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2017 Legislature

1  
2 An act relating to the Department of Legal Affairs;  
3 amending s. 16.617, F.S.; authorizing the Statewide  
4 Council on Human Trafficking to apply for and receive  
5 funding from additional sources to defray costs  
6 associated with the annual policy summit; amending s.  
7 321.04, F.S.; requiring the Department of Highway  
8 Safety and Motor Vehicles to assign highway patrol  
9 officers to the Office of the Attorney General as  
10 requested; amending ss. 501.203 and 501.204, F.S.;  
11 updating references for purposes of the Florida  
12 Deceptive and Unfair Trade Practices Act; amending s.  
13 736.0110, F.S.; providing that the Attorney General  
14 has standing to assert certain rights in certain  
15 proceedings; amending s. 736.1201, F.S.; defining the  
16 term "delivery of notice"; conforming a provision to  
17 changes made by the act; amending s. 736.1205, F.S.;  
18 requiring an authorized trustee to provide certain  
19 notice to the Attorney General rather than the state  
20 attorney; amending ss. 736.1206, 736.1207, 736.1208,  
21 and 736.1209, F.S.; conforming provisions; amending s.  
22 896.101, F.S.; defining the term "virtual currency";  
23 expanding the Florida Money Laundering Act to prohibit  
24 the laundering of virtual currency; amending s.  
25 960.03, F.S.; revising definitions for purposes of

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26 crime victim assistance; amending s. 960.16, F.S.;

27 providing that awards of emergency responder death

28 benefits under a specified provision are not subject

29 to subrogation; creating s. 960.194, F.S.; providing

30 definitions; providing for awards to the surviving

31 family members of first responders who, as a result of

32 a crime, are killed answering a call for service in

33 the line of duty; specifying considerations in the

34 determination of the amount of such an award;

35 providing for apportionment of awards in certain

36 circumstances; authorizing rulemaking for specified

37 purposes; providing for denial of benefits under

38 certain circumstances; providing an effective date.

39

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

41

42 Section 1. Paragraph (d) is added to subsection (3) of

43 section 16.617, Florida Statutes, to read:

44 16.617 Statewide Council on Human Trafficking; creation;

45 membership; duties.—

46 (3) ORGANIZATION AND SUPPORT.—

47 (d) The council may apply for and accept funds, grants,

48 gifts, and services from the state, the Federal Government or

49 any of its agencies, or any other public or private source for

50 the purpose of defraying costs associated with the annual

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51 | statewide policy summit.

52 | Section 2. Subsection (4) of section 321.04, Florida  
 53 | Statutes, is renumbered as subsection (5), and a new subsection  
 54 | (4) is added to that section, to read:

55 | 321.04 Personnel of the highway patrol; rank  
 56 | classifications; probationary status of new patrol officers;  
 57 | subsistence; special assignments.—

58 | (4) Upon request of the Attorney General, the Department  
 59 | of Highway Safety and Motor Vehicles shall assign one or more  
 60 | patrol officers to the Office of the Attorney General for  
 61 | security services.

62 | Section 3. Subsection (3) of section 501.203, Florida  
 63 | Statutes, is amended to read:

64 | 501.203 Definitions.—As used in this chapter, unless the  
 65 | context otherwise requires, the term:

66 | (3) "Violation of this part" means any violation of this  
 67 | act or the rules adopted under this act and may be based upon  
 68 | any of the following as of July 1, 2017 ~~2015~~:

69 | (a) Any rules promulgated pursuant to the Federal Trade  
 70 | Commission Act, 15 U.S.C. ss. 41 et seq.;

71 | (b) The standards of unfairness and deception set forth  
 72 | and interpreted by the Federal Trade Commission or the federal  
 73 | courts; or

74 | (c) Any law, statute, rule, regulation, or ordinance which  
 75 | proscribes unfair methods of competition, or unfair, deceptive,

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76 | or unconscionable acts or practices.

77 |       Section 4. Section 501.204, Florida Statutes, is amended  
78 | to read:

79 |       501.204 Unlawful acts and practices.—

80 |       (1) Unfair methods of competition, unconscionable acts or  
81 | practices, and unfair or deceptive acts or practices in the  
82 | conduct of any trade or commerce are hereby declared unlawful.

83 |       (2) It is the intent of the Legislature that, in  
84 | construing subsection (1), due consideration and great weight  
85 | shall be given to the interpretations of the Federal Trade  
86 | Commission and the federal courts relating to s. 5(a)(1) of the  
87 | Federal Trade Commission Act, 15 U.S.C. s. 45(a)(1) as of July  
88 | 1, 2017 ~~2015~~.

89 |       Section 5. Subsection (3) of section 736.0110, Florida  
90 | Statutes, is amended to read:

91 |       736.0110 Others treated as qualified beneficiaries.—

92 |       (3) The Attorney General may assert the rights of a  
93 | qualified beneficiary with respect to a charitable trust having  
94 | its principal place of administration in this state. The  
95 | Attorney General has standing to assert such rights in any  
96 | judicial proceedings.

97 |       Section 6. Subsections (2), (3), and (4) of section  
98 | 736.1201, Florida Statutes, are renumbered as subsections (3),  
99 | (4), and (5), respectively, present subsection (5) of that  
100 | section is amended, and a new subsection (2) is added to that

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101 section, to read:

102 736.1201 Definitions.—As used in this part:

103 (2) "Delivery of notice" means delivery of a written  
 104 notice required under this part using any commercial delivery  
 105 service requiring a signed receipt or by any form of mail  
 106 requiring a signed receipt.

107 ~~(5) "State attorney" means the state attorney for the~~  
 108 ~~judicial circuit of the principal place of administration of the~~  
 109 ~~trust pursuant to s. 736.0108.~~

110 Section 7. Section 736.1205, Florida Statutes, is amended  
 111 to read:

112 736.1205 Notice that this part does not apply.—In the case  
 113 of a power to make distributions, if the trustee determines that  
 114 the governing instrument contains provisions that are more  
 115 restrictive than s. 736.1204(2), or if the trust contains other  
 116 powers, inconsistent with the provisions of s. 736.1204(3) that  
 117 specifically direct acts by the trustee, the trustee shall  
 118 notify the Attorney General by delivery of notice ~~state attorney~~  
 119 when the trust becomes subject to this part. Section 736.1204  
 120 does not apply to any trust for which notice has been given  
 121 pursuant to this section unless the trust is amended to comply  
 122 with the terms of this part.

123 Section 8. Subsection (2) of section 736.1206, Florida  
 124 Statutes, is amended to read:

125 736.1206 Power to amend trust instrument.—

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126 (2) In the case of a charitable trust that is not subject  
 127 to ~~the provisions of~~ subsection (1), the trustee may amend the  
 128 governing instrument to comply with ~~the provisions of~~ s.  
 129 736.1204(2) after delivery of notice to, and with the consent  
 130 of, ~~the state~~ Attorney General.

131 Section 9. Section 736.1207, Florida Statutes, is amended  
 132 to read:

133 736.1207 Power of court to permit deviation.—This part  
 134 does not affect the power of a court to relieve a trustee from  
 135 any restrictions on the powers and duties that are placed on the  
 136 trustee by the governing instrument or applicable law for cause  
 137 shown and on complaint of the trustee, the Attorney General  
 138 ~~state attorney~~, or an affected beneficiary and notice to the  
 139 affected parties.

140 Section 10. Paragraph (b) of subsection (4) of section  
 141 736.1208, Florida Statutes, is amended to read:

142 736.1208 Release; property and persons affected; manner of  
 143 effecting.—

144 (4) Delivery of a release shall be accomplished as  
 145 follows:

146 (b) If the release is accomplished by reducing the class  
 147 of permissible charitable organizations, by delivery of notice a  
 148 ~~copy~~ of the release to the Attorney General, including a copy of  
 149 the release ~~state attorney~~.

150 Section 11. Section 736.1209, Florida Statutes, is amended

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151 to read:

152 736.1209 Election to come under this part.—With the  
 153 consent of that organization or organizations, a trustee of a  
 154 trust for the benefit of a public charitable organization or  
 155 organizations may come under s. 736.1208(5) by delivery of  
 156 notice to filing with the state Attorney General of the an  
 157 election, accompanied by the proof of required consent.  
 158 Thereafter the trust shall be subject to s. 736.1208(5).

159 Section 12. Subsection (2) of section 896.101, Florida  
 160 Statutes, is amended and reordered, to read:

161 896.101 Florida Money Laundering Act; definitions;  
 162 penalties; injunctions; seizure warrants; immunity.—

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

164 (a)~~(b)~~ "Conducts" includes initiating, concluding, or  
 165 participating in initiating or concluding a transaction.

166 (b)~~(f)~~ "Financial institution" means a financial  
 167 institution as defined in 31 U.S.C. s. 5312 which institution is  
 168 located in this state.

169 (c)~~(d)~~ "Financial transaction" means a transaction  
 170 involving the movement of funds by wire or other means or  
 171 involving one or more monetary instruments, which in any way or  
 172 degree affects commerce, or a transaction involving the transfer  
 173 of title to any real property, vehicle, vessel, or aircraft, or  
 174 a transaction involving the use of a financial institution which  
 175 is engaged in, or the activities of which affect, commerce in

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176 any way or degree.

177 (d)~~(h)~~ "Knowing" means that a person knew; or, with  
178 respect to any transaction or transportation involving more than  
179 \$10,000 in U.S. currency or foreign equivalent, should have  
180 known after reasonable inquiry, unless the person has a duty to  
181 file a federal currency transaction report, IRS Form 8300, or a  
182 like report under state law and has complied with that reporting  
183 requirement in accordance with law.

184 (e)~~(a)~~ "Knowing that the property involved in a financial  
185 transaction represents the proceeds of some form of unlawful  
186 activity" means that the person knew the property involved in  
187 the transaction represented proceeds from some form, though not  
188 necessarily which form, of activity that constitutes a felony  
189 under state or federal law, regardless of whether or not such  
190 activity is specified in paragraph (h)~~(g)~~.

191 (f)~~(e)~~ "Monetary instruments" means coin or currency of  
192 the United States or of any other country, virtual currency,  
193 travelers' checks, personal checks, bank checks, money orders,  
194 investment securities in bearer form or otherwise in such form  
195 that title thereto passes upon delivery, and negotiable  
196 instruments in bearer form or otherwise in such form that title  
197 thereto passes upon delivery.

198 (g)~~(i)~~ "Petitioner" means any local, county, state, or  
199 federal law enforcement agency; the Attorney General; any state  
200 attorney; or the statewide prosecutor.



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201        ~~(h)-(g)~~ "Specified unlawful activity" means any  
 202 "racketeering activity" as defined in s. 895.02.

203        ~~(i)-(e)~~ "Transaction" means a purchase, sale, loan, pledge,  
 204 gift, transfer, delivery, or other disposition, and with respect  
 205 to a financial institution includes a deposit, withdrawal,  
 206 transfer between accounts, exchange of currency, loan, extension  
 207 of credit, purchase or sale of any stock, bond, certificate of  
 208 deposit, or other monetary instrument, use of a safety deposit  
 209 box, or any other payment, transfer, or delivery by, through, or  
 210 to a financial institution, by whatever means effected.

211        (j) "Virtual currency" means a medium of exchange in  
 212 electronic or digital format that is not a coin or currency of  
 213 the United States or any other country.

214        Section 13. Paragraph (f) is added to subsection (3) of  
 215 section 960.03, Florida Statutes, paragraphs (c) and (d) of  
 216 subsection (14) of that section are amended, and paragraph (e)  
 217 is added to that subsection, to read:

218        960.03 Definitions; ss. 960.01-960.28.—As used in ss.  
 219 960.01-960.28, unless the context otherwise requires, the term:

220        (3) "Crime" means:

221        (f) A felony or misdemeanor that results in the death of  
 222 an emergency responder, as defined in and solely for the  
 223 purposes of s. 960.194, while answering a call for service in  
 224 the line of duty, notwithstanding paragraph (c).

225        (14) "Victim" means:

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226 (c) A person younger than 18 years of age who was the  
 227 victim of a felony or misdemeanor offense of child abuse that  
 228 resulted in a mental injury as defined by s. 827.03 but who was  
 229 not physically injured; ~~or~~

230 (d) A person against whom a forcible felony was committed  
 231 and who suffers a psychiatric or psychological injury as a  
 232 direct result of that crime but who does not otherwise sustain a  
 233 personal physical injury or death; or

234 (e) An emergency responder, as defined in and solely for  
 235 the purposes of s. 960.194, who is killed answering a call for  
 236 service in the line of duty.

237 Section 14. Section 960.16, Florida Statutes, is amended  
 238 to read:

239 960.16 Subrogation.—Except for an award under s. 960.194,  
 240 payment of an award pursuant to this chapter shall subrogate the  
 241 state, to the extent of such payment, to any right of action  
 242 accruing to the claimant or to the victim or intervenor to  
 243 recover losses directly or indirectly resulting from the crime  
 244 with respect to which the award is made. Causes of action which  
 245 shall be subrogated under this section include, but are not  
 246 limited to, any claim for compensation under any insurance  
 247 provision, including an uninsured motorist provision, when such  
 248 claim seeks to recover losses directly or indirectly resulting  
 249 from the crime with respect to which the award is made.

250 Section 15. Section 960.194, Florida Statutes, is created

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251 to read:

252 960.194 Emergency responder death benefits.—

253 (1) For the purposes of this section, the term:

254 (a) "Call for service" means actively performing official  
 255 duties, including the identification, prevention, or enforcement  
 256 of the penal, traffic, or highway laws of this state, traveling  
 257 to the scene of an emergency situation, and performing those  
 258 functions for which the emergency responder has been trained and  
 259 certified to perform.

260 (b) "Emergency responder" means a law enforcement officer,  
 261 a firefighter, an emergency medical technician, or paramedic.

262 (c) "Emergency medical technician" has the same meaning as  
 263 provided in s. 401.23.

264 (d) "Firefighter" has the same meaning as provided in s.  
 265 633.102.

266 (e) "Law enforcement officer" has the same meaning as  
 267 provided in s. 943.10.

268 (f) "Paramedic" has the same meaning as provided in s.  
 269 401.23.

270 (g) "Surviving family members of an emergency responder"  
 271 means the surviving spouse, children, parents or guardian, or  
 272 siblings of a deceased emergency responder.

273 (2) Notwithstanding s. 960.065(1) and s. 960.13, the  
 274 department may award for any one claim up to a maximum of  
 275 \$50,000, to the surviving family members of an emergency

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276 responder who, as a result of a crime, is killed answering a  
 277 call for service in the line of duty.

278 (3) In determining the amount of an award, the department  
 279 shall determine whether, because of his or her conduct, the  
 280 emergency responder contributed to his or her death, and the  
 281 department shall reduce the amount of the award or reject the  
 282 claim altogether, in accordance with such determination.  
 283 However, the department may disregard the contribution of the  
 284 emergency responder to his or her own death when the record  
 285 shows that such contribution was attributed to efforts by the  
 286 emergency responder acting as an intervenor as defined in s.  
 287 960.03.

288 (4) If there are two or more persons entitled to an award  
 289 pursuant to this section for the same incident, the award shall  
 290 be apportioned among the claimants at the discretion and  
 291 direction of the department.

292 (5) The department may adopt rules that establish award  
 293 limits below the amount set forth in subsection (2) and  
 294 establish criteria governing awards pursuant to this section.

295 (6) An award pursuant to this section shall be reduced or  
 296 denied if the department has previously approved or paid out a  
 297 claim under s. 960.13 to the same claimant regarding the same  
 298 incident. An award for victim compensation under s. 960.13 shall  
 299 be denied if the department has previously approved or paid out  
 300 an emergency responder death benefits claim under this section.

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301 | Section 16. This act shall take effect July 1, 2017. |