

1 A bill to be entitled

2 An act relating to human trafficking; amending s.
3 796.07, F.S.; providing enhanced criminal penalties
4 for soliciting another to commit prostitution and
5 similar offenses; requiring persons convicted of such
6 offenses to perform community service and pay for and
7 attend an education program; requiring the court to
8 impose minimum mandatory terms of incarceration for
9 persons convicted two or more times of soliciting
10 another to commit prostitution and similar offenses;
11 providing for impoundment of a vehicle used in
12 soliciting another to commit prostitution and similar
13 offenses; providing an opportunity for owners to
14 prevent the impoundment or immobilization in certain
15 circumstances; amending s. 943.0583, F.S.; providing
16 that any court in the circuit in which the petitioner
17 was arrested may expunge the criminal history record
18 of a victim of human trafficking; requiring a judge to
19 allow an advocate to be present with a human
20 trafficking victim in an expunction hearing in certain
21 circumstances; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 796.07, Florida Statutes, is amended to
26 read:

27 | 796.07 Prohibiting prostitution and related acts.—

28 | (1) As used in this section:

29 | (a) "Prostitution" means the giving or receiving of the
30 | body for sexual activity for hire but excludes sexual activity
31 | between spouses.

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

33 | (c) "Assignment" means the making of any appointment or
34 | engagement for prostitution or lewdness, or any act in
35 | furtherance of such appointment or engagement.

36 | (d) "Sexual activity" means oral, anal, or vaginal
37 | penetration by, or union with, the sexual organ of another; anal
38 | or vaginal penetration of another by any other object; or the
39 | handling or fondling of the sexual organ of another for the
40 | purpose of masturbation; however, the term does not include acts
41 | done for bona fide medical purposes.

42 | (2) It is unlawful:

43 | (a) To own, establish, maintain, or operate any place,
44 | structure, building, or conveyance for the purpose of lewdness,
45 | assignment, or prostitution.

46 | (b) To offer, or to offer or agree to secure, another for
47 | the purpose of prostitution or for any other lewd or indecent
48 | act.

49 | (c) To receive, or to offer or agree to receive, any
50 | person into any place, structure, building, or conveyance for
51 | the purpose of prostitution, lewdness, or assignment, or to
52 | permit any person to remain there for such purpose.

53 (d) To direct, take, or transport, or to offer or agree to
54 direct, take, or transport, any person to any place, structure,
55 or building, or to any other person, with knowledge or
56 reasonable cause to believe that the purpose of such directing,
57 taking, or transporting is prostitution, lewdness, or
58 assignation.

59 (e) To offer to commit, or to commit, or to engage in,
60 prostitution, lewdness, or assignation.

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

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

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

68 (i) To purchase the services of any person engaged in
69 prostitution.

70 (3) (a) In the trial of a person charged with a violation
71 of this section, testimony concerning the reputation of any
72 place, structure, building, or conveyance involved in the
73 charge, testimony concerning the reputation of any person
74 residing in, operating, or frequenting such place, structure,
75 building, or conveyance, and testimony concerning the reputation
76 of the defendant is admissible in evidence in support of the
77 charge.

78 (b) Notwithstanding any other provision of law, a police

79 officer may testify as an offended party in an action regarding
80 charges filed pursuant to this section.

81 (4) (a) A person who violates any provision of this
82 section, other than paragraph (2) (f), commits:

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

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

87 3. (c) A felony of the third degree for a third or
88 subsequent violation, punishable as provided in s. 775.082, s.
89 775.083, or s. 775.084.

90 (b) (5) A person who is charged with a third or subsequent
91 violation of this section, other than paragraph (2) (f), shall be
92 offered admission to a pretrial intervention program or a
93 substance abuse treatment program as provided in s. 948.08.

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

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

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

99 3. A felony of the second degree for a third or subsequent
100 violation, punishable as provided in s. 775.082, s. 775.083, or
101 s. 775.084.

102 (b) In addition to any other penalty imposed, the court
103 shall order a person convicted of a violation of paragraph
104 (2) (f) to:

105 1. Perform 100 hours of community service; and

106 2. Pay for and attend an educational program about the
107 negative effects of prostitution and human trafficking, such as
108 a sexual violence prevention education program, if such program
109 exists in the judicial circuit in which the offender is
110 sentenced.

111 (c) In addition to any other penalty imposed, the court
112 shall sentence a person convicted of a second or subsequent
113 violation of paragraph (2) (f) to a minimum mandatory period of
114 incarceration of 10 days.

115 (d)1. If a person who violates paragraph (2) (f) uses a
116 vehicle in the course of the violation, the judge, upon the
117 person's conviction, may issue an order for the impoundment or
118 immobilization of the vehicle for a period of up to 60 days. The
119 order of impoundment or immobilization must include the names
120 and telephone numbers of all immobilization agencies meeting all
121 of the conditions of s. 316.193(13). Within 7 business days
122 after the date that the court issues the order of impoundment or
123 immobilization, the clerk of the court must send notice by
124 certified mail, return receipt requested, to the registered
125 owner of the vehicle, if the registered owner is a person other
126 than the defendant, and to each person of record claiming a lien
127 against the vehicle.

128 2. The owner of the vehicle may request the court to
129 dismiss the order. The court must dismiss the order, and the
130 owner of the vehicle will incur no costs, if the owner of the

131 vehicle alleges and the court finds to be true any of the
132 following:

133 a. The owner's family has no other private or public means
134 of transportation;

135 b. The vehicle was stolen at the time of the offense;

136 c. The owner purchased the vehicle after the offense was
137 committed, and the sale was not made to circumvent the order and
138 allow the defendant continued access to the vehicle; or

139 d. The vehicle is owned by the defendant but is operated
140 solely by employees of the defendant or employees of a business
141 owned by the defendant.

142 3. If the court denies the request to dismiss the order,
143 the petitioner may request an evidentiary hearing. If, at the
144 evidentiary hearing, the court finds to be true any of the
145 circumstances described in sub-subparagraphs (d)2.a.-d., the
146 court must dismiss the order and the owner of the vehicle will
147 incur no costs.

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

157 Children and Families for the sole purpose of funding safe
 158 houses and safe foster homes as provided in s. 409.1678.

159 Section 2. Subsections (2) and (7) and paragraph (a) of
 160 subsection (8) of section 943.0583, Florida Statutes, are
 161 amended to read:

162 943.0583 Human trafficking victim expunction.—

163 (2) Notwithstanding any other provision of law, upon the
 164 filing of a petition as provided in this section, any court in
 165 the circuit in which the petitioner was arrested, so long as the
 166 court has jurisdiction over the class of offense or offenses
 167 sought to be expunged, ~~the court of original jurisdiction over~~
 168 the crime sought to be expunged may order a criminal justice
 169 agency to expunge the criminal history record of a victim of
 170 human trafficking who complies with the requirements of this
 171 section. A petition need not be filed in the court where the
 172 petitioner's criminal proceeding or proceedings originally
 173 occurred. This section does not confer any right to the
 174 expunction of any criminal history record, and any request for
 175 expunction of a criminal history record may be denied at the
 176 discretion of the court.

177 (7) (a) In judicial proceedings under this section, a copy
 178 of the completed petition to expunge shall be served upon the
 179 appropriate state attorney or the statewide prosecutor and upon
 180 the arresting agency; however, it is not necessary to make any
 181 agency other than the state a party. The appropriate state
 182 attorney or the statewide prosecutor and the arresting agency

183 may respond to the court regarding the completed petition to
 184 expunge.

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

188 (c) The court shall allow an advocate from a state
 189 attorney's office, law enforcement agency, safe house or safe
 190 foster home as defined in s. 409.1678(1), or a residential
 191 facility offering services to adult victims of human trafficking
 192 to be present with the petitioner during any court proceedings
 193 or hearings under this section, if the petitioner has made such
 194 a request and the advocate is able to be present.

195 (d)~~(e)~~ If relief is granted by the court, the clerk of the
 196 court shall certify copies of the order to the appropriate state
 197 attorney or the statewide prosecutor and the arresting agency.
 198 The arresting agency is responsible for forwarding the order to
 199 any other agency listed in the court order to which the
 200 arresting agency disseminated the criminal history record
 201 information to which the order pertains. The department shall
 202 forward the order to expunge to the Federal Bureau of
 203 Investigation. The clerk of the court shall certify a copy of
 204 the order to any other agency that the records of the court
 205 reflect has received the criminal history record from the court.

206 (8) (a) Any criminal history record of a minor or an adult
 207 that is ordered expunged ~~by the court of original jurisdiction~~
 208 ~~over the charges sought to be expunged~~ pursuant to this section

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209 | must be physically destroyed or obliterated by any criminal
210 | justice agency having custody of such record, except that any
211 | criminal history record in the custody of the department must be
212 | retained in all cases.

213 | Section 3. This act shall take effect October 1, 2015.