

Health & Human Services Access Subcommittee

**Wednesday, December 7, 2011
9:00 – 11:30 AM
12 HOB**

**Dean Cannon
Speaker**

**Dennis K. Baxley
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Health & Human Services Access Subcommittee

Start Date and Time: Wednesday, December 07, 2011 09:00 am

End Date and Time: Wednesday, December 07, 2011 11:30 am

Location: 12 HOB

Duration: 2.50 hrs

Consideration of the following bill(s):

HB 99 Sexual Exploitation by Fresen, Nuñez

HB 125 Preventing Deaths from Drug-related Overdoses by Bernard

HB 473 Alzheimer's Disease by Hudson

HB 4037 Standards for Compressed Air by Porter

Pursuant to rule 7.12, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Tuesday, December 6, 2011.

By request of the chair, all committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, December 6, 2011.

NOTICE FINALIZED on 11/30/2011 16:16 by Villar.Melissa

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 99 Sexual Exploitation
SPONSOR(S): Fresen
TIED BILLS: IDEN./SIM. BILLS: SB 202

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee		Batchelor	Schoolfield
2) Civil Justice Subcommittee			
3) Appropriations Committee			
4) Health & Human Services Committee			

SUMMARY ANALYSIS

HB 99 creates the Florida Safe Harbor Act to protect and provide shelter for sexually exploited children. Specifically, the bill makes the following changes:

- The bill makes amendments to definitions relating to abuse and sexual exploitation of children in Chapter 39, F.S. which has the effect of considering a child as dependent by the court (instead of being criminally prosecuted) when they willfully engage in prostitution;
- Requires law enforcement to deliver children picked up and alleged to be sexually exploited to a short-term safe house, if one is available;
- Creates a rebuttable presumption of law that children who have been sexually exploited should be placed in a safe house;
- The bill creates new sections of law related to safe harbor placements which provides process and requirements for services in safe houses;
- Amends the civil penalty for specified violations of prostitution from \$500 to \$5,000 and directs that \$4500 of the civil penalty be paid to the Department of Children and Family Services (DCF) to fund safe houses and short-term safe houses;

The cost associated with this bill is not expected to have a direct fiscal impact on state agencies. However, there could be a fiscal impact on Community Based Care lead agencies, under contract to DCF.

The bill provides an effective date of January 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Safe Harbor Act

In 2008, the state of New York signed the "Safe Harbor for Exploited Youth Act" into law. The act requires local districts to provide crisis intervention services for sexually exploited children and decriminalizes child prostitution, recognizing these children as victims, rather than as criminals. The law is designed to provide counseling, emergency services and long term housing solutions for these children.¹ After the passage of this legislation various programs have become available to young children who have been sexually exploited, including GEMS in New York² and the Paul and Lisa Program in Connecticut.³ Both of these programs have received recognition and grant funding through the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention.⁴

Sexual Exploitation and Prostitution

Chapter 39, Florida Statutes, provides law for dependent children, who are the subject of abuse, neglect or abandonment and addresses sexual exploitation in the definition of "sexual abuse of a child."⁵ In this definition, 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 Chapter 827, F.S. Currently, children who are allowed, encouraged or forced to engage in prostitution may be considered dependent by the courts⁶ and delivered to DCF for shelter and services in or out of their caregiver's home. The definition of abuse from sexual exploitation in Chapter 39, Florida Statutes, does not include children who willfully engage in prostitution.⁷

The prohibition against prostitution is 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.⁸ In addition to the criminal penalties, a civil penalty of \$500 shall be assessed against individuals that solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation.⁹

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.¹⁰ 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.¹¹

¹ Staff Analysis, HB 99 (2012); Department of Children and Family Services. (on file with committee staff).

² <http://www.gems-girls.org/>. (last visited 11/29/2011).

³ <http://www.paulandlisa.org/index.htm>. (last visited 11/29/2011).

⁴ http://www.ojjdp.gov/programs/csec_program.html. (last visited on 11/29/2011).

⁵ s. 39.01(67)(g), F.S.

⁶ s.39.0139, F.S.

⁷ s. 39.01(67)(g), F.S.

⁸ s. 796.07(4), F.S.,

⁹ s. 769.07(6), F.S.

¹⁰ s. 796.045, F.S.

¹¹ *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.¹²

Other young people are recruited into prostitution through forced abduction, pressure from adults, or through deceptive agreements between parents and traffickers.¹³ 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 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.¹⁴

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.¹⁵ The average age at which girls first become victims of prostitution is 12-14; for boys and transgender youth it is 11-13.¹⁶

Services Currently Available for Shelter

The Department of Children and Families (DCF) acknowledges that foster homes, group homes and shelters used in the child welfare system are lacking in services or trained staff to address victims of sexual exploitation. DCF notes that 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.¹⁷

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 DJJ.¹⁸ These shelters are primarily voluntary and a court may order the child to stay in a shelter for a period no longer than 120 days.¹⁹ Even under this longer stay option, only 10 shelters are

¹² 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. (last visited 11/7/11)

¹³ Staff Analysis, HB 99 (2012); 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 11/17/11).

¹⁴ Staff Analysis, HB 99 (2012); 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*

¹⁵ Staff Analysis, HB 99 (2012); 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.

¹⁶ *Id*

¹⁷ Staff Analysis, HB 99 (2012); Department of Children and Family Services. (on file with committee staff).

¹⁸ *Id*

¹⁹ s. 984.226, F.S.

available statewide.²⁰ The CINS program shelters are not available for children who have been adjudicated dependent.²¹

Currently, DCF has identified 69 possible victims of sexual exploitation that are being served within the foster care system. Additionally, DCF has identified 55 children within the last year who have been arrested for prostitution and are currently being served through the Department of Juvenile Justice system.²² The Florida Department of Law Enforcement (FDLE) reports that during 2009, 22 children were arrested under the age of 16 for prostitution pursuant to 796.07(2), F.S.²³

Effect of Proposed Changes

The bill creates the Florida Safe Harbor Act to provide special care and services to all sexually exploited children and to include them in the dependency process. The bill makes significant policy changes related to prostitution by minors in the definition of sexual exploitation and how they are to be addressed by law enforcement and the type of facility in which they are to be served.

Intent Language

The bill creates legislative intent language as it relates to children that are victims of sexual exploitation. The bill recognizes that sexual exploitation is a problem in the state of Florida and nationwide, identifying that many of these children have a history of abuse and neglect and are often a hard population to serve. The legislative intent states that traffickers maintain control of these children through manipulation and force and that although these children are minors and unable to consent to sexual activity they are often treated as perpetrators of a crime, rather than as victims. The intent language adds that these children are victims and should be treated through the dependency process where they can receive needed treatment, counseling and rehabilitative services.

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 to include 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 specifically include 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. This change will include minors who offer to engage in prostitution as a dependent child and allow them to be processed through the dependency court system under chapter 39, F.S., as a victim of abuse instead of being processed through the criminal court. The definition is also amended to include participation in sex trafficking as an act of sexual exploitation of a child.

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 remove discretion for the situation from the law enforcement officer and require them to deliver the minor to a short-term safe house, regardless of whether the child is a repeat offender or voluntarily engaging in prostitution. The apparent effect of this change is that these children are alleged to be dependent and victims of abuse and will not be processed through criminal courts. Further, the bill states that law enforcement will

²⁰ Staff Analysis, HB 99 (2012); Department of Children and Family Services. (on file with committee staff).

²¹ s.984.226(5)(d), F.S.

²² Staff Analysis, HB 99 (2012); Department of Children and Family Services. (on file with committee staff).

²³ s.984.226(5)(d), F.S.

²³ Staff Analysis. HB 99 (2012); Florida Department of Law Enforcement. (on file with committee staff).

deliver the child to a short term safe house, if available. Since short term safe houses and safe houses as defined in this bill are not currently available in Florida, DCF would need to find placement for these children using existing resources.

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 regarding continued 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 of a child from the home. The effect of this change will mandate that the short-term safe house is the only appropriate shelter placement for the child who has been sexually exploited. This removes discretion from the court and DCF to determine alternate shelter placements.

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 the findings by the court during a disposition hearing. Additionally, the bill provides a rebuttable presumption that the court must commit a child who is the 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 to direct a child who is the victim of sexual exploitation to only be placed in a safe house. This removes discretion from the court and DCF through community based care lead agencies (CBC) to determine alternate shelter placements.

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 a safe house is available. The manner in which assessments are conducted is included in this new section of law as well as a requirement that the results of assessments be included in the judicial reviews for dependent children. The bill requires safe houses to establish special permanency teams to address special challenges of this population. It also requires safe houses to report to DCF its success in achieving permanency for those children. DCF will be required to annually report to the Legislature on the placement of children in safe houses. It is unclear how these special permanency teams will coordinate with community based care lead agencies who currently work to achieve permanency for dependent children.

Safe Harbors for Sexually Exploited Children

The bill creates s. 409.1678, F.S., relating to safe harbors for children who are victims of sexual exploitation. The bill creates definitions for:

- “child advocate” Each short-term safe house must employ a child advocate to accompany the child to court, meet with law enforcement and serve as a liaison between the safe house and the court. It is not clear from the bill how this advocate will coordinate with case management staff of community based care lead agencies and the guardian ad litem in their advocacy role with the court.
- “safe house” as a living environment that has set aside gender-specific, separate and distinct living quarters for sexually exploited children who have been adjudicated dependent or delinquent and need to reside in a secure facility with 24-hour-awake staff. The safe house is required to be licensed by DCF as a child-caring agency under s. 409.175, F.S.
- “secure” means that a child is supervised 24 hours a day by staff who are awake while on duty.

- “sexually exploited child” to mean a dependent child who has suffered sexual abuse, as defined in 39.01(67)(g) and is not eligible for federal benefits through the Trafficking Victims Protection Act.²⁴
- “short-term safe house” means a shelter operated by a licensed child-caring agency, includes runaway youth center, gender specific, separate living quarters for sexually exploited children, and provides care and counseling to exploited children.

Also in s. 409.1678, F.S., the bill directs each of the DCF circuits to address the needs of sexually exploited children as a component of a master plan. The bill provides that the lead agency, not-for-profit agency or local government entity that is providing safe house services is responsible for security, counseling, residential care, food, clothing etc for children who are placed there. The lead agency or other service provider has legal authority over the child as provided in Chapter 39 and has authority to utilize resources as needed for the child’s health and education. The bill also provides that the local circuit administrator may contract with local law enforcement, to the extent funds are available, to train officers working with sexually exploited children.

Civil Penalty Related to Prostitution

The bill amends s. 796.07, F.S., amending the civil penalty that may be assessed against violators of specified provisions related to prostitution. Currently, a civil penalty of \$500 must be assessed against a person who violates s. 796.07(2)(f), by soliciting, inducing, enticing, or procuring another to commit prostitution, lewdness, or assignation. The bill increases the civil penalty to \$5,000 and directs that \$4,500 of the penalty be paid to DCF to fund safe houses and short-term safe houses and the remaining \$500 shall be paid to the circuit court administrator. The effect of this change creates a proposed funding source for the safe houses for sexually exploited children. According to information provided by the Clerk of Courts, the collections of the fines by counties are not always certain and collection amounts vary by year.²⁵

Eligibility for Award under Victims Assistance Program

The bill amends s. 960.065, F.S., to allow victims of sexual exploitation to be eligible for compensation (awards), regardless of whether or not the child is willfully engaging in prostitution. The Victims Assistance program is overseen by the Attorney General’s office and provides financial assistance for medical care, lost income, mental health services, funeral expenses and other out-of-pocket expenses directly related to the injury, to persons who are eligible.²⁶

Release or delivery from Custody

The bill amends s. 985.115, F.S., to include short term safe house as an option for the release of a child after they have been taken into custody.

²⁴ 22 USC, ss.7101

²⁵ Email from Randy Long at the Clerk of Courts, received 11/16/2011. (on file with committee staff).

²⁶ <http://myfloridalegal.com/pages.nsf/main/1c7376f380d0704c85256cc6004b8ed3!OpenDocument> (last visited 12/2/2011).

Juvenile Delinquency

The bills amends s. 985.145, F.S. and s. 985.15, F.S., by creating a presumption that juvenile probation officers and the state attorney will not file a petition for delinquency for an act related to prostitution unless the child has been previously adjudicated delinquent.

B. SECTION DIRECTORY:

Section 1: Creates title of Florida Safe Harbor 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: Creates s. 409.1678, F.S., relating to safe harbor for children who are victims of sexual exploitation.

Section 9: Amends s. 796.07, F.S., relating to prohibiting prostitution, etc.; evidence; penalties; definitions.

Section 10: Amends s. 960.065, F.S., relating to eligibility for awards.

Section 11: Amends s. 985.115, F.S., relating to release or delivery from custody.

Section 12: Amends s. 985.145, F.S., relating to responsibilities of juvenile probation officer during intake; screenings and assessments.

Section 13: Amends s. 985.15, F.S., relating to filing decisions.

Section 14: Provides an effective date of January 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The civil penalty related to prostitution for persons who violate s.796.07(2)(f),F.S., is increased from \$500 to \$5000. The \$4500 increase is to be paid to DCF to fund safe houses and short-term safe houses. According to information provided by the Clerk of Courts, the collections of the fines by counties are not always certain and collection amounts vary by year.²⁷ The viability of this revenue source cannot be determined.

²⁷ Email from Randy Long at the Clerk of Courts, received 11/16/2011. (on file with committee staff).

2. Expenditures:
See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The cost associated with this bill is not anticipated to have a direct fiscal impact on state agencies. However, it could have an impact on community based care (CBC) lead agencies (under contract with DCF) when safe houses and short-term safe houses are available. CBC agencies are required to serve all dependent children referred to their agency. Therefore any additional cost would have to be absorbed by current contract funds to the CBC agency. The additional cost to lead agencies when providing services in a safe house or short-term safe house could be as much as \$15,841,000 if safe houses and short-term safe houses were used statewide. However, at the time of this analysis neither of these facilities are available.

Assumptions: It is estimated that residential facilities which are similar to a safe house and short-term safe house may cost \$350 per child per day.²⁸ DCF currently serves 69 children and DJJ serves 55 children for a total of 124 children who may qualify for services under this legislation if it were in force today.²⁹

If a child is adjudicated dependent and is taken to a short term safe house for 30 days and then to a safe house for the remainder of the year, the estimated cost per day per child could be:

- \$350.00 per day for 365 days: \$127,750 per year.
- 124 potential children at \$127,750 per year = \$15,841,000 potential annual cost.
- Adjustment to annual cost for 69 DCF children already being served at an average of \$100 per day³⁰ is \$2,518,500 annually.

Summary:

\$15,841,000 annual cost for 124 children
- \$2,518,500 less average cost to serve 69 DCF children in care now
\$13,322,500 Adjusted cost to serve 124 children now known to the DCF and DJJ system.

²⁸ Staff Analysis, HB 99 (2012); Department of Children and Family Services. (on file with committee staff).

²⁹ *Id.*

³⁰ Email from Barney Ray at the Department of Children and Families; received 12/1/2011. (on file with committee staff).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or 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:

- Lines 217-219 provides that children who are engaging in prostitution willingly will be considered as a sexually exploited and processed through the Dependency court system as opposed to the criminal courts. This could have the effect of decriminalizing prostitution for minors who willingly engage in this act.
- Lines 239-241 and 445-448 provides that a child shall be taken to a safe house or short term safe house, if one is available. This removes discretion from the court or DCF to place a child in other settings other than the safe house when warranted. Since safe houses as described in the bill are not currently available, DCF will need to place children who are adjudicated dependent as a result of this legislation into the current residential options of the child welfare system.
- Lines 500-507 provides for special permanency teams to work with children who are victims of sexual exploitation. It is unclear how these teams will coordinate with community based care lead agencies who currently work to achieve permanency for dependent children.
- Lines 527-532 provides for a definition of "child advocate". It is not clear how this advocate will coordinate with case management staff of community based care lead agencies and the Guardian ad Litem in advocacy efforts.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGE

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

29 master plans; providing duties, responsibilities, and
 30 requirements for safe houses and their operators;
 31 providing for training for law enforcement officials
 32 who are likely to encounter sexually exploited
 33 children; amending s. 796.07, F.S.; providing for an
 34 increased civil penalty for soliciting another to
 35 commit prostitution or related acts; providing for
 36 disposition of proceeds; amending s. 960.065, F.S.;
 37 allowing victim compensation for sexually exploited
 38 children; amending s. 985.115, F.S.; conforming a
 39 provision to changes made by the act; amending ss.
 40 985.145 and 985.15, F.S.; providing a presumption
 41 against filing a delinquency petition for certain
 42 prostitution-related offenses in certain
 43 circumstances; providing an effective date.

44

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

46

47 Section 1. This act may be cited as the "Florida Safe
 48 Harbor Act."

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

54 39.001 Purposes and intent; personnel standards and
 55 screening.—

56 (4) SEXUAL EXPLOITATION SERVICES.—

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

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

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

84 4. To enable such children to be willing and reliable
 85 witnesses in the prosecution of traffickers.

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

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

99 ~~(8)(7)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.—

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

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

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

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

112 efforts.

113 4. Make recommendations pertaining to agreements or
 114 contracts for the establishment and development of:

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

118 b. Training programs for the prevention of child abuse and
 119 neglect.

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

123 d. Efforts to promote adoption.

124 e. Postadoptive services to support adoptive families.

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

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

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

140 c. A summary of the child abuse prevention data collected
 141 and reported to the National Child Abuse and Neglect Data System
 142 (NCANDS) and the federal Administration for Children and
 143 Families.

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

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

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

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

155 (10)~~(9)~~ FUNDING AND SUBSEQUENT PLANS.—

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

168 the state or Federal Government, so long as the portions of the
 169 other state or Federal Government plan that constitute the state
 170 plan for the promotion of adoption, support of adoptive
 171 families, and prevention of child abuse, abandonment, and
 172 neglect are clearly identified as such and are provided to the
 173 Speaker of the House of Representatives and the President of the
 174 Senate as required above.

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

178 39.01 Definitions.—When used in this chapter, unless the
 179 context otherwise requires:

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

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

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

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

195 (c) To have been voluntarily placed with a licensed child-

196 caring agency, a licensed child-placing agency, an adult
 197 relative, the department, or the former Department of Health and
 198 Rehabilitative Services, after which placement, under the
 199 requirements of this chapter, a case plan has expired and the
 200 parent or parents or legal custodians have failed to
 201 substantially comply with the requirements of the plan;

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

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

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

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

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

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

- 220 1. Solicit for or engage in prostitution; ~~or~~
- 221 2. Engage in a sexual performance, as defined by chapter
 222 827; or
- 223 3. Participate in the trade of sex trafficking as provided

224 in s. 796.035.

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

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

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

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

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

249 (3) If the child is taken into custody by, or is delivered
 250 to, an authorized agent of the department, the agent shall
 251 review the facts supporting the removal with an attorney

252 representing the department. The purpose of the review is to
 253 determine whether there is probable cause for the filing of a
 254 shelter petition.

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

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

277 39.402 Placement in a shelter.—

278 (2) A child taken into custody may be placed or continued
 279 in a shelter only if one or more of the criteria in subsection

280 (1) ~~apply~~ ~~applies~~ and the court has made a specific finding of
 281 fact regarding the necessity for removal of the child from the
 282 home and has made a determination that the provision of
 283 appropriate and available services will not eliminate the need
 284 for placement. In the case of a child who is alleged to have
 285 been sexually exploited, there is a rebuttable presumption that
 286 placement in a short-term safe house is necessary.

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

295 (d) At the shelter hearing, in order to continue the child
 296 in shelter care:

297 1. The department must establish probable cause that
 298 reasonable grounds for removal exist and that the provision of
 299 appropriate and available services will not eliminate the need
 300 for placement;

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

305 3.2. The court must determine that additional time is
 306 necessary, which may not exceed 72 hours, in which to obtain and
 307 review documents pertaining to the family in order to

308 | appropriately determine the risk to the child during which time
 309 | the child shall remain in the department's custody, if so
 310 | ordered by the court.

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

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

316 | 2. That placement in shelter care is in the best interest
 317 | of the child.

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

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

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

335 | a. The first contact of the department with the family

336 occurs during an emergency;

337 b. The appraisal of the home situation by the department
 338 indicates that the home situation presents a substantial and
 339 immediate danger to the child's physical, mental, or emotional
 340 health or safety which cannot be mitigated by the provision of
 341 preventive services;

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

347 d. The child has been sexually exploited; or

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

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

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

362 8. That the court notified relatives who are providing
 363 out-of-home care for a child as a result of the shelter petition

364 being granted that they have the right to attend all subsequent
 365 hearings, to submit reports to the court, and to speak to the
 366 court regarding the child, if they so desire.

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

370 39.521 Disposition hearings; powers of disposition.—

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

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

391 1. For the purposes of this paragraph, the term

392 "reasonable effort" means the exercise of reasonable diligence
 393 and care by the department to provide the services ordered by
 394 the court or delineated in the case plan.

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

397 a. Enter written findings as to whether prevention or
 398 reunification efforts were indicated.

399 b. If prevention or reunification efforts were indicated,
 400 include a brief written description of what appropriate and
 401 available prevention and reunification efforts were made.

402 c. Indicate in writing why further efforts could or could
 403 not have prevented or shortened the separation of the parent and
 404 child.

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

407 a. The first contact of the department with the family
 408 occurs during an emergency;

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

413 c. The child cannot safely remain at home, because there
 414 are no preventive services that can ensure the health and safety
 415 of the child or, even with appropriate and available services
 416 being provided, the health and safety of the child cannot be
 417 ensured. There is a rebuttable presumption that any child who
 418 has been found to be a victim of sexual exploitation as defined
 419 in s. 39.01(67)(g) meets the terms of this sub-subparagraph; or

420 d. The parent is alleged to have committed any of the acts
 421 listed as grounds for expedited termination of parental rights
 422 under s. 39.806(1)(f)-(1).

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

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

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

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

448 committed to a safe house as provided for in s. 409.1678. The
 449 term of such commitment continues until terminated by the court
 450 or until the child reaches the age of 18. After the child is
 451 committed to the temporary legal custody of the department, all
 452 further proceedings under this section are governed by this
 453 chapter.

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

471 Section 7. Section 39.524, Florida Statutes, is created to
 472 read:

473 39.524 Safe-harbor placement.-

474 (1) Except as provided in s. 39.407, any dependent child 6
 475 years of age or older who has been found to be a victim of

476 sexual exploitation as defined in s. 39.01(67)(g) must be
 477 assessed for placement in a safe house as provided in s.
 478 409.1678. The assessment shall be conducted by the department or
 479 its agent and shall incorporate and address current and
 480 historical information from any law enforcement reports;
 481 psychological testing or evaluation that has occurred; current
 482 and historical information from the guardian ad litem, if one
 483 has been assigned; current and historical information from any
 484 current therapist, teacher, or other professional who has
 485 knowledge of the child and has worked with the child; and any
 486 other information concerning the availability and suitability of
 487 safe-house placement. If such placement is determined to be
 488 appropriate as a result of this procedure, the child must be
 489 placed in a safe house, if one is available. As used in this
 490 section, the term "available" as it relates to a placement means
 491 a placement that is located within the circuit or that is
 492 otherwise reasonably accessible.

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

500 (3) Any safe house that receives children under this
 501 section shall establish special permanency teams dedicated to
 502 overcoming the special permanency challenges presented by this
 503 population of children. Each facility shall report to the

504 department its success in achieving permanency for children
 505 placed by the department in its care at intervals that allow the
 506 current information to be provided to the court at each judicial
 507 review for the child.

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

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

522 Section 8. Section 409.1678, Florida Statutes, is created
 523 to read:

524 409.1678 Safe harbor for children who are victims of
 525 sexual exploitation.—

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

527 (a) "Child advocate" means an employee of a short-term
 528 safe house who has been trained to work with and advocate for
 529 the needs of sexually exploited children. The advocate shall
 530 accompany the child to all court appearances, meetings with law

531 enforcement, and the state attorney's office and shall serve as
 532 a liaison between the short-term safe house and the court.

533 (b) "Safe house" means a living environment that has set
 534 aside gender-specific, separate, and distinct living quarters
 535 for sexually exploited children who have been adjudicated
 536 dependent or delinquent and need to reside in a secure
 537 residential facility with staff members awake 24 hours a day. A
 538 safe house shall be operated by a licensed family foster home or
 539 residential child-caring agency as defined in s. 409.175,
 540 including a runaway youth center as defined in s. 409.441. Each
 541 facility must be appropriately licensed in this state as a
 542 residential child-caring agency as defined in s. 409.175 and
 543 must be accredited by July 1, 2013. A safe house serving
 544 children who have been sexually exploited must have available
 545 staff or contract personnel with the clinical expertise,
 546 credentials, and training to provide services identified in
 547 paragraph (2) (b).

548 (c) "Secure" means that a child is supervised 24 hours a
 549 day by staff members who are awake while on duty.

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

554 (e) "Short-term safe house" means a shelter operated by a
 555 licensed residential child-caring agency as defined in s.
 556 409.175, including a runaway youth center as defined in s.
 557 409.441, that has set aside gender-specific, separate, and
 558 distinct living quarters for sexually exploited children. In

559 addition to shelter, the house shall provide services and care
 560 to sexually exploited children, including food, clothing,
 561 medical care, counseling, and appropriate crisis intervention
 562 services at the time they are taken into custody by law
 563 enforcement or the department.

564 (2) (a) Notwithstanding any other provision of law,
 565 pursuant to regulations of the department, every circuit of the
 566 department shall address the child welfare service needs of
 567 sexually exploited children as a component of the circuit's
 568 master plan. This determination shall be made in consultation
 569 with local law enforcement, runaway and homeless youth program
 570 providers, local probation departments, local community-based
 571 care and social services, local guardians ad litem, public
 572 defenders, state attorney's offices, and child advocates and
 573 services providers who work directly with sexually exploited
 574 youth.

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

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

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

602 (e) All of the services created under this section may, to
 603 the extent possible provided by law, be available to all
 604 sexually exploited children whether they are accessed
 605 voluntarily, as a condition of probation, through a diversion
 606 program, through a proceeding under chapter 39, or through a
 607 referral from a local community-based care or social service
 608 agency.

609 (3) The local circuit administrator may, to the extent
 610 that funds are available, in conjunction with local law
 611 enforcement officials, contract with an appropriate not-for-
 612 profit agency having experience working with sexually exploited
 613 children to train law enforcement officials who are likely to
 614 encounter sexually exploited children in the course of their law

615 enforcement duties on the provisions of this section and how to
 616 identify and obtain appropriate services for sexually exploited
 617 children. Circuits may work cooperatively to provide such
 618 training, and such training may be provided on a regional basis.
 619 The department shall assist circuits in obtaining any available
 620 funds for the purposes of conducting law enforcement training
 621 from the Office of Juvenile Justice and Delinquency Prevention
 622 of the United States Department of Justice.

623 Section 9. Paragraph (f) of subsection (2) of section
 624 796.07, Florida Statutes, is republished, and subsection (6) of
 625 that section is amended, to read:

626 796.07 Prohibiting prostitution and related acts, ~~etc.,~~
 627 ~~evidence; penalties; definitions.~~-

628 (2) It is unlawful:

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

631 (6) A person who violates paragraph (2)(f) shall be
 632 assessed a civil penalty of \$5,000 ~~\$500~~ if the violation results
 633 in any judicial disposition other than acquittal or dismissal.
 634 Of the proceeds from each penalty ~~penalties~~ assessed under this
 635 subsection, \$500 shall be paid to the circuit court
 636 administrator for the sole purpose of paying the administrative
 637 costs of treatment-based drug court programs provided under s.
 638 397.334 and \$4,500 shall be paid to the Department of Children
 639 and Family Services for the sole purpose of funding safe houses
 640 and short-term safe houses as provided in s. 409.1678.

641 Section 10. Section 960.065, Florida Statutes, is amended
 642 to read:

643 960.065 Eligibility for awards.-

644 (1) Except as provided in subsection (2), the following

645 persons shall be eligible for awards pursuant to this chapter:

646 (a) A victim.

647 (b) An intervenor.

648 (c) A surviving spouse, parent or guardian, sibling, or

649 child of a deceased victim or intervenor.

650 (d) Any other person who is dependent for his or her

651 principal support upon a deceased victim or intervenor.

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

653 (a) Committed or aided in the commission of the crime upon

654 which the claim for compensation was based;

655 (b) Was engaged in an unlawful activity at the time of the

656 crime upon which the claim for compensation is based;

657 (c) Was in custody or confined, regardless of conviction,

658 in a county or municipal detention facility, a state or federal

659 correctional facility, or a juvenile detention or commitment

660 facility at the time of the crime upon which the claim for

661 compensation is based;

662 (d) Has been adjudicated as a habitual felony offender,

663 habitual violent offender, or violent career criminal under s.

664 775.084; or

665 (e) Has been adjudicated guilty of a forcible felony

666 offense as described in s. 776.08,

667

668 is ineligible ~~shall not be eligible~~ for an award.

669 (3) Any claim filed by or on behalf of a person who was in

670 custody or confined, regardless of adjudication, in a county or

671 municipal facility, a state or federal correctional facility, or
 672 a juvenile detention, commitment, or assessment facility at the
 673 time of the crime upon which the claim is based, who has been
 674 adjudicated as a habitual felony offender under s. 775.084, or
 675 who has been adjudicated guilty of a forcible felony offense as
 676 described in s. 776.08, renders the person ineligible ~~shall not~~
 677 ~~be eligible~~ for an award. Notwithstanding the foregoing, upon a
 678 finding by the Crime Victims' Services Office of the existence
 679 of mitigating or special circumstances that would render such a
 680 disqualification unjust, an award may be approved. A decision
 681 that mitigating or special circumstances do not exist in a case
 682 subject to this section does ~~shall~~ not constitute final agency
 683 action subject to review pursuant to ss. 120.569 and 120.57.

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

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

696 Section 11. Paragraph (b) of subsection (2) of section
 697 985.115, Florida Statutes, is amended to read:

698 985.115 Release or delivery from custody.—

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

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

706 Section 12. Paragraph (i) of subsection (1) of section
 707 985.145, Florida Statutes, is amended to read:

708 985.145 Responsibilities of juvenile probation officer
 709 during intake; screenings and assessments.-

710 (1) The juvenile probation officer shall serve as the
 711 primary case manager for the purpose of managing, coordinating,
 712 and monitoring the services provided to the child. Each program
 713 administrator within the Department of Children and Family
 714 Services shall cooperate with the primary case manager in
 715 carrying out the duties and responsibilities described in this
 716 section. In addition to duties specified in other sections and
 717 through departmental rules, the assigned juvenile probation
 718 officer shall be responsible for the following:

719 (i) Recommendation concerning a petition.-Upon determining
 720 that the report, affidavit, or complaint complies with the
 721 standards of a probable cause affidavit and that the interests
 722 of the child and the public will be best served, the juvenile
 723 probation officer may recommend that a delinquency petition not
 724 be filed. If such a recommendation is made, the juvenile
 725 probation officer shall advise in writing the person or agency
 726 making the report, affidavit, or complaint, the victim, if any,

727 and the law enforcement agency having investigative jurisdiction
 728 over the offense of the recommendation; the reasons therefor;
 729 and that the person or agency may submit, within 10 days after
 730 the receipt of such notice, the report, affidavit, or complaint
 731 to the state attorney for special review. In the case of a
 732 report, affidavit, or complaint alleging a violation of s.
 733 796.07(2)(f), there is a presumption that the juvenile probation
 734 officer recommend that a petition not be filed unless the child
 735 has previously been adjudicated delinquent. The state attorney,
 736 upon receiving a request for special review, shall consider the
 737 facts presented by the report, affidavit, or complaint, and by
 738 the juvenile probation officer who made the recommendation that
 739 no petition be filed, before making a final decision as to
 740 whether a petition or information should or should not be filed.

741 Section 13. Paragraph (c) of subsection (1) of section
 742 985.15, Florida Statutes, is amended to read:

743 985.15 Filing decisions.—

744 (1) The state attorney may in all cases take action
 745 independent of the action or lack of action of the juvenile
 746 probation officer and shall determine the action that is in the
 747 best interest of the public and the child. If the child meets
 748 the criteria requiring prosecution as an adult under s. 985.556,
 749 the state attorney shall request the court to transfer and
 750 certify the child for prosecution as an adult or shall provide
 751 written reasons to the court for not making such a request. In
 752 all other cases, the state attorney may:

753 (c) File a petition for delinquency. In the case of a
 754 report, affidavit, or complaint alleging a violation of s.

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755 | 796.07(2)(f), there is a presumption that a petition not be
756 | filed unless the child has previously been adjudicated
757 | delinquent;

758 | Section 14. This act shall take effect January 1, 2013.

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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Health & Human Services
 2 Access Subcommittee
 3 Representative Fresen offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. This act may be cited as the "Florida Safe
 8 Harbor Act."

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

14 39.001 Purposes and intent; personnel standards and
 15 screening.-

16 (4) SEXUAL EXPLOITATION SERVICES.-

17 (a) The Legislature recognizes that child sexual
 18 exploitation is a serious problem nationwide and in this state.
 19 Many of these children have a history of abuse and neglect.

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20 Traffickers maintain control of child victims through
21 psychological manipulation, force, drug addiction, or the
22 exploitation of economic, physical, or emotional vulnerability.
23 Children exploited through the sex trade often find it difficult
24 to trust adults because of their abusive experiences. These
25 children make up a population that is difficult to serve and
26 even more difficult to rehabilitate.

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

- 30 1. To ensure the safety of children.
31 2. To provide for the treatment of such children.
32 3. To sever the bond between exploited children and
33 traffickers and to reunite these children with their families or
34 provide them with appropriate guardians.
35 4. To enable such children to be willing and reliable
36 witnesses in the prosecution of traffickers.

37 (c) The Legislature finds that sexually exploited children
38 need special care and services including counseling, health
39 care, substance abuse treatment, educational opportunities, and
40 a safe environment secure from traffickers.

41 (d) It is the intent of the Legislature that this state
42 provide such care and services to all sexually exploited
43 children in this state who are not otherwise receiving
44 comparable services, such as those under the federal Trafficking
45 Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

46 (8)(7) OFFICE OF ADOPTION AND CHILD PROTECTION.—

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

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48 1. Oversee the preparation and implementation of the state
49 plan established under subsection (9) ~~(8)~~ and revise and update
50 the state plan as necessary.

51 2. Provide for or make available continuing professional
52 education and training in the prevention of child abuse and
53 neglect.

54 3. Work to secure funding in the form of appropriations,
55 gifts, and grants from the state, the Federal Government, and
56 other public and private sources in order to ensure that
57 sufficient funds are available for the promotion of adoption,
58 support of adoptive families, and child abuse prevention
59 efforts.

60 4. Make recommendations pertaining to agreements or
61 contracts for the establishment and development of:

62 a. Programs and services for the promotion of adoption,
63 support of adoptive families, and prevention of child abuse and
64 neglect.

65 b. Training programs for the prevention of child abuse and
66 neglect.

67 c. Multidisciplinary and discipline-specific training
68 programs for professionals with responsibilities affecting
69 children, young adults, and families.

70 d. Efforts to promote adoption.

71 e. Postadoptive services to support adoptive families.

72 5. Monitor, evaluate, and review the development and
73 quality of local and statewide services and programs for the
74 promotion of adoption, support of adoptive families, and
75 prevention of child abuse and neglect and shall publish and
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76 distribute an annual report of its findings on or before January
77 1 of each year to the Governor, the Speaker of the House of
78 Representatives, the President of the Senate, the head of each
79 state agency affected by the report, and the appropriate
80 substantive committees of the Legislature. The report shall
81 include:

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

83 b. A summary of the adoption data collected and reported
84 to the federal Adoption and Foster Care Analysis and Reporting
85 System (AFCARS) and the federal Administration for Children and
86 Families.

87 c. A summary of the child abuse prevention data collected
88 and reported to the National Child Abuse and Neglect Data System
89 (NCANDS) and the federal Administration for Children and
90 Families.

91 d. A summary detailing the timeliness of the adoption
92 process for children adopted from within the child welfare
93 system.

94 e. Recommendations, by state agency, for the further
95 development and improvement of services and programs for the
96 promotion of adoption, support of adoptive families, and
97 prevention of child abuse and neglect.

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

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

102 (10)~~(9)~~ FUNDING AND SUBSEQUENT PLANS.—

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103 (b) The office and the other agencies and organizations
104 listed in paragraph (9)~~(8)~~(a) shall readdress the state plan and
105 make necessary revisions every 5 years, at a minimum. Such
106 revisions shall be submitted to the Speaker of the House of
107 Representatives and the President of the Senate no later than
108 June 30 of each year divisible by 5. At least biennially, the
109 office shall review the state plan and make any necessary
110 revisions based on changing needs and program evaluation
111 results. An annual progress report shall be submitted to update
112 the state plan in the years between the 5-year intervals. In
113 order to avoid duplication of effort, these required plans may
114 be made a part of or merged with other plans required by either
115 the state or Federal Government, so long as the portions of the
116 other state or Federal Government plan that constitute the state
117 plan for the promotion of adoption, support of adoptive
118 families, and prevention of child abuse, abandonment, and
119 neglect are clearly identified as such and are provided to the
120 Speaker of the House of Representatives and the President of the
121 Senate as required above.

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

125 39.01 Definitions.—When used in this chapter, unless the
126 context otherwise requires:

127 (2) "Abuse" means any willful act or threatened act that
128 results in any physical, mental, or sexual abuse, injury, or
129 harm that causes or is likely to cause the child's physical,
130 mental, or emotional health to be significantly impaired. Abuse

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131 of a child includes acts or omissions. Corporal discipline of a
132 child by a parent or legal custodian for disciplinary purposes
133 does not in itself constitute abuse when it does not result in
134 harm to the child.

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

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

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

142 (c) To have been voluntarily placed with a licensed child-
143 caring agency, a licensed child-placing agency, an adult
144 relative, the department, or the former Department of Health and
145 Rehabilitative Services, after which placement, under the
146 requirements of this chapter, a case plan has expired and the
147 parent or parents or legal custodians have failed to
148 substantially comply with the requirements of the plan;

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

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

155 (f) To be at substantial risk of imminent abuse,
156 abandonment, or neglect by the parent or parents or legal
157 custodians; or

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158 (g) To have been sexually exploited and to have no parent,
159 legal custodian, or responsible adult relative currently known
160 and capable of providing the necessary and appropriate
161 supervision and care.

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

164 (g) The sexual exploitation of a child, which includes
165 allowing, encouraging, or forcing a child to:

- 166 1. Solicit for or engage in prostitution; or
- 167 2. Engage in a sexual performance, as defined by chapter
168 827; or
- 169 3. Participate in the trade of sex trafficking as provided
170 in s. 796.035.

171 Section 4. Subsection (2) of section 39.402, Florida
172 Statutes, are amended to read:

173 39.402 Placement in a shelter.-

174 (2) A child taken into custody may be placed or continued
175 in a shelter only if one or more of the criteria in subsection
176 (1) apply ~~applies~~ and the court has made a specific finding of
177 fact regarding the necessity for removal of the child from the
178 home and has made a determination that the provision of
179 appropriate and available services will not eliminate the need
180 for placement. In the case of a child who has been sexually
181 exploited the child shall be placed in a shelter, which offers
182 treatment for sexually exploited children.

183 Section 5. Paragraph (d) of subsection (3) of section
184 39.521, Florida Statutes is amended to read:

185 39.521 Disposition hearings; powers of disposition.-
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186 (3) When any child is adjudicated by a court to be
187 dependent, the court shall determine the appropriate placement
188 for the child as follows:

189 (d) If the child cannot safely be placed in a nonlicensed
190 placement, the court shall commit the child to temporary legal
191 custody of the department. Such commitment invests in the
192 department all rights and responsibilities of a legal custodian.
193 The department shall not return a child to the physical care and
194 custody of the person from whom the child was removed, except
195 for court-approved visitation periods, without the approval of
196 the court. Any order for visitation or other contact must
197 conform to the provisions of s. 39.0139. In the case of a child
198 who is alleged to have been sexually exploited the child shall
199 be placed in a facility, which offers treatment for sexually
200 exploited children. The term of such commitment continues until
201 terminated by the court or until the child reaches the age of
202 18. After the child is committed to the temporary legal custody
203 of the department, all further proceedings under this section
204 are governed by this chapter.

205 Section 6. Section 39.524, Florida Statutes, is created to
206 read:

207 39.524 Placement of sexually exploited children.—

208 (1) Except as provided in s. 39.407, any dependent child 6
209 years of age or older who has been found to be a victim of
210 sexual exploitation as defined in s. 39.01(67)(g) must be
211 assessed for placement in a facility which is appropriate to
212 serve sexually exploited children. The assessment shall be
213 conducted by the department or its agent and shall incorporate
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214 and address current and historical information from any law
215 enforcement reports; psychological testing or evaluation that
216 has occurred; current and historical information from the
217 guardian ad litem, if one has been assigned; current and
218 historical information from any current therapist, teacher, or
219 other professional who has knowledge of the child and has worked
220 with the child; and any other information concerning the
221 availability and suitability of appropriate placement. (2) The
222 results of the assessment described in subsection (1) and the
223 actions taken as a result of the assessment must be included in
224 the next judicial review of the child. At each subsequent
225 judicial review, the court must be advised in writing of the
226 status of the child's placement, with special reference
227 regarding the stability of the placement and the permanency
228 planning for the child.

229 (3) Each facility shall report to the department its
230 success in achieving permanency for children who have been
231 sexually exploited and placed by the department at intervals
232 that allow the current information to be provided to the court
233 at each judicial review for the child.

234 (4) (a) The department shall address the child welfare
235 service needs of sexually exploited children as a component of
236 the department's master plan. This determination shall be made
237 in consultation with local law enforcement, runaway and homeless
238 youth program providers, local probation departments, lead
239 agencies and sub contract providers, local guardians ad litem,
240 public defenders, state attorney's offices, and child advocates

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241 and service providers who work directly with sexually exploited
242 youth.

243 (b) The department shall develop guidelines for serving
244 children who have been sexually exploited, and shall produce a
245 report to the President of the Senate and the Speaker of the
246 House of Representatives detailing the departments plan by June
247 1, 2013. At a minimum the plan must include:

248 1. Assessment of Need - the department shall estimate the
249 number of children who have been sexually exploited that are in
250 need of services currently and over the next 5 years.

251 2. Residential Services - the department shall consider all
252 options for treating children who have been sexually exploited
253 and provide recommendations on the best options of care for
254 these children and reunification with the child's family, if
255 appropriate.

256 3. Services - the department shall recommend specific
257 service needs, including but not limited to, assessment,
258 security, crisis and behavioral health services that are needed
259 for children who have been sexually exploited.

260 4. Coordination - the department shall consider and
261 recommend partnership opportunities with law enforcement and
262 other state and local government entities to best serve children
263 who have been sexually exploited.

264 (c) The department may, to the extent that funds are
265 available, in conjunction with local law enforcement officials,
266 contract with an appropriate not-for-profit agency having
267 experience working with sexually exploited children to train law
268 enforcement officials who are likely to encounter sexually

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269 exploited children in the course of their law enforcement duties
270 on the provisions of this section and how to identify and obtain
271 appropriate services for sexually exploited children

272 (5) By December 1 of each year, the department shall
273 report to the Legislature on the placement of children in
274 facilities that provide treatment for sexually exploited
275 children during the year, including the criteria used to
276 determine the placement of children, the number of children who
277 were evaluated for placement, the number of children who were
278 placed based upon the evaluation, and the number of children who
279 were not placed.

280 Section 7. Section 409.1678, Florida Statutes, is created
281 to read:

282 409.1678 Safe house services for children who are victims
283 of sexual exploitation.—

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

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

291 (b) "Safe house" means a living environment that has set
292 aside gender-specific, separate, and distinct living quarters
293 for sexually exploited children who have been adjudicated
294 dependent or delinquent and need to reside in a secure
295 residential facility with staff members awake 24 hours a day. A
296 safe house shall be operated by a licensed family foster home or

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297 residential child-caring agency as defined in s. 409.175,
298 including a runaway youth center as defined in s. 409.441. Each
299 facility must be appropriately licensed in this state as a
300 residential child-caring agency as defined in s. 409.175 and
301 must be accredited by July 1, 2013. A safe house serving
302 children who have been sexually exploited must have available
303 staff or contract personnel with the clinical expertise,
304 credentials, and training to provide services identified in
305 paragraph (2)(a).

306 (c) "Secure" means that a child is supervised 24 hours a
307 day by staff members who are awake while on duty.

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

312 (e) "Short-term safe house" means a shelter operated by a
313 licensed residential child-caring agency as defined in s.
314 409.175, including a runaway youth center as defined in s.
315 409.441, that has set aside gender-specific, separate, and
316 distinct living quarters for sexually exploited children. In
317 addition to shelter, the house shall provide services and care
318 to sexually exploited children, including food, clothing,
319 medical care, counseling, and appropriate crisis intervention
320 services at the time they are taken into custody by law
321 enforcement or the department.

322 (2)(a) The lead agency, not-for-profit agency, or local
323 government entity providing safe-house services is responsible
324 for security, crisis intervention services, general counseling

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325 and victim-witness counseling, a comprehensive assessment,
326 residential care, transportation, access to behavioral health
327 services, recreational activities, food, clothing, supplies,
328 infant care, and miscellaneous expenses associated with caring
329 for these children; for necessary arrangement for or provision
330 of educational services, including life skills services and
331 planning services to successfully transition residents back to
332 the community; and for ensuring necessary and appropriate health
333 and dental care.

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

341 (c) The lead agency, not-for-profit agency, or local
342 government entity providing safe-house services has the legal
343 authority for children served in a safe-house program, as
344 provided in chapter 39 or this chapter, as appropriate, to
345 enroll the child in school, to sign for a driver's license for
346 the child, to cosign loans and insurance for the child, to sign
347 for medical treatment of the child, and to authorize other such
348 activities.

349 Section 8. Paragraphs (e) and (j) of subsection (2) of
350 section 409.175, Florida Statutes, are amended to read:

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351 409.175 Licensure of family foster homes, residential
352 child-caring agencies, and child-placing agencies; public
353 records exemption.—

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

355 (e) "Family foster home" means a private residence in which
356 children who are unattended by a parent or legal guardian are
357 provided 24-hour care. Such homes include emergency shelter
358 family homes, safe houses, and specialized foster homes for
359 children with special needs. A person who cares for a child of a
360 friend for a period not to exceed 90 days, a relative who cares
361 for a child and does not receive reimbursement for such care
362 from the state or federal government, or an adoptive home which
363 has been approved by the department or by a licensed child-
364 placing agency for children placed for adoption is not
365 considered a family foster home.

366 (j) "Residential child-caring agency" means any person,
367 corporation, or agency, public or private, other than the
368 child's parent or legal guardian, that provides staffed 24-hour
369 care for children in facilities maintained for that purpose,
370 regardless of whether operated for profit or whether a fee is
371 charged. Such residential child-caring agencies include, but are
372 not limited to, maternity homes, runaway shelters, group homes
373 that are administered by an agency, emergency shelters that are
374 not in private residences, short-term safe houses, safe houses,
375 and wilderness camps. Residential child-caring agencies do not
376 include hospitals, boarding schools, summer or recreation camps,
377 nursing homes, or facilities operated by a governmental agency
378 for the training, treatment, or secure care of delinquent youth,

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379 or facilities licensed under s. 393.067 or s. 394.875 or chapter
380 397.

381 Section 9. Paragraph (f) of subsection (2) of section
382 796.07, Florida Statutes, is republished, and subsection (6) of
383 that section is amended, to read:

384 796.07 Prohibiting prostitution and related acts, etc.;
385 ~~evidence; penalties; definitions.-~~

386 (2) It is unlawful:

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

389 (6) A person who violates paragraph (2)(f) shall be
390 assessed a civil penalty of \$5,000 ~~\$500~~ if the violation results
391 in any judicial disposition other than acquittal or dismissal.
392 Of the proceeds from each penalty ~~penalties~~ assessed under this
393 subsection, \$500 shall be paid to the circuit court
394 administrator for the sole purpose of paying the administrative
395 costs of treatment-based drug court programs provided under s.
396 397.334 and \$4,500 shall be paid to the Department of Children
397 and Family Services for the sole purpose of funding services for
398 sexually exploited children.

399 Section 10. Section 960.065, Florida Statutes, is amended
400 to read:

401 960.065 Eligibility for awards.-

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

404 (a) A victim.

405 (b) An intervenor.

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406 (c) A surviving spouse, parent or guardian, sibling, or
407 child of a deceased victim or intervenor.

408 (d) Any other person who is dependent for his or her
409 principal support upon a deceased victim or intervenor.

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

411 (a) Committed or aided in the commission of the crime upon
412 which the claim for compensation was based;

413 (b) Was engaged in an unlawful activity at the time of the
414 crime upon which the claim for compensation is based;

415 (c) Was in custody or confined, regardless of conviction,
416 in a county or municipal detention facility, a state or federal
417 correctional facility, or a juvenile detention or commitment
418 facility at the time of the crime upon which the claim for
419 compensation is based;

420 (d) Has been adjudicated as a habitual felony offender,
421 habitual violent offender, or violent career criminal under s.
422 775.084; or

423 (e) Has been adjudicated guilty of a forcible felony
424 offense as described in s. 776.08, is ineligible ~~shall not be~~
425 ~~eligible~~ for an award.

426 (3) Any claim filed by or on behalf of a person who was in
427 custody or confined, regardless of adjudication, in a county or
428 municipal facility, a state or federal correctional facility, or
429 a juvenile detention, commitment, or assessment facility at the
430 time of the crime upon which the claim is based, who has been
431 adjudicated as a habitual felony offender under s. 775.084, or
432 who has been adjudicated guilty of a forcible felony offense as
433 described in s. 776.08, renders the person ineligible ~~shall not~~

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434 ~~be eligible~~ for an award. Notwithstanding the foregoing, upon a
435 finding by the Crime Victims' Services Office of the existence
436 of mitigating or special circumstances that would render such a
437 disqualification unjust, an award may be approved. A decision
438 that mitigating or special circumstances do not exist in a case
439 subject to this section does ~~shall~~ not constitute final agency
440 action subject to review pursuant to ss. 120.569 and 120.57.

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

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

453 Section 11. This act shall take effect January 1, 2013.
454
455
456

457 -----
458 **T I T L E A M E N D M E N T**

459 Remove the entire title and insert:

460 A bill to be entitled

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 99 (2012)

Amendment No. 1

461 An act relating to sexual exploitation; providing a short title;
462 amending s. 39.001, F.S.; providing legislative intent and
463 goals; conforming cross-references; amending s. 39.01, F.S.;
464 revising the definitions of the terms "abuse," "child who is
465 found to be dependent," and "sexual abuse of a child"; amending
466 s. 39.402, F.S.; providing that a child who has been sexually
467 exploited shall be placed in a shelter which offers treatment;
468 amending s. 39.521, F.S.; providing that a child who has been
469 sexually exploited shall be placed in a facility which offers
470 treatment; creating s. 39.524, F.S.; requiring assessment of
471 certain children for placement in a facility that treats
472 sexually exploited children; providing for use of such
473 assessments; requiring the Department of Children and Family
474 Services to address child welfare service needs of sexually
475 exploited children as a component of their master plans;
476 requiring the Department of Children and Family Services to
477 develop guidelines for treating sexually exploited children;
478 requiring a report that details those guidelines to be submitted
479 to the legislature; requiring an annual report concerning
480 placements of sexually exploited children; creating s. 409.1678,
481 F.S.; providing definitions; providing duties, responsibilities,
482 and requirements for safe houses and their operators; amending
483 s. 409.175, F.S.; revising the definitions of the terms "family
484 foster home" and "residential child-caring agency"; amending s.
485 796.07, F.S.; providing for an increased civil penalty for
486 soliciting another to commit prostitution or related acts;
487 providing for disposition of proceeds; amending s. 960.065,

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 99 (2012)

Amendment No. 1

488 F.S.; allowing victim compensation for sexually exploited
489 children; providing an effective date.

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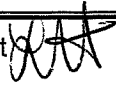

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HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4037 Standards for Compressed Air

SPONSOR(S): Porter

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee		Holt 	Schoolfield 
2) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill repeals section 381.895, F.S., which requires the Department of Health (“DOH”) to set standards for compressed air, requires rule-making, requires testing of compressed air by providers, and reporting of test results to DOH. Florida is the only state that has a law governing the regulation of compressed air standards in recreational sport diving.

According to professional dive organizations, repealing this provision in Florida will not have an impact on the quality of compressed air. Currently, dive organizations are required to monitor air quality to maintain certification or membership in recreational dive associations. These private associations also require consumers to have their tanks inspected before receiving compressed air refills.

Repealing this provision will not affect the funding to any existing programs.

The bill appears to have no fiscal impact on state or local government.

The bill takes effect July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill repeals section 381.895, F.S., which requires the Department of Health (“DOH”) to set standards for compressed air, requires rule-making, requires testing of compressed air by providers, and reporting of test results to the department. Repealing this provision will not affect the funding to any existing programs.

Current Situation

In 1999, section 381.895, F.S., was enacted and requires DOH to establish by rule the maximum allowable levels for contaminants in compressed air used for recreational sport diving.¹ These standards must take into consideration the levels of contaminants allowed by the Grade “E” Recreational Diving Standards of the Compressed Gas Association.²

Moreover, section 381.895(3), F.S., requires any compressed air provider receiving compensation for providing compressed air for recreational sport diving to have the air tested quarterly by specified accredited laboratories.³ In addition, the compressed air provider must provide DOH a copy of the quarterly test result and DOH is required to maintain a record of all results.⁴ The compressed air provider must post a certificate certifying that the compressed air meets the standards for contaminate levels.⁵ The certificate must be posted in a conspicuous location where it can readily be seen by any person purchasing air.⁶

It is a second degree misdemeanor⁷ if:

- A compressed air provider does not receive a valid certificate that certifies that the compressed air meets the standards for contaminate levels established by DOH; and
- The certificate is not posted in a conspicuous location.⁸

The following entities are exempt from these requirements:

- Individuals who provide compressed air for their own use;
- Any governmental entity that owns its own compressed air source, which is used for work related to the governmental entity; or
- Any foreign registered vessel that uses a compressor to compress air for its own work-related purposes.⁹

Since enactment, the provision has been amended once to delete the January 1, 2000 implementation date.¹⁰ Florida is the only state that has a law governing the regulation of compressed air standards in recreational diving.¹¹

Currently, DOH maintains a database that contains thirteen years of test results from approximately 250 compressed air providers located throughout the state.¹² According to DOH, since 1999 none of

¹ This includes any compressed air that may be provided as part of a dive package of equipment rental, or dive boat charter.

² Section 381.895(1), F.S.

³ The laboratory must be accredited by either the American Industrial Hygiene Association or the American Association for Laboratory Accreditation

⁴ Section 381.895(3),(4), F.S.

⁵ Section 381.895(3), F.S.

⁶ *Id.*

⁷ A person who has been convicted of a second degree misdemeanor may be sentenced for a definite term of imprisonment not exceeding 60 days and a fine of up to \$500. See ss. 775.082(4) and 775.083(1), F.S.

⁸ Section 381.895(5), F.S.

⁹ Section 381.895(2), F.S.

¹⁰ Chapter 2002-1, L.O.F.

¹¹ Westlaw search for state statutory provisions requiring compressed air standards for recreational diving.

¹² Per email correspondence with DOH staff on file with the Health & Human Services Access Subcommittee staff (October 21, 2011).

the submitted reports¹³ show any evidence of contamination.¹⁴ Additionally, there have been no reports of injury, illness, or death associated with contaminated compressed air.¹⁵

DOH recommended repeal of section 381.895, F.S., in its 2008 legislative package. When the provision was enacted, DOH did not receive an appropriation to support the database, enforcement, or rule promulgation.

The dive industry considers it a self-regulating body¹⁶ and has mechanisms in place to ensure customers have quality compressed air.¹⁷ According to professional organizations in the field, repealing this provision in Florida will not have an impact on current business practices. Currently, dive shops are required to monitor air quality to maintain certification or membership in worldwide recreational dive associations. Consumers will still be required to have their tanks inspected by dive shops or instructors, as this is an industry-mandated requirement.¹⁸

There are three major organizations that engage in recreational diving training and certification: Professional Association of Diving Instructors (PADI), National Association of Underwater Instructors (NAUI), and Scuba Schools International (SSI).¹⁹ According to NAUI, these three organizations represent 90 percent of the recreational diving market for training certification and professional association memberships worldwide. Many recreational dive operations hold certifications and/or memberships with all three organizations. This practice tends to make them more marketable to consumers who are seeking certain types of dive certifications.²⁰

According to the Professional Association of Diving Instructors (PADI)²¹, members of their organization are required to constantly maintain Compressed Gas Association, Grade "E" Recreational Diving Compressed Air Standards. If a member does not meet these standards their membership is revoked. PADI posts a list of all expelled members online.²² According to PADI, many dive operations are starting to utilize a constant air quality monitoring devices, which self-monitor compressed air quality and just need to be calibrated every 90 days.²³

The National Association of Underwater Instructors (NAUI)²⁴, requires certified businesses to provide medical grade compressed air, which NAUI considers a community standard. Dive operations that receive certification from NAUI are required to have their air checked and tested by an accredited nationally recognized lab every two years and the test results must be posted and available for consumers to view. According to NAUI, they have sales representatives that interact with dive shop owners multiple times a year. When NAUI salesmen are on site they are required to check compliance with NAUI policies. If a dive operator is not in compliance it will lose their NAUI certification. NAUI posts a list of all suspended and revoked certifications online.²⁵

¹³ As of November 3, 2011, the DOH has received approximately a total of 3,395 reports.

¹⁴ Department of Health, Bill Analysis, Economic Statement and Fiscal Note of House Bill 4037 (October 10, 2011).

¹⁵ *Id.*

¹⁶ "PADI has worked very hard over the years to keep the scuba diving industry as free from legislation as possible." See Professional Association of Diving Instructors, History of PADI, available at: <http://www.padi.com/scuba/about-padi/PADI-history/default.aspx> (last viewed October 21, 2011).

¹⁷ Department of Health, Bill Analysis, Economic Statement and Fiscal Note of House Bill 4037 (October 10, 2011); telephone conversation with staff with the Professional Association of Diving Instructors and the National Association of Underwater Instructors (October 21, 2011).

¹⁸ Per telephone conversation with staff with the Professional Association of Diving Instructors and the National Association of Underwater Instructors (October 21, 2011).

¹⁹ *Id.*

²⁰ *Id.*

²¹ PADI represents approximately 125 dive operations located throughout Florida.

²² Professional Association of Diving Instructors, Quality Management: Consumer Alerts, available at: <http://www.padi.com/scuba/about-padi/quality-management/consumer-alerts/default.aspx> (last viewed October 21, 2011).

²³ Per email correspondence with Professional Association of Diving Instructors staff on file with Health & Human Services Access Subcommittee staff (October 21, 2011).

²⁴ NAUI represents approximately 120 dive operations located throughout Florida.

²⁵ National Association of Underwater Instructors Worldwide, Quality and Ethics: Revoked and Suspended Memberships, available at: http://www.naui.org/quality_assurance.aspx (last viewed October 21, 2011).

Effects of the Bill

The bill repeals section 381.895, F.S., which requires DOH to set standards for compressed air, requires rule-making, requires testing of compressed air by providers, and reporting of test results to DOH. Repealing this provision will not affect funding to any existing programs.

B. SECTION DIRECTORY:

Section 1. Repeals s. 381.895, F.S., relating to standards for compressed air used for recreational diving.

Section 2. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Not applicable.

2. Expenditures:

Not applicable.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Not applicable.

2. Expenditures:

Not applicable.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Compressed air providers submit quarterly test results to DOH by various methods. Some providers have authorized the lab to send the results directly to DOH while others utilize fax or mail. As a result, compressed air providers may save on the cost of postage for mailing test results to DOH.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No rule-making authority required to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 4037

2012

1 A bill to be entitled
2 An act relating to standards for compressed air;
3 repealing s. 381.895, F.S., relating to standards for
4 compressed air used for recreational diving; providing
5 an effective date.

6

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

8

9 Section 1. Section 381.895, Florida Statutes, is repealed.

10 Section 2. This act shall take effect July 1, 2012.

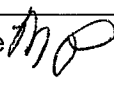

11

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 125 Preventing Deaths from Drug-related Overdoses

SPONSOR(S): Bernard and others

TIED BILLS: None IDEN./SIM. BILLS: SB 278

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Krol	Cunningham
2) Health & Human Services Access Subcommittee		Poche 	Schoolfield 
3) Judiciary Committee			

SUMMARY ANALYSIS

Florida law contains a number of provisions that provide immunity from civil liability to persons in specified instances. Florida law also contains various provisions that allow criminal defendants to have their sentences reduced or suspended in certain instances.

The bill creates s. 893.21, F.S., entitled the "911 Good Samaritan Act," and provides that:

- A person making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the person's seeking medical assistance.
- A person who experiences a drug-related overdose and is in need of medical assistance may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the overdose and the need for medical assistance.

The bill states that the above-described protection from prosecution for possession offenses may not be grounds for suppression of evidence in other criminal prosecutions.

The bill also adds the following to the list of mitigating circumstances a judge may consider when departing from the lowest permissible sentence:

- The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.

The bill does not appear to have a fiscal impact and is effective on October 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida law currently contains a number of provisions that provide immunity from civil liability to persons in specified instances. Florida law also contains various provisions that allow a criminal defendant to have his or her sentence reduced or suspended in certain instances. A description of these provisions follows.

Florida Good Samaritan Laws

The Good Samaritan Act, found in s. 768.13, F.S., provides immunity from civil liability for those who render emergency care and treatment to individuals in need of assistance. The statute provides immunity from liability for civil damages to any person who:

- Gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations or at the scene of an emergency, without objection of the injured victim, if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.¹
- Participates in emergency response activities of a community emergency response team if that person acts prudently and within scope of his or her training.²
- Gratuitously and in good faith renders emergency care or treatment to an injured animal at the scene of an emergency if that person acts as an ordinary reasonably prudent person would have acted under the same or similar circumstances.³

Section 768.1325, F.S., provides that a person is immune from civil liability for any harm resulting from the use or attempted use of an automated external defibrillator device on a victim of a perceived medical emergency, without objection of the victim.

Section 768.1355, F.S., entitled the Florida Volunteer Protection Act, provides that any person who volunteers to perform any service for any nonprofit organization without compensation will incur no civil liability for any act or omission that results in personal injury or property damage if:

- The person was acting in good faith within the scope of any official duties performed under the volunteer service and the person was acting as an ordinary reasonably prudent person would have acted under the same or similar circumstances; and
- The injury or damage was not caused by any wanton or willful misconduct on the part of the person in the performance of the duties.

Reduction or Suspension of Criminal Sentence

Section 921.186, F.S., allows the state attorney to move the sentencing court to reduce or suspend the sentence of a person convicted of a felony who provides substantial assistance in the identification, arrest, or conviction of any accomplice, accessory, coconspirator, or principal of the defendant; or any other person engaged in felonious criminal activity.

¹ Section 768.13(2)(a), F.S.

² Section 768.13(2)(d), F.S.

³ Section 768.13(3), F.S.

Mitigating Circumstances

The Criminal Punishment Code applies to sentencing for felony offenses committed on or after October 1, 1998. Criminal offenses are ranked in the “offense severity ranking chart”⁴ from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense as determined by the Legislature. If an offense is not listed in the ranking chart, it defaults to a ranking based on the degree of the felony.⁵

The points are added in order to determine the “lowest permissible sentence” for the offense. A judge cannot impose a sentence below the lowest permissible sentence unless the judge makes written findings that there are “circumstances or factors that reasonably justify the downward departure.”⁶ Mitigating circumstances under which a departure from the lowest permissible sentence is reasonably justified include:

- The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.
- The defendant acted under extreme duress or under the domination of another person.
- The defendant cooperated with the state to resolve the current offense or any other offense.⁷

Currently, there are no mitigating circumstances related to defendants who make a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.

Possession of a Controlled Substance

Chapter 893, F.S., entitled the Florida Comprehensive Drug Abuse Prevention and Control Act, makes it a crime for a person to possess⁸ a controlled substance.⁹ The severity of the crime depends on the type and quantity of the controlled substance possessed. For example:

- Actual or constructive possession of a controlled substance, unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice, is a third degree felony punishable¹⁰ by up to 5 years in prison and a fine up to \$5,000.¹¹
- Possession of less than 20 grams of cannabis¹² is a first degree misdemeanor punishable¹³ by up to 1 year in prison and a fine up to \$1,000.¹⁴
- Possession of more than 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), F.S., or any combination thereof, or any mixture containing any such substance is a first degree felony punishable¹⁵ by up to 30 years in prison and a fine up to \$10,000.¹⁶

⁴ Section 921.0022, F.S.

⁵ Section 921.0024, F.S., provides that a defendant’s sentence is calculated based on points assigned for factors including: the offense for which the defendant is being sentenced; injury to the victim; additional offenses that the defendant committed at the time of the primary offense; the defendant’s prior record; and other aggravating factors.

⁶ Section 921.0026, F.S.

⁷ *Id.*

⁸ Section 893.02(18), F.S., states that possession “includes temporary possession for the purpose of verification or testing, irrespective of dominion or control.”

⁹ Section 893.02(4), F.S., defines “controlled substance” as “any substance named or described in Schedules I-V of s. 893.03, F.S.”

¹⁰ As provided in ss. 775.082 and 775.083, F.S.

¹¹ Section 893.13(6)(a), F.S.

¹² For the purposes of s. 893.13(6)(b), F.S., “cannabis” is defined as “all parts of any plant of the genus *Cannabis*, whether growing or not, and the seeds thereof.”

¹³ As provided in ss. 775.082 and 775.083, F.S.

¹⁴ Section 893.13(6)(b), F.S.

¹⁵ As provided in ss. 775.082 and 775.083, F.S.

¹⁶ Section 893.13(6)(c), F.S.

911 Good Samaritan Laws in Other States

In 2007, New Mexico enacted the 911 Good Samaritan Act, which prevents prosecution for drug possession based on evidence “gained as a result of the seeking of medical assistance” to treat a drug overdose.¹⁷ This law was the first of its kind in the country.¹⁸

While many states have considered similar Good Samaritan immunity legislation, Alaska, Connecticut, New York, and Washington are the only other states to have passed such a law.¹⁹

Effect of the Bill

The bill is cited as the “911 Good Samaritan Act” and contains the following “whereas clauses”:

- Whereas, some research suggests that in a majority of cases of fatal drug overdose another person was aware of or present during the decedent’s fatal drug use and that in one third of the cases someone recognized the decedent’s distress,
- Whereas, many people cite fear of police involvement or fear of arrest as their primary reason for not seeking immediate help for a person thought to be experiencing a drug overdose, and
- Whereas, it is in the public interest to encourage a person who is aware of or present during another individual’s drug overdose to seek medical assistance for that individual.

The bill provides that a person who in good faith seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the person’s seeking medical assistance.

The bill also provides that a person who experiences a drug-related overdose and is in need of medical assistance may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the overdose and the need for medical assistance.

The bill states that the above-described protection from prosecution for possession offenses may not be grounds for suppression of evidence in other criminal prosecutions.

The bill also adds the following to the list of mitigating circumstances a judge may consider when departing from the lowest permissible sentence:

- The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.

B. SECTION DIRECTORY:

Section 1: Provides this act may be cited as the “911 Good Samaritan Act.”

Section 2: Creates s. 893.21, F.S., relating to drug-related overdoses; medical assistance; immunity from prosecution.

Section 3: Amends s. 921.0026, F.S., relating to mitigating circumstances.

Section 4: Provides an effective date of October 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

¹⁷ New Mexico Statutes Annotated section 30-31-27.1.

¹⁸ “Preventing Overdose, Saving Lives.” Drug Policy Alliance. March 2009. <http://drugpolicy.org/library/overdose2009.cfm> (last visited on November 17, 2011).

¹⁹ Alaska Statute section 12.55.155(d)(19) (effective September 2008); Connecticut Public Act No. 11-210 (effective 2011); Laws of New York s. 220.78 (effective September 2011); Revised Code of Washington 69.50.315 (effective June 2010).

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

Generally, possession of controlled substances is a felony offense. The bill precludes a person from being charged with possession of controlled substances in specified instances. The Criminal Justice Impact Conference (CJIC) has not yet met to determine the impact of the bill. During the 2011 legislative session, CJIC determined that a bill identical to this one would have no impact on the Department of Corrections.²⁰

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

Possession of less than 20 grams of cannabis is a first degree misdemeanor. The bill could have a positive impact on local jails in that it precludes a person from being charged with possession of cannabis in specified instances. The Criminal Justice Impact Conference (CJIC) has not yet met to determine the impact of the bill. However, because CJIC determined that an identical bill filed during the 2011 legislative session would have "no impact" on prison beds;²¹ the jail bed impact will also likely be negligible.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

²⁰ Criminal Justice Impact Conference. HB 91. March 2, 2011.

²¹ *Id.*

1 A bill to be entitled
 2 An act relating to preventing deaths from drug-related
 3 overdoses; providing a short title; creating s.
 4 893.21, F.S.; providing that a person acting in good
 5 faith who seeks medical assistance for an individual
 6 experiencing a drug-related overdose may not be
 7 charged, prosecuted, or penalized for specified
 8 offenses in certain circumstances; providing that a
 9 person who experiences a drug-related overdose and
 10 needs medical assistance may not be charged,
 11 prosecuted, or penalized for specified offenses in
 12 certain circumstances; providing that the protections
 13 from prosecution for specified offenses are not
 14 grounds for suppression of evidence in other
 15 prosecutions; amending s. 921.0026, F.S.; amending
 16 mitigating circumstances under which a departure from
 17 the lowest permissible criminal sentence is reasonably
 18 justified to include circumstances in which a
 19 defendant was making a good faith effort to obtain or
 20 provide medical assistance for an individual
 21 experiencing a drug-related overdose; providing an
 22 effective date.

23
 24 WHEREAS, some research suggests that in a majority of cases
 25 of fatal drug overdose another person was aware of or present
 26 during the decedent's fatal drug use and that in one-third of
 27 the cases someone recognized the decedent's distress, and

28 WHEREAS, many people cite fear of police involvement or
 29 fear of arrest as their primary reason for not seeking immediate
 30 help for a person thought to be experiencing a drug overdose,
 31 and

32 WHEREAS, it is in the public interest to encourage a person
 33 who is aware of or present during another individual's drug
 34 overdose to seek medical assistance for that individual, NOW,
 35 THEREFORE,

36
 37 Be It Enacted by the Legislature of the State of Florida:

38
 39 Section 1. This act may be cited as the "911 Good
 40 Samaritan Act."

41 Section 2. Section 893.21, Florida Statutes, is created to
 42 read:

43 893.21 Drug-related overdoses; medical assistance;
 44 immunity from prosecution.—

45 (1) A person acting in good faith who seeks medical
 46 assistance for an individual experiencing a drug-related
 47 overdose may not be charged, prosecuted, or penalized pursuant
 48 to this chapter for possession of a controlled substance if the
 49 evidence for possession of a controlled substance was obtained
 50 as a result of the person's seeking medical assistance.

51 (2) A person who experiences a drug-related overdose and
 52 is in need of medical assistance may not be charged, prosecuted,
 53 or penalized pursuant to this chapter for possession of a
 54 controlled substance if the evidence for possession of a

55 | controlled substance was obtained as a result of the overdose
 56 | and the need for medical assistance.

57 | (3) Protection in this section from prosecution for
 58 | possession offenses under this chapter may not be grounds for
 59 | suppression of evidence in other criminal prosecutions.

60 | Section 3. Paragraph (n) is added to subsection (2) of
 61 | section 921.0026, Florida Statutes, to read:

62 | 921.0026 Mitigating circumstances.—This section applies to
 63 | any felony offense, except any capital felony, committed on or
 64 | after October 1, 1998.

65 | (2) Mitigating circumstances under which a departure from
 66 | the lowest permissible sentence is reasonably justified include,
 67 | but are not limited to:

68 | (n) The defendant was making a good faith effort to obtain
 69 | or provide medical assistance for an individual experiencing a
 70 | drug-related overdose.

71 | Section 4. This act shall take effect October 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 473 Alzheimer's Disease
SPONSOR(S): Hudson and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 682

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Access Subcommittee		Guzzo <i>hg</i>	Schoolfield <i>[Signature]</i>
2) Appropriations Committee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The bill creates the Purple Ribbon Task Force within the Department of Elder Affairs (DOEA) to develop a comprehensive state plan to address the needs of individuals with Alzheimer's disease and their caregivers.

The bill requires the task force to assess the current and future impact of Alzheimer's disease and related forms of dementia on the state; examine the existing industries, services, and resources in place that address the needs of individuals with Alzheimer's disease; develop a strategy to mobilize a state response to the Alzheimer's disease epidemic; and provide certain information regarding the development of state policy with respect to individuals with Alzheimer's disease, the role of the state in providing care to those with Alzheimer's disease, and the number of people having Alzheimer's disease in the state.

The bill requires the task force to consist of 18 volunteer members to serve without compensation or reimbursement for per diem or travel expenses with six members appointed by each the Governor, the Speaker of the House of Representatives and the President of the Senate. The bill requires the members of the task force to be appointed by July 1, 2012.

The bill requires DOEA to convene the task force and provide necessary administrative support.

The bill requires the task force to submit a report of its findings and date-specific recommendations in the form of an Alzheimer's disease state strategy and policy recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than August 1, 2013. The task force will terminate on the earlier of the date the report is submitted or August 1, 2013.

The bill has an insignificant fiscal impact which can be absorbed by the Department of Elder Affairs.

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Alzheimer's Disease Statistics

There is an estimated 5.4 million people in the United States with Alzheimer's disease, including 5.2 million people aged 65 and older and 200,000 individuals under age 65 who have younger-onset Alzheimer's disease.¹ In addition, there is an estimated 459,806 individuals suffering from Alzheimer's disease in the state of Florida.²

By 2030, the segment of the United States population aged 65 years and older is expected to double, and the estimated 71 million older Americans will make up approximately 20 percent of the total population.³ By 2050, the number of people aged 65 and older with Alzheimer's disease is expected to triple to a projected 16 million people.⁴

State Plans

Currently, 30 states have developed or are in the process of developing state plans to deal with the Alzheimer's disease epidemic. In 2009, the Alzheimer's Study Group (ASG), an eleven member blue ribbon panel released a report outlining recommendations to deal with Alzheimer's disease related issues and policy. In response to the ASG report, Congress passed the National Alzheimer's Project Act (NAPA). NAPA requires the federal Department of Health and Human Services to create a national strategic plan to coordinate Alzheimer's disease efforts across the federal government.⁵ Florida does not currently have a state plan or task force in place to deal with the Alzheimer's disease epidemic. However, the Alzheimer's Disease Initiative (ADI), which was created by the Florida Legislature in 1985, does conduct research and advise the Department of Elder Affairs (DOEA) regarding legislative, programmatic and administrative matters that are related to Alzheimer's disease and their caretakers.⁶

Alzheimer's Disease Initiative

The Alzheimer's Disease Initiative was created to provide a continuum of services to meet the changing needs of individuals with Alzheimer's disease and their families. The Department of Elder Affairs coordinates and develops policy to carry out the statutory requirements for the ADI. In conjunction with a ten-member advisory committee appointed by the Governor, the program includes the following four components:⁷

- Supportive services including counseling, consumable medical supplies and respite for caregiver relief;
- Memory disorder clinics to provide diagnosis, research, treatment, and referral;
- Model day care programs to test new care alternatives; and
- A research database and brain bank to support research.

¹ Alzheimer's Association, 2011 Alzheimer's Disease Fact and Figures, located at http://www.alz.org/alzheimers_disease_facts_and_figures.asp

² Florida Department of Elder Affairs, 2011 Florida State Profile, located at http://elderaffairs.state.fl.us/english/pubs/stats/County_2011Projections/Florida_Map.html

³ Alzheimer's Association, 2011 Alzheimer's Disease Fact and Figures, located at http://www.alz.org/alzheimers_disease_facts_and_figures.asp

⁴ Id.

⁵ Alzheimer's Association, *Issue Kit: State Government Alzheimer's Disease Plans*

⁶ Florida Department of Elder Affairs, see <http://elderaffairs.state.fl.us/english/alz.php> (last visited November 30, 2011).

⁷ Id.

Section 430.501, F.S., authorizes DOEA to adopt rules necessary to carry out the duties of the advisory committee. The area agency on aging, under contract with DOEA, is responsible for the planning and administration of respite and model day care services funded under the ADI and must contract with local service providers for the provision of these services.⁸

The ADI is funded by General Revenue and Tobacco Settlement funds. The DOEA allocates General Revenue funding to each of the Area Agencies on Aging, which in turn fund providers of model day care and respite care programs in designated counties.⁹ Provider agencies are responsible for the collection of fees for ADI services. To help pay for services received pursuant to the ADI, a functionally impaired elderly person is assessed a fee based on an overall ability to pay in accordance with Rule 58C-1.007, F.A.C.

Alzheimer's Disease Advisory Committee

The Alzheimer's Disease Advisory Committee is a 10-member panel that advises DOEA regarding legislative, programmatic and administrative matters that are related to Alzheimer's disease victims and their caretakers. Committee members must be Florida residents and reflect the following representation:¹⁰

- At least four of the 10 members must be licensed pursuant to Chapter 458 or 459, F.S., or hold a Ph.D. degree and be currently involved in research of Alzheimer's disease;
- The 10 members must include at least four people who have been caregivers of victims of Alzheimer's disease; and
- Whenever possible, there should be one individual from each of the following professions: a gerontologist, a geriatric psychiatrist, a geriatrician, a neurologist, a social worker and a registered nurse.

Members are appointed to four-year staggered terms. The committee elects one of its members to serve as chair for a one-year term. Committee meetings are held quarterly or as frequently as needed.

The function of the Advisory Committee is to advise DOEA in the performance of its duties under the ADI. As appropriate, and with the approval of DOEA, the Advisory Committee may establish subcommittees.¹¹

Respite Services

Alzheimer's Respite Care programs are established in all of Florida's 67 counties.¹² ADI respite includes in-home, facility-based, emergency and extended care (up to 30 days) respite for caregivers who serve individuals with memory disorders. In addition to respite care services, caregivers and consumers may receive supportive services essential to maintaining individuals with Alzheimer's disease or related dementia in their own homes. The supportive services may include caregiver training and support groups, counseling, consumable medical supplies and nutritional supplements. Services are authorized by a case manager based on a comprehensive assessment and on unmet needs identified during that assessment.

Memory Disorder Clinics

There are 15 memory disorder clinics authorized to provide diagnostic and referral services for persons with Alzheimer's disease and related dementia.¹³ The centers, 13 of which are funded by the state, also conduct service-related research and develop caregiver training materials and educational opportunities. Clinics are established at medical schools, teaching hospitals, and public and private not-for-profit hospitals throughout the state in accordance with s. 430.502, F.S.

⁸ Rule 58D-1.005, F.A.C.

⁹ Florida Department of Elder Affairs, *State General Revenue Program Report 2011*.

¹⁰ Section 430.501(3), F.S.

¹¹ *Id.*

¹² Florida Department of Elder Affairs, see <http://elderaffairs.state.fl.us/english/alz.php> (last visited November 18, 2011).

¹³ Section 430.502(1), F.S.

Model Day Care

Model day care programs have been established in conjunction with memory disorder clinics to test therapeutic models and provide day care services. The model day care programs provide a safe environment where Alzheimer's patients congregate for the day and socialize with each other, as well as receive therapeutic interventions designed to maintain or improve their cognitive functioning. Model day care programs also provide training for health care and social service personnel in the care of individuals with Alzheimer's disease and related memory disorders. There are currently four model day care programs in the state.¹⁴

Brain Bank

The Florida Alzheimer's disease brain bank is a service and research oriented network of statewide regional sites. The intent of the brain bank program is to collect and study the brains of deceased patients who had been clinically diagnosed with dementia. Mt. Sinai Medical Center contracts annually with the state of Florida to operate the primary brain bank. Coordinators at regional brain bank sites in Orlando, Tampa and Pensacola help recruit participants and act as liaisons between the brain bank and participants' families.¹⁵

Effect of Proposed Changes

The bill establishes the Purple Ribbon Task Force within the Department of Elder Affairs and contains the following "whereas clauses:"

- Whereas, Alzheimer's disease is a slow, progressive disorder of the brain that results in loss of memory and other cognitive functions and eventually death;
- Whereas, because Alzheimer's disease is accompanied by memory loss, poor judgment, changes in personality and behavior, and a tendency to wander or become lost, a person with this disease is at an increased risk for accidental injury, abuse, neglect, and exploitation;
- Whereas, approximately one in eight Americans 65 years of age or older and almost half of Americans 85 years of age or older develop Alzheimer's disease or a related form of dementia;
- Whereas this state has an estimated 520,000 persons having Alzheimer's disease, which population is expected to triple by the year 2050;
- Whereas, Alzheimer's disease takes an enormous toll on family members, with an estimated one in four family members providing caregiving support for individuals with Alzheimer's disease;
- Whereas, caregivers for persons having Alzheimer's disease witness the deteriorating effects of the disease and often suffer more stress, depression, and health problems than caregivers of people having other illnesses, which can negatively affect such caregivers' employment, income, and financial security;
- Whereas, early-onset Alzheimer's disease is a form of Alzheimer's disease that strikes a person who is younger than 65 years of age when symptoms first appear, but early-onset Alzheimer's disease can strike persons as early as 30, 40, or 50 years of age, with new data showing that there may be as many as 500,000 Americans under the age of 65 who have dementia or cognitive impairment at a level of severity consistent with dementia; and
- Whereas, the state needs to assess the current and future impact of Alzheimer's disease on Floridians and the state's health care system, programs, and services to ensure the development and implementation of an integrated, comprehensive, coordinated, and current strategy to address the needs of the growing number of Floridians having Alzheimer's disease or a related form of dementia and the corresponding needs of their caregivers.

The bill creates the Purple Ribbon Task Force within DOEA to develop a comprehensive state plan to address the needs of individuals with Alzheimer's disease and their caregivers. The bill does not address or make any changes to the current Alzheimer's Disease Initiative.

¹⁴ Florida Department of Elder Affairs, see <http://elderaffairs.state.fl.us/english/alz.php> (last visited November 30, 2011).

¹⁵ Florida Department of Elder Affairs, *State General Revenue Program Report 2011*.

The bill requires the task force to consist of 18 volunteer members to serve without compensation or reimbursement for per diem or travel expenses. Six of the members must be appointed by each the Governor, the Speaker of the House of Representatives and the President of the Senate. The bill requires the members of the task force to be appointed by July 1, 2012. The task force must consist of the following:

- A member of the House of Representatives;
- A member of the Senate;
- A representative from the Alzheimer's Association;
- At least one person having Alzheimer's disease or a related form of dementia;
- At least one family caregiver of a person with Alzheimer's disease or a related form of dementia;
- A representative from the Alzheimer's Disease Advisory Committee or a state memory disorder clinic;
- A representative of law enforcement;
- An expert on the Baker Act and its impact on individuals with Alzheimer's disease;
- An expert on emergency preparedness for individuals with Alzheimer's disease;
- A representative of a health care facility that serves individuals with Alzheimer's disease;
- A representative of the adult day care services industry;
- A representative of health care practitioners specializing in the treatment of individuals with Alzheimer's disease;
- An elder law attorney;
- A representative of the area agencies on aging resource centers; and
- A person who is an Alzheimer's disease researcher.

The bill requires DOEA to convene the task force and provide necessary administrative support.

The bill requires the task force to perform the following duties:

- Access the current and future impact of Alzheimer's disease on the state;
- Examine the existing industries, services, and resources addressing the needs of people with Alzheimer's disease;
- Develop a strategy to mobilize a state response; and
- Hold public meetings and employ technological means to gather feedback on the recommendations submitted by individuals with Alzheimer's disease or a related form of dementia, their caregivers, and by the general public.

The bill requires the task force to provide information regarding state trends with respect to people with Alzheimer's disease or a related form of dementia and their needs, including, but not limited to:

- The role of the state in providing long-term care, family caregiver support, and assistance to people in the early stages of Alzheimer's disease;
- The development of state policy with respect to individuals with Alzheimer's disease or a related form of dementia;
- Surveillance of people with Alzheimer's disease for the purpose of accurately estimating the number of such persons in the state;
- Existing services, resources, and capacity;
- The type, cost, and availability of dementia services throughout the state;
- Requirements for dementia-specific training for professionals providing care;
- Quality care measures employed by long-term care facilities;
- The capability of public safety workers and law enforcement officers to respond to people with Alzheimer's disease or a related form of dementia;
- The availability of home and community-based services for people with Alzheimer's disease or a related form of dementia and respite care to assist their families;
- An inventory of long-term care facilities serving people with Alzheimer's disease or a related form of dementia;

- The adequacy and appropriateness of geriatric-psychiatric units for people who have behavior disorders associated with Alzheimer's disease or a related form of dementia;
- Residential assisted living options for people with Alzheimer's disease or a related form of dementia;
- The level of preparedness of service providers before, during, and after a catastrophic emergency involving people with Alzheimer's disease or a related form of dementia; and
- Needed state policies or responses.

Finally, the bill requires the task force to submit a report of its findings and date-specific recommendations in the form of an Alzheimer's disease state strategy and policy recommendations to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than August 1, 2013. The task force will terminate on the earlier of the date the report is submitted or August 1, 2013.

B. SECTION DIRECTORY:

Section 1. Establishes the Purple Ribbon Task Force within the Department of Elder Affairs in an unnamed section of law.

Section 2. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Insignificant impact. Any potential fiscal impact is expected to be absorbed with existing resources at the Department of Elder Affairs.¹⁶

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

¹⁶ Email from Joshua Spagnola, Florida Department of Elder Affairs, November 14, 2011. (On file with committee staff).

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

There is inaccurate statistical information in the “whereas” language of the bill regarding the estimated prevalence of Alzheimer’s disease in the state of Florida. The bill states that there are 520,000 people with Alzheimer’s disease in the state of Florida. However, the Department of Elder Affairs confirmed that those numbers are no longer accurate. The current number of people with Alzheimer’s disease in the state of Florida is 459,806.¹⁷

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

¹⁷ Florida Department of Elder Affairs, 2011 Florida State Profile, located at http://elderaffairs.state.fl.us/english/pubs/stats/County_2011projections/Florida_Map.html

1 A bill to be entitled
 2 An act relating to Alzheimer's disease; establishing
 3 the Purple Ribbon Task Force within the Department of
 4 Elderly Affairs; providing for membership; providing
 5 that members shall serve without compensation or
 6 reimbursement for per diem or travel expenses;
 7 requiring the department to provide administrative
 8 support; providing duties of the task force;
 9 authorizing the task force to hold meetings by
 10 teleconference or other electronic means; requiring
 11 the task force to submit a report in the form of an
 12 Alzheimer's disease state strategy and policy
 13 recommendations to the Governor and Legislature;
 14 providing for termination of the task force; providing
 15 an effective date.

16
 17 WHEREAS, Alzheimer's disease is a slow, progressive
 18 disorder of the brain that results in loss of memory and other
 19 cognitive functions and eventually death, and

20 WHEREAS, because Alzheimer's disease is accompanied by
 21 memory loss, poor judgment, changes in personality and behavior,
 22 and a tendency to wander or become lost, a person with this
 23 disease is at an increased risk for accidental injury, abuse,
 24 neglect, and exploitation, and

25 WHEREAS, approximately one in eight Americans 65 years of
 26 age or older and almost half of Americans 85 years of age or
 27 older develop Alzheimer's disease or a related form of dementia,
 28 and

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29 WHEREAS, this state has an estimated 520,000 persons having
 30 Alzheimer's disease, which population is expected to triple by
 31 the year 2050, and

32 WHEREAS, Alzheimer's disease takes an enormous toll on
 33 family members, with an estimated one in four family members
 34 providing caregiving support for individuals with the disease,
 35 and

36 WHEREAS, caregivers for persons having Alzheimer's disease
 37 witness the deteriorating effects of the disease and often
 38 suffer more stress, depression, and health problems than
 39 caregivers of people having other illnesses, which can
 40 negatively affect such caregivers' employment, income, and
 41 financial security, and

42 WHEREAS, early-onset Alzheimer's disease is a form of
 43 Alzheimer's disease that strikes a person who is younger than 65
 44 years of age when symptoms first appear, but early-onset
 45 Alzheimer's disease can strike persons as early as 30, 40, or 50
 46 years of age, with new data showing that there may be as many as
 47 500,000 Americans under the age of 65 who have dementia or
 48 cognitive impairment at a level of severity consistent with
 49 dementia, and

50 WHEREAS, the state needs to assess the current and future
 51 impact of Alzheimer's disease on Floridians and the state's
 52 health care system, programs, and services to ensure the
 53 development and implementation of an integrated, comprehensive,
 54 coordinated, and current strategy to address the needs of the
 55 growing number of Floridians having Alzheimer's disease or a

56 related form of dementia and the corresponding needs of their
57 caregivers, NOW, THEREFORE,

58

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

60

61 Section 1. The Purple Ribbon Task Force.—The Purple Ribbon
62 Task Force is established within the Department of Elderly
63 Affairs.

64 (1) The task force shall consist of 18 volunteer members,
65 of whom six shall be appointed by the Governor, six shall be
66 appointed by the Speaker of the House of Representatives, and
67 six shall be appointed by the President of the Senate, as
68 follows:

69 (a) A member of the House of Representatives.

70 (b) A member of the Senate.

71 (c) A representative from the Alzheimer's Association.

72 (d) At least one person having Alzheimer's disease or a
73 related form of dementia.

74 (e) At least one family caregiver or former family
75 caregiver of a person having Alzheimer's disease or a related
76 form of dementia.

77 (f) A representative from the Alzheimer's Disease Advisory
78 Committee or a state memory disorder clinic.

79 (g) A representative of law enforcement with knowledge
80 about the disappearance, abuse, exploitation, and suicide of
81 persons having Alzheimer's disease or a related form of
82 dementia.

83 (h) An expert on the Baker Act and its impact on persons
 84 having Alzheimer's disease or a related form of dementia.

85 (i) An expert on emergency preparedness for persons having
 86 Alzheimer's disease or a related form of dementia.

87 (j) A representative of a health care facility that serves
 88 persons with Alzheimer's disease.

89 (k) A representative of the adult day care services
 90 industry.

91 (l) A representative of health care practitioners
 92 specializing in the treatment of persons having Alzheimer's
 93 disease or a related form of dementia.

94 (m) An elder-law attorney.

95 (n) A representative of the area agencies on aging or
 96 aging resource centers.

97 (o) A person who is an Alzheimer's disease researcher.

98 (2) Initial appointments to the task force shall be made
 99 by July 1, 2012. A vacancy on the task force shall be filled for
 100 the unexpired portion of the term in the same manner as the
 101 original appointment.

102 (3) Members shall serve on the task force without
 103 compensation and may not receive reimbursement for per diem or
 104 travel expenses.

105 (4) The Department of Elderly Affairs shall convene the
 106 task force and provide necessary administrative support.

107 (5) The task force shall:

108 (a) Assess the current and future impact of Alzheimer's
 109 disease and related forms of dementia on the state.

110 (b) Examine the existing industries, services, and
 111 resources addressing the needs of persons having Alzheimer's
 112 disease or a related form of dementia and their family
 113 caregivers.

114 (c) Develop a strategy to mobilize a state response to
 115 this public health crisis.

116 (d) Provide information regarding:

117 1. State trends with respect to persons having Alzheimer's
 118 disease or a related form of dementia and their needs,
 119 including, but not limited to:

120 a. The role of the state in providing long-term care,
 121 family caregiver support, and assistance to persons who are in
 122 the early stages of Alzheimer's disease, who have early-onset
 123 Alzheimer's disease, or who have a related form of dementia.

124 b. The development of state policy with respect to persons
 125 having Alzheimer's disease or a related form of dementia.

126 c. Surveillance of persons having Alzheimer's disease or a
 127 related form of dementia for the purpose of accurately
 128 estimating the number of such persons in the state.

129 2. Existing services, resources, and capacity, including,
 130 but not limited to:

131 a. The type, cost, and availability of dementia services
 132 throughout the state.

133 b. Requirements for dementia-specific training for
 134 professionals providing care.

135 c. Quality care measures employed by long-term care
 136 facilities.

137 d. The capability of public safety workers and law
 138 enforcement officers to respond to persons having Alzheimer's
 139 disease or a related form of dementia, including, but not
 140 limited to, responding to their disappearance, abuse,
 141 exploitation, or suicide.

142 e. The availability of home and community-based services
 143 for persons having Alzheimer's disease or a related form of
 144 dementia and respite care to assist their families.

145 f. An inventory of long-term care facilities serving
 146 persons having Alzheimer's disease or a related form of
 147 dementia.

148 g. The adequacy and appropriateness of geriatric-
 149 psychiatric units for persons having behavior disorders
 150 associated with Alzheimer's disease or a related form of
 151 dementia.

152 h. Residential assisted living options for persons having
 153 Alzheimer's disease or a related form of dementia.

154 i. The level of preparedness of service providers before,
 155 during, and after a catastrophic emergency involving a person
 156 having Alzheimer's disease or a related form of dementia.

157 3. Needed state policies or responses, including, but not
 158 limited to, directions for the provision of clear and
 159 coordinated services and support to persons having Alzheimer's
 160 disease or a related form of dementia and their family
 161 caregivers and strategies to address any identified gaps in
 162 services.

163 (e) Hold public meetings and employ technological means to
 164 gather feedback on the recommendations submitted by persons

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165 having Alzheimer's disease or a related form of dementia and
 166 their family caregivers and by the general public. Meetings of
 167 the task force may be held by teleconference or other electronic
 168 means.

169 (6) The task force shall submit a report of its findings
 170 and date-specific recommendations in the form of an Alzheimer's
 171 disease state strategy and policy recommendations to the
 172 Governor, the Speaker of the House of Representatives, and the
 173 President of the Senate no later than August 1, 2013. The task
 174 force shall terminate on the earlier of the date the report is
 175 submitted or August 1, 2013.

176 Section 2. This act shall take effect July 1, 2012.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Health & Human Services
2 Access Subcommittee
3 Representative Hudson offered the following:
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:
7 WHEREAS, Alzheimer's disease is a slow, progressive disorder of
8 the brain that results in loss of memory and other cognitive
9 functions and eventually death, and

10 WHEREAS, because Alzheimer's disease is accompanied by
11 memory loss, poor judgment, changes in personality and behavior,
12 and a tendency to wander or become lost, a person with this
13 disease is at an increased risk for accidental injury, abuse,
14 neglect, and exploitation, and

15 WHEREAS, approximately one in eight Americans 65 years of
16 age or older and almost half of Americans 85 years of age or
17 older develop Alzheimer's disease or a related form of dementia,
18 and

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19 WHEREAS, there are 459,806 probable cases of Alzheimer's
20 disease in this state in 2011, which population is expected to
21 triple by the year 2050, and

22 WHEREAS, Alzheimer's disease takes an enormous toll on
23 family members, with an estimated one in four family members
24 providing caregiving support for individuals with the disease,
25 and

26 WHEREAS, caregivers for persons having Alzheimer's disease
27 witness the deteriorating effects of the disease and often
28 suffer more emotional stress, depression, and health problems
29 than caregivers of people having other illnesses, which can
30 negatively affect such caregivers' employment, income, and
31 financial security, and

32 WHEREAS, younger-onset Alzheimer's disease is a form of
33 Alzheimer's disease that strikes a person who is younger than 65
34 years of age when symptoms first appear, but younger-onset
35 Alzheimer's disease can strike persons as early as 30, 40, or 50
36 years of age, with new data showing that there may be as many as
37 500,000 Americans under the age of 65 who have dementia or
38 cognitive impairment at a level of severity consistent with
39 dementia, and

40 WHEREAS, the state needs to assess the current and future
41 impact of Alzheimer's disease on Floridians and the state's
42 health care system, programs, resources, and services to ensure
43 the continued development and implementation of more inclusive
44 and integrated, comprehensive, coordinated, and current strategy
45 to address the needs of the growing number of Floridians having

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Amendment No.

46 Alzheimer's disease or a related form of dementia and the
47 corresponding needs of their caregivers, NOW, THEREFORE,

48
49 Be It Enacted by the Legislature of the State of Florida:

50
51 Section 1. The Purple Ribbon Task Force.—The Purple Ribbon
52 Task Force is established within the Department of Elderly
53 Affairs.

54 (1) The task force shall consist of 18 volunteer members,
55 of whom six shall be appointed by the Governor, six shall be
56 appointed by the Speaker of the House of Representatives, and
57 six shall be appointed by the President of the Senate, as
58 follows:

59 (a) A member of the House of Representatives.

60 (b) A member of the Senate.

61 (c) A representative from the Alzheimer's Association.

62 (d) At least one person having Alzheimer's disease or a
63 related form of dementia.

64 (e) At least one family caregiver or former family
65 caregiver of a person having Alzheimer's disease or a related
66 form of dementia.

67 (f) A representative from the Alzheimer's Disease Advisory
68 Committee.

69 (g) A representative of law enforcement with knowledge
70 about disappearance and recovery, self-neglect, abuse,
71 exploitation, and suicide of persons having Alzheimer's disease
72 or a related form of dementia.

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73 (h) A representative having knowledge of and experience
74 with the Baker Act and its impact on persons having Alzheimer's
75 disease or a related form of dementia.

76 (i) An expert on disaster preparedness and response for
77 persons having Alzheimer's disease or a related form of
78 dementia.

79 (j) A representative of a health care facility or hospice
80 that serves persons with Alzheimer's disease.

81 (k) A representative of the adult day care services
82 industry.

83 (l) A representative of health care practitioners
84 specializing in the treatment of persons having Alzheimer's
85 disease or a related form of dementia.

86 (m) A Florida board certified elder-law attorney.

87 (n) A representative of the area agencies on aging or
88 aging and disability resource centers.

89 (o) A person who is an Alzheimer's disease researcher.

90 (p) A representative from a memory disorder clinic.

91 (q) A representative of the assisted living facility
92 industry.

93 (r) A representative of the skilled nursing facility
94 industry.

95 (2) Initial appointments to the task force shall be made
96 by July 1, 2012. A vacancy on the task force shall be filled for
97 the unexpired portion of the term in the same manner as the
98 original appointment.

Amendment No.

99 (3) Members shall serve on the task force without
100 compensation and may not receive reimbursement for per diem or
101 travel expenses.

102 (4) The Department of Elderly Affairs shall convene the
103 task force and provide necessary administrative support.

104 (5) The task force shall:

105 (a) Assess the current and future impact of Alzheimer's
106 disease and related forms of dementia on the state.

107 (b) Examine the existing industries, services, and
108 resources addressing the needs of persons having Alzheimer's
109 disease or a related form of dementia and their family
110 caregivers.

111 (c) Examine the needs of persons having Alzheimer's disease
112 or a related form of dementia and the effects it has from the
113 early-on set, mid-state, and late stage inclusive of all
114 cultures.

115 (d) Develop a strategy to mobilize a state response to
116 this public health crisis.

117 (e) Provide information regarding:

118 1. State trends with respect to persons having Alzheimer's
119 disease or a related form of dementia and their needs,
120 including, but not limited to:

121 a. The role of the state in providing community based
122 care, long-term care, family caregiver support including
123 respite, education, and assistance to persons who are in the
124 early stages of Alzheimer's disease, who have younger-onset
125 Alzheimer's disease, or who have a related form of dementia.

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126 b. The development of state policy with respect to persons
127 having Alzheimer's disease or a related form of dementia.

128 c. Surveillance of persons having Alzheimer's disease or a
129 related form of dementia for the purpose of accurately
130 estimating the number of such persons in the state at present
131 and projected population

132 2. Existing services, resources, and capacity, including,
133 but not limited to:

134 a. The type, cost, and availability of dementia-specific
135 services throughout the state.

136 b. Policy requirements and effectiveness for dementia-
137 specific training for professionals providing care.

138 c. Quality care measures employed by providers of care
139 including respite, adult day care, assisted living facility,
140 skilled nursing facility and hospice.

141 d. The capability of public safety workers and law
142 enforcement officers to respond to persons having Alzheimer's
143 disease or a related form of dementia, including, but not
144 limited to, responding to their disappearance, search and
145 rescue, abuse, elopement, exploitation, or suicide.

146 e. The availability of home and community-based services
147 and respite care for persons having Alzheimer's disease or a
148 related form of dementia, and education and support services to
149 assist their families and caregivers.

150 f. An inventory of long-term care facilities and community
151 based services serving persons having Alzheimer's disease or a
152 related form of dementia.

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Amendment No.

153 g. The adequacy and appropriateness of geriatric-
154 psychiatric units for persons having behavior disorders
155 associated with Alzheimer's disease or a related form of
156 dementia.

157 h. Residential assisted living options for persons having
158 Alzheimer's disease or a related form of dementia.

159 i. The level of preparedness of service providers before,
160 during, and after a catastrophic emergency involving a person
161 having Alzheimer's disease or a related form of dementia, their
162 caregivers and families.

163 3. Needed state policies or responses, including, but not
164 limited to, directions for the provision of clear and
165 coordinated care, services and support to persons having
166 Alzheimer's disease or a related form of dementia and their
167 family caregivers and strategies to address any identified gaps
168 in services.

169 (e) Hold public meetings and employ technological means to
170 gather feedback on the recommendations submitted by persons
171 having Alzheimer's disease or a related form of dementia and
172 their family caregivers and by the general public. Meetings of
173 the task force may be held in person without compensation or
174 travel reimbursement, by teleconference or by other electronic
175 means.

176 (6) The task force shall submit a report of its findings
177 and date-specific recommendations in the form of an Alzheimer's
178 disease state plan to the Governor, the Speaker of the House of
179 Representatives, and the President of the Senate no later than

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Amendment No.

180 August 1, 2013. The task force shall terminate on the earlier of
181 the date the report is submitted or August 1, 2013.

182 Section 2. This act shall take effect July 1, 2012.

183

184

185

186

T I T L E A M E N D M E N T

187

Remove the entire title and insert:

188

A bill to be entitled

189

An act relating to Alzheimer's disease; establishing the Purple

190

Ribbon Task Force within the Department of Elderly Affairs;

191

providing for membership; providing that members shall serve

192

without compensation or reimbursement for per diem or travel

193

expenses; requiring the department to provide administrative

194

support; providing duties of the task force; authorizing the

195

task force to hold meetings in person without compensation or

196

travel reimbursement or by teleconference or other electronic

197

means; requiring the task force to submit a report in the form

198

of an Alzheimer's disease state plan to the Governor and

199

Legislature; providing for termination of the task force;

200

providing an effective date.