit agency. Districts may work cooperatively to  
 662 provide such short-term safe-house services and programming, and  
 663 access to such placement, services, and programming may be  
 664 provided on a regional basis, provided that every district  
 665 ensures, to the extent that funds are available, that such

666 placement, services, and programs are readily accessible to  
 667 sexually exploited children residing within the district.

668 (b) The capacity of the crisis intervention services and  
 669 community-based programs in subsection (1) shall be based on the  
 670 number of sexually exploited children in each district who are  
 671 in need of such services. A determination of such need shall be  
 672 made annually in every district by the local administrator of  
 673 the department and be included in the department's master plan.  
 674 This determination shall be made in consultation with local law  
 675 enforcement, runaway and homeless youth program providers, local  
 676 probation departments, local community-based care and social  
 677 services, local guardians ad litem, public defenders, state  
 678 attorney's offices, and child advocates and services providers  
 679 who work directly with sexually exploited youth.

680 (c) The department shall contract with an appropriate not-  
 681 for-profit agency with experience working with sexually  
 682 exploited children to operate at least one safe house in a  
 683 geographically appropriate area of the state, which shall  
 684 provide safe and secure long-term housing and specialized  
 685 services for sexually exploited children throughout the state.  
 686 The appropriateness of the geographic location shall be  
 687 determined taking into account the areas of the state with high  
 688 numbers of sexually exploited children and the need for sexually  
 689 exploited children to find shelter and long-term placement in a  
 690 secure and beneficial environment. The department shall  
 691 determine the need for more than one safe house based on the  
 692 numbers and geographical location of sexually exploited children  
 693 within the state.

694           (d) The department, in accordance with a specific  
 695 appropriation for this program, shall contract with a not-for-  
 696 profit corporation, a local government entity, or a lead agency  
 697 that has been established in accordance with s. 409.1671 for the  
 698 performance of short-term safe-house and safe-house services  
 699 described in this section. A lead agency that is currently  
 700 providing the equivalent of a safe house may provide this  
 701 service directly with the approval of the department. The  
 702 department or a lead agency may contract for more than one  
 703 short-term safe house in a district and more than one safe house  
 704 in the state if that is determined to be the most effective way  
 705 to achieve the goals of this section.

706           (e) The lead agency, the contracted not-for-profit  
 707 corporation, or the local government entity is responsible for  
 708 security, crisis intervention services, general counseling and  
 709 victim-witness counseling, a comprehensive assessment,  
 710 residential care, transportation, access to behavioral health  
 711 services, recreational activities, food, clothing, supplies,  
 712 infant care, and miscellaneous expenses associated with caring  
 713 for these children; for necessary arrangement for or provision  
 714 of educational services, including life skills services and  
 715 planning services to successfully transition residents back to  
 716 the community; and for ensuring necessary and appropriate health  
 717 and dental care.

718           (f) The department may transfer all casework  
 719 responsibilities for children served under this program to the  
 720 entity that provides the safe-house service, including case  
 721 management and development and implementation of a case plan in

722 accordance with current standards for child protection services.  
 723 When the department establishes this program in a community that  
 724 has a lead agency as described in s. 409.1671, the casework  
 725 responsibilities must be transferred to the lead agency.

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

733 (h) The lead agency, not-for-profit corporation, or local  
 734 government entity has the legal authority for children served in  
 735 a safe-house program, as provided in chapter 39 or this chapter,  
 736 as appropriate, to enroll the child in school, to sign for a  
 737 driver's license for the child, to cosign loans and insurance  
 738 for the child, to sign for medical treatment of the child, and  
 739 to authorize other such activities.

740 (i) The department shall provide technical assistance as  
 741 requested and contract management services.

742 (j) The provisions of this section shall be implemented to  
 743 the extent of available appropriations contained in the General  
 744 Appropriations Act for such purpose.

745 (k) The department may adopt rules pursuant to ss.  
 746 120.536(1) and 120.54 to implement the provisions of this  
 747 section conferring duties upon it.

748 (l) All of the services created under this section may, to  
 749 the extent possible provided by law, be available to all



750 sexually exploited children whether they are accessed  
 751 voluntarily, as a condition of probation, through a diversion  
 752 program, through a proceeding under chapter 39, or through a  
 753 referral from a local community based care or social service  
 754 agency.

755 (4) The local district administrator may, to the extent  
 756 that funds are available, in conjunction with local law  
 757 enforcement officials, contract with an appropriate not-for-  
 758 profit agency with experience working with sexually exploited  
 759 children to train law enforcement officials who are likely to  
 760 encounter sexually exploited children in the course of their law  
 761 enforcement duties on the provisions of this section and how to  
 762 identify and obtain appropriate services for sexually exploited  
 763 children. Districts may work cooperatively to provide such  
 764 training, and such training may be provided on a regional basis.  
 765 The department shall assist districts in obtaining any available  
 766 funds for the purposes of conducting law enforcement training  
 767 from the United States Department of Justice, Office of Juvenile  
 768 Justice and Delinquency Prevention.

769 Section 10. Present subsection (2) and (6) of section  
 770 796.07, Florida Statutes, are amended, present subsections (3)  
 771 through (6) are redesignated as subsections (4) through (7),  
 772 respectively, and a new subsection (3) is added to that section,  
 773 to read:

774 796.07 Prohibiting prostitution and related acts, etc.  
 775 evidence; penalties; definitions.-

776 (2) It is unlawful to:

777 (a) ~~To~~ Own, establish, maintain, or operate any place,

778 structure, building, or conveyance for the purpose of lewdness,  
779 assignation, or prostitution.

780 (b) ~~To~~ Offer, or to offer or agree to secure, another for  
781 the purpose of prostitution or for any other lewd or indecent  
782 act.

783 (c) ~~To~~ Receive, or to offer or agree to receive, any  
784 person into any place, structure, building, or conveyance for  
785 the purpose of prostitution, lewdness, or assignation, or to  
786 permit any person to remain there for such purpose.

787 (d) ~~To~~ Direct, take, or transport, or to offer or agree to  
788 direct, take, or transport, any person to any place, structure,  
789 or building, or to any other person, with knowledge or  
790 reasonable cause to believe that the purpose of such directing,  
791 taking, or transporting is prostitution, lewdness, or  
792 assignation.

793 ~~(e) To offer to commit, or to commit, or to engage in,~~  
794 ~~prostitution, lewdness, or assignation.~~

795 ~~(e)(f) To~~ Solicit, induce, entice, or procure another to  
796 commit prostitution, lewdness, or assignation.

797 (f) Use or threaten to use a deadly weapon during the  
798 commission of one of the offenses enumerated in subsection (3).

799 ~~(g) To reside in, enter, or remain in, any place,~~  
800 ~~structure, or building, or to enter or remain in any conveyance,~~  
801 ~~for the purpose of prostitution, lewdness, or assignation.~~

802 ~~(h) To aid, abet, or participate in any of the acts or~~  
803 ~~things enumerated in this subsection.~~

804 ~~(i) To purchase the services of any person engaged in~~  
805 ~~prostitution.~~

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806 (3) It is unlawful for any person 16 years of age or older

807 to:

808 (a) Purchase the services of any person engaged in  
 809 prostitution.

810 (b) Offer to commit, or to commit, or to engage in,  
 811 prostitution, lewdness, or assignation.

812 (c) Reside in, enter, or remain in, any place, structure,  
 813 or building, or to enter or remain in any conveyance, for the  
 814 purpose of prostitution, lewdness, or assignation.

815 (d) Aid, abet, or participate in any of the acts or things  
 816 enumerated in subsection (2) or this subsection.

817 (7)+6) A person who violates paragraph (2) (e)+f) shall be  
 818 assessed a civil penalty of \$500 if the violation results in any  
 819 judicial disposition other than acquittal or dismissal. The  
 820 proceeds from penalties assessed under this subsection shall be  
 821 paid to the circuit court administrator for the sole purpose of  
 822 paying the administrative costs of treatment-based drug court  
 823 programs provided under s. 397.334.

824 Section 11. Paragraph (i) of subsection (1) of section  
 825 985.145, Florida Statutes, is amended to read:

826 985.145 Responsibilities of juvenile probation officer  
 827 during intake; screenings and assessments.-

828 (1) The juvenile probation officer shall serve as the  
 829 primary case manager for the purpose of managing, coordinating,  
 830 and monitoring the services provided to the child. Each program  
 831 administrator within the Department of Children and Family  
 832 Services shall cooperate with the primary case manager in  
 833 carrying out the duties and responsibilities described in this

834 section. In addition to duties specified in other sections and  
 835 through departmental rules, the assigned juvenile probation  
 836 officer shall be responsible for the following:

837 (i) Recommendation concerning a petition.—Upon determining  
 838 that the report, affidavit, or complaint complies with the  
 839 standards of a probable cause affidavit and that the interests  
 840 of the child and the public will be best served, the juvenile  
 841 probation officer may recommend that a delinquency petition not  
 842 be filed. If such a recommendation is made, the juvenile  
 843 probation officer shall advise in writing the person or agency  
 844 making the report, affidavit, or complaint, the victim, if any,  
 845 and the law enforcement agency having investigative jurisdiction  
 846 over the offense of the recommendation; the reasons therefor;  
 847 and that the person or agency may submit, within 10 days after  
 848 the receipt of such notice, the report, affidavit, or complaint  
 849 to the state attorney for special review. In the case of a  
 850 report, affidavit, or complaint alleging a violation of s.  
 851 796.07(3), there is a presumption that the juvenile probation  
 852 officer recommend that a petition not be filed unless the child  
 853 has previously been adjudicated delinquent. The state attorney,  
 854 upon receiving a request for special review, shall consider the  
 855 facts presented by the report, affidavit, or complaint, and by  
 856 the juvenile probation officer who made the recommendation that  
 857 no petition be filed, before making a final decision as to  
 858 whether a petition or information should or should not be filed.

859 Section 12. Paragraph (c) of subsection (1) of section  
 860 985.15, Florida Statutes, is amended to read:

861 985.15 Filing decisions.—

862 (1) The state attorney may in all cases take action  
 863 independent of the action or lack of action of the juvenile  
 864 probation officer and shall determine the action that is in the  
 865 best interest of the public and the child. If the child meets  
 866 the criteria requiring prosecution as an adult under s. 985.556,  
 867 the state attorney shall request the court to transfer and  
 868 certify the child for prosecution as an adult or shall provide  
 869 written reasons to the court for not making such a request. In  
 870 all other cases, the state attorney may:

871 (c) File a petition for delinquency. In the case of a  
 872 report, affidavit, or complaint alleging a violation of s.  
 873 796.07(3), there is a presumption that a petition not be filed  
 874 unless the child has previously been adjudicated delinquent;

875 Section 13. This act shall take effect July 1, 2010.