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1
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.; authorizing delivery of
9 children alleged to be dependent and sexually
10 exploited to short-term safe houses; creating s.
11 39.524, F.S.; requiring assessment of certain children
12 for placement in a safe house; providing for use of
13 such assessments; requiring an annual report
14 concerning safe-house placements; creating s.
15 409.1678, F.S.; providing definitions; requiring
16 circuits of the Department of Children and Family
17 Services to address child welfare service needs of
18 sexually exploited children as a component of their
19 master plans; providing duties, responsibilities, and
20 requirements for safe houses and their operators;
21 providing for training for law enforcement officials
22 who are likely to encounter sexually exploited
23 children; authorizing rulemaking; amending s. 796.07,
24 F.S.; providing for an increased civil penalty for
25 soliciting another to commit prostitution or related
26 acts; providing for the disposition of proceeds;
27 amending s. 960.065, F.S.; allowing victim
28 compensation for sexually exploited children; amending

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29 s. 985.115, F.S.; conforming provisions; providing an
 30 effective date.
 31

32 Be It Enacted by the Legislature of the State of Florida:
 33

34 Section 1. This act may be cited as the "Florida Safe
 35 Harbor Act."

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

41 39.001 Purposes and intent; personnel standards and
 42 screening.—

43 (4) SEXUAL EXPLOITATION SERVICES.—

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

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

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

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

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

81 (8) ~~(7)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.—

- 82 (c) The office is authorized and directed to:
- 83 1. Oversee the preparation and implementation of the state
- 84 plan established under subsection (9) ~~(8)~~ and revise and update

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85 the state plan as necessary.

86 2. Provide for or make available continuing professional
87 education and training in the prevention of child abuse and
88 neglect.

89 3. Work to secure funding in the form of appropriations,
90 gifts, and grants from the state, the Federal Government, and
91 other public and private sources in order to ensure that
92 sufficient funds are available for the promotion of adoption,
93 support of adoptive families, and child abuse prevention
94 efforts.

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

97 a. Programs and services for the promotion of adoption,
98 support of adoptive families, and prevention of child abuse and
99 neglect.

100 b. Training programs for the prevention of child abuse and
101 neglect.

102 c. Multidisciplinary and discipline-specific training
103 programs for professionals with responsibilities affecting
104 children, young adults, and families.

105 d. Efforts to promote adoption.

106 e. Postadoptive services to support adoptive families.

107 5. Monitor, evaluate, and review the development and
108 quality of local and statewide services and programs for the
109 promotion of adoption, support of adoptive families, and
110 prevention of child abuse and neglect and shall publish and
111 distribute an annual report of its findings on or before January
112 1 of each year to the Governor, the Speaker of the House of

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113 Representatives, the President of the Senate, the head of each
 114 state agency affected by the report, and the appropriate
 115 substantive committees of the Legislature. The report shall
 116 include:

- 117 a. A summary of the activities of the office.
- 118 b. A summary of the adoption data collected and reported
 119 to the federal Adoption and Foster Care Analysis and Reporting
 120 System (AFCARS) and the federal Administration for Children and
 121 Families.
- 122 c. A summary of the child abuse prevention data collected
 123 and reported to the National Child Abuse and Neglect Data System
 124 (NCANDS) and the federal Administration for Children and
 125 Families.
- 126 d. A summary detailing the timeliness of the adoption
 127 process for children adopted from within the child welfare
 128 system.
- 129 e. Recommendations, by state agency, for the further
 130 development and improvement of services and programs for the
 131 promotion of adoption, support of adoptive families, and
 132 prevention of child abuse and neglect.

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

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

137 (10)~~(9)~~ FUNDING AND SUBSEQUENT PLANS.—

138 (b) The office and the other agencies and organizations
 139 listed in paragraph (9) ~~(a)~~ shall readdress the state plan
 140 and make necessary revisions every 5 years, at a minimum. Such

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141 revisions shall be submitted to the Speaker of the House of
142 Representatives and the President of the Senate no later than
143 June 30 of each year divisible by 5. At least biennially, the
144 office shall review the state plan and make any necessary
145 revisions based on changing needs and program evaluation
146 results. An annual progress report shall be submitted to update
147 the state plan in the years between the 5-year intervals. In
148 order to avoid duplication of effort, these required plans may
149 be made a part of or merged with other plans required by either
150 the state or Federal Government, so long as the portions of the
151 other state or Federal Government plan that constitute the state
152 plan for the promotion of adoption, support of adoptive
153 families, and prevention of child abuse, abandonment, and
154 neglect are clearly identified as such and are provided to the
155 Speaker of the House of Representatives and the President of the
156 Senate as required above.

157 Section 3. Subsections (2), (15), and (67) of section
158 39.01, Florida Statutes, are amended to read:

159 39.01 Definitions.—When used in this chapter, unless the
160 context otherwise requires:

161 (2) "Abuse" means any willful act or threatened act that
162 results in any physical, mental, or sexual abuse, injury, or
163 harm that causes or is likely to cause the child's physical,
164 mental, or emotional health to be significantly impaired. Abuse
165 of a child includes acts or omissions. Corporal discipline of a
166 child by a parent or legal custodian for disciplinary purposes
167 does not in itself constitute abuse when it does not result in
168 harm to the child.

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

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

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

176 (c) To have been voluntarily placed with a licensed child-
 177 caring agency, a licensed child-placing agency, an adult
 178 relative, the department, or the former Department of Health and
 179 Rehabilitative Services, after which placement, under the
 180 requirements of this chapter, a case plan has expired and the
 181 parent or parents or legal custodians have failed to
 182 substantially comply with the requirements of the plan;

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

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

189 (f) To be at substantial risk of imminent abuse,
 190 abandonment, or neglect by the parent or parents or legal
 191 custodians; or

192 (g) To have been sexually exploited and to have no parent,
 193 legal custodian, or responsible adult relative currently known
 194 and capable of providing the necessary and appropriate
 195 supervision and care.

196 (67) "Sexual abuse of a child" for purposes of finding a

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197 child to be dependent means one or more of the following acts:

198 (a) Any penetration, however slight, of the vagina or anal
 199 opening of one person by the penis of another person, whether or
 200 not there is the emission of semen.

201 (b) Any sexual contact between the genitals or anal
 202 opening of one person and the mouth or tongue of another person.

203 (c) Any intrusion by one person into the genitals or anal
 204 opening of another person, including the use of any object for
 205 this purpose, except that this does not include any act intended
 206 for a valid medical purpose.

207 (d) The intentional touching of the genitals or intimate
 208 parts, including the breasts, genital area, groin, inner thighs,
 209 and buttocks, or the clothing covering them, of either the child
 210 or the perpetrator, except that this does not include:

211 1. Any act which may reasonably be construed to be a
 212 normal caregiver responsibility, any interaction with, or
 213 affection for a child; or

214 2. Any act intended for a valid medical purpose.

215 (e) The intentional masturbation of the perpetrator's
 216 genitals in the presence of a child.

217 (f) The intentional exposure of the perpetrator's genitals
 218 in the presence of a child, or any other sexual act
 219 intentionally perpetrated in the presence of a child, if such
 220 exposure or sexual act is for the purpose of sexual arousal or
 221 gratification, aggression, degradation, or other similar
 222 purpose.

223 (g) The sexual exploitation of a child, which includes the
 224 act of a child offering to engage in or engaging in

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225 prostitution, provided that the child is not under arrest or is
 226 not being prosecuted in a delinquency or criminal proceeding for
 227 a violation of any offense in chapter 796 based on such
 228 behavior; or allowing, encouraging, or forcing a child to:

- 229 1. Solicit for or engage in prostitution; ~~or~~
- 230 2. Engage in a sexual performance, as defined by chapter
- 231 827; or
- 232 3. Participate in the trade of sex trafficking as provided
 233 in s. 796.035.

234 Section 4. Paragraph (b) of subsection (2) and paragraph
 235 (b) of subsection (3) of section 39.401, Florida Statutes, are
 236 amended to read:

237 39.401 Taking a child alleged to be dependent into
 238 custody; law enforcement officers and authorized agents of the
 239 department.—

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

242 (b) Deliver the child to an authorized agent of the
 243 department, stating the facts by reason of which the child was
 244 taken into custody and sufficient information to establish
 245 probable cause that the child is abandoned, abused, or
 246 neglected, or otherwise dependent. For such a child for whom
 247 there is also probable cause to believe he or she has been
 248 sexually exploited, the law enforcement officer shall deliver
 249 the child to the department. The department may place the child
 250 in an appropriate short-term safe house as provided for in s.
 251 409.1678 if a short-term safe house is available.

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

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

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

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281 of a housekeeper/homemaker in the home of a child alleged to be
282 dependent until the parent or legal custodian assumes care of
283 the child.

284 Section 5. Section 39.524, Florida Statutes, is created to
285 read:

286 39.524 Safe-harbor placement.-

287 (1) Except as provided in s. 39.407 or s. 985.801, a
288 dependent child 6 years of age or older who has been found to be
289 a victim of sexual exploitation as defined in s. 39.01(67)(g)
290 must be assessed for placement in a safe house as provided in s.
291 409.1678. The assessment shall be conducted by the department or
292 its agent and shall incorporate and address current and
293 historical information from any law enforcement reports;
294 psychological testing or evaluation that has occurred; current
295 and historical information from the guardian ad litem, if one
296 has been assigned; current and historical information from any
297 current therapist, teacher, or other professional who has
298 knowledge of the child and has worked with the child; and any
299 other information concerning the availability and suitability of
300 safe-house placement. If such placement is determined to be
301 appropriate as a result of this assessment, the child may be
302 placed in a safe house, if one is available. As used in this
303 section, the term "available" as it relates to a placement means
304 a placement that is located within the circuit or otherwise
305 reasonably accessible.

306 (2) The results of the assessment described in subsection
307 (1) and the actions taken as a result of the assessment must be
308 included in the next judicial review of the child. At each

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309 subsequent judicial review, the court must be advised in writing
 310 of the status of the child's placement, with special reference
 311 regarding the stability of the placement and the permanency
 312 planning for the child.

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

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

327 Section 6. Section 409.1678, Florida Statutes, is created
 328 to read:

329 409.1678 Safe harbor for children who are victims of
 330 sexual exploitation.—

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

332 (a) "Child advocate" means an employee of a short-term
 333 safe house who has been trained to work with and advocate for
 334 the needs of sexually exploited children. The advocate shall
 335 accompany the child to all court appearances, meetings with law
 336 enforcement officials, and the state attorney's office and shall

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337 serve as a liaison between the short-term safe house and the
 338 court.

339 (b) "Safe house" means a living environment that has set
 340 aside gender-specific, separate, and distinct living quarters
 341 for sexually exploited children who have been adjudicated
 342 dependent or delinquent and need to reside in a secure
 343 residential facility with staff members who are awake 24 hours a
 344 day. A safe house shall be operated by a licensed family foster
 345 home or residential child-caring agency as defined in s.
 346 409.175, including a runaway youth center as defined in s.
 347 409.441. Each facility must be appropriately licensed in this
 348 state as a residential child-caring agency as defined in s.
 349 409.175 and must have applied for accreditation within 1 year
 350 after being licensed. A safe house serving children who have
 351 been sexually exploited must have available staff or contract
 352 personnel who have the clinical expertise, credentials, and
 353 training to provide services identified in paragraph (2)(b).

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

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

361 (e) "Short-term safe house" means a shelter operated by a
 362 licensed residential child-caring agency as defined in s.
 363 409.175, including a runaway youth center as defined in s.
 364 409.441, that has set aside gender-specific, separate, and

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365 distinct living quarters for sexually exploited children. In
 366 addition to shelter, the house shall provide services and care
 367 to sexually exploited children, including food, clothing,
 368 medical care, counseling, and appropriate crisis-intervention
 369 services at the time they are taken into custody by law
 370 enforcement officials or department personnel.

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

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

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393 appropriate health care and dental care.

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

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

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

416 (3) The local circuit administrator may, to the extent
 417 that funds are available, in conjunction with local law
 418 enforcement officials, contract with an appropriate not-for-
 419 profit agency having experience working with sexually exploited
 420 children to train law enforcement officials who are likely to

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421 encounter sexually exploited children in the course of their law
 422 enforcement duties on the provisions of this section and how to
 423 identify and obtain appropriate services for sexually exploited
 424 children. Circuits may work cooperatively to provide such
 425 training, and such training may be provided on a regional basis.
 426 The department shall assist circuits in obtaining any available
 427 funds for the purposes of conducting law enforcement training
 428 from the Office of Juvenile Justice and Delinquency Prevention
 429 of the United States Department of Justice.

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

432 Section 7. Section 796.07, Florida Statutes, is amended to
 433 read:

434 796.07 Prohibiting prostitution and related acts, ~~etc.;~~
 435 ~~evidence; penalties; definitions.~~

436 (1) As used in this section:

437 (a) "Prostitution" means the giving or receiving of the
 438 body for sexual activity for hire but excludes sexual activity
 439 between spouses.

440 (b) "Lewdness" means any indecent or obscene act.

441 (c) "Assignment" means the making of any appointment or
 442 engagement for prostitution or lewdness, or any act in
 443 furtherance of such appointment or engagement.

444 (d) "Sexual activity" means oral, anal, or vaginal
 445 penetration by, or union with, the sexual organ of another; anal
 446 or vaginal penetration of another by any other object; or the
 447 handling or fondling of the sexual organ of another for the
 448 purpose of masturbation; however, the term does not include acts

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449 done for bona fide medical purposes.

450 (2) It is unlawful:

451 (a) To own, establish, maintain, or operate any place,
 452 structure, building, or conveyance for the purpose of lewdness,
 453 assignation, or prostitution.

454 (b) To offer, or to offer or agree to secure, another for
 455 the purpose of prostitution or for any other lewd or indecent
 456 act.

457 (c) To receive, or to offer or agree to receive, any
 458 person into any place, structure, building, or conveyance for
 459 the purpose of prostitution, lewdness, or assignation, or to
 460 permit any person to remain there for such purpose.

461 (d) To direct, take, or transport, or to offer or agree to
 462 direct, take, or transport, any person to any place, structure,
 463 or building, or to any other person, with knowledge or
 464 reasonable cause to believe that the purpose of such directing,
 465 taking, or transporting is prostitution, lewdness, or
 466 assignation.

467 (e) To offer to commit, or to commit, or to engage in,
 468 prostitution, lewdness, or assignation.

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

471 (g) To reside in, enter, or remain in, any place,
 472 structure, or building, or to enter or remain in any conveyance,
 473 for the purpose of prostitution, lewdness, or assignation.

474 (h) To aid, abet, or participate in any of the acts or
 475 things enumerated in this subsection.

476 (i) To purchase the services of any person engaged in

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477 prostitution.

478 (3) (a) In the trial of a person charged with a violation
 479 of this section, testimony concerning the reputation of any
 480 place, structure, building, or conveyance involved in the
 481 charge, testimony concerning the reputation of any person
 482 residing in, operating, or frequenting such place, structure,
 483 building, or conveyance, and testimony concerning the reputation
 484 of the defendant is admissible in evidence in support of the
 485 charge.

486 (b) Notwithstanding any other provision of law, a police
 487 officer may testify as an offended party in an action regarding
 488 charges filed pursuant to this section.

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

491 (a) A misdemeanor of the second degree for a first
 492 violation, punishable as provided in s. 775.082 or s. 775.083.

493 (b) A misdemeanor of the first degree for a second
 494 violation, punishable as provided in s. 775.082 or s. 775.083.

495 (c) A felony of the third degree for a third or subsequent
 496 violation, punishable as provided in s. 775.082, s. 775.083, or
 497 s. 775.084.

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

502 (6) A person who violates paragraph (2) (f) shall be
 503 assessed a civil penalty of \$5,000 ~~\$500~~ if the violation results
 504 in any judicial disposition other than acquittal or dismissal.

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505 Of the proceeds from each penalty ~~penalties~~ assessed under this
 506 subsection, the first \$500 shall be paid to the circuit court
 507 administrator for the sole purpose of paying the administrative
 508 costs of treatment-based drug court programs provided under s.
 509 397.334. The remainder of the penalty assessed shall be
 510 deposited in the Operations and Maintenance Trust Fund of the
 511 Department of Children and Family Services for the sole purpose
 512 of funding safe houses and short-term safe houses as provided in
 513 s. 409.1678.

514 Section 8. Section 960.065, Florida Statutes, is amended
 515 to read:

516 960.065 Eligibility for awards.—

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

519 (a) A victim.

520 (b) An intervenor.

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

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

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

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

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

530 (c) Was in custody or confined, regardless of conviction,
 531 in a county or municipal detention facility, a state or federal
 532 correctional facility, or a juvenile detention or commitment

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533 facility at the time of the crime upon which the claim for
 534 compensation is based;

535 (d) Has been adjudicated as a habitual felony offender,
 536 habitual violent offender, or violent career criminal under s.
 537 775.084; or

538 (e) Has been adjudicated guilty of a forcible felony
 539 offense as described in s. 776.08,

540
 541 is ineligible ~~shall not be eligible~~ for an award.

542 (3) Any claim filed by or on behalf of a person who was in
 543 custody or confined, regardless of adjudication, in a county or
 544 municipal facility, a state or federal correctional facility, or
 545 a juvenile detention, commitment, or assessment facility at the
 546 time of the crime upon which the claim is based, who has been
 547 adjudicated as a habitual felony offender under s. 775.084, or
 548 who has been adjudicated guilty of a forcible felony offense as
 549 described in s. 776.08 renders the person ineligible, ~~shall not~~
 550 ~~be eligible~~ for an award. Notwithstanding the foregoing, upon a
 551 finding by the Crime Victims' Services Office of the existence
 552 of mitigating or special circumstances that would render such a
 553 disqualification unjust, an award may be approved. A decision
 554 that mitigating or special circumstances do not exist in a case
 555 subject to this section does ~~shall~~ not constitute final agency
 556 action subject to review pursuant to ss. 120.569 and 120.57.

557 (4) Payment may not be made under this chapter if the
 558 person who committed the crime upon which the claim is based
 559 will receive any direct or indirect financial benefit from such
 560 payment, unless such benefit is minimal or inconsequential.

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561 Payment may not be denied based on the victim's familial
 562 relationship to the offender or based upon the sharing of a
 563 residence by the victim and offender, except to prevent unjust
 564 enrichment of the offender.

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

569 Section 9. Paragraph (b) of subsection (2) of section
 570 985.115, Florida Statutes, is amended to read:

571 985.115 Release or delivery from custody.—

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

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

579 Section 10. This act shall take effect January 1, 2013.