

By Senator Ring

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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 dependant 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 children 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; providing for
24 placement of other children in safe houses when
25 appropriate; requiring an annual report concerning
26 safe-house placements; providing requirements relating
27 to appropriations for safe houses; amending s. 322.28,
28 F.S.; conforming a cross-reference; creating s.
29 409.1678, F.S.; providing legislative intent relating

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

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

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

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

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

57 (4) SEXUAL EXPLOITATION SERVICES.—

58 (a) The Legislature recognizes that child sexual

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

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

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

87 (c) The Legislature finds that sexually exploited children

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88 need special care and services in the dependency process, which
89 include counseling, health care, substance abuse treatment,
90 educational opportunities, and a safe environment secure from
91 traffickers.

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

100 (8) ~~(7)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.-

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

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

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

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

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

116 a. Programs and services for the promotion of adoption,

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117 support of adoptive families, and prevention of child abuse and
118 neglect.

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

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

124 d. Efforts to promote adoption.

125 e. Postadoptive services to support adoptive families.

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

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

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

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

145 d. A summary detailing the timeliness of the adoption

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146 process for children adopted from within the child welfare
147 system.

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

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

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

156 (10)~~(9)~~ FUNDING AND SUBSEQUENT PLANS.-

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

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175 Senate as required above.

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

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

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

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

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

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

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

203 (d) To have been voluntarily placed with a licensed child-

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204 placing agency for the purposes of subsequent adoption, and a
205 parent or parents have signed a consent pursuant to the Florida
206 Rules of Juvenile Procedure;

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

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

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

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

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

221 1. Solicit for or engage in prostitution; ~~or~~

222 2. Engage in a sexual performance, as defined by chapter
223 827; or

224 3. Participate in the trade of sex trafficking as provided
225 in s. 796.035.

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

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

232 (2) If the law enforcement officer takes the child into

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233 custody, that officer shall:

234 (b) Deliver the child to an authorized agent of the
235 department, stating the facts by reason of which the child was
236 taken into custody and sufficient information to establish
237 probable cause that the child is abandoned, abused, or
238 neglected, or otherwise dependent. In the case of a child who is
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.

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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,

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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) applies and the court has made a specific finding of fact
281 regarding the necessity for removal of the child from the home
282 and has made a determination that the provision of appropriate
283 and available services will not eliminate the need for
284 placement. In the case of a child who is alleged to have been
285 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

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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; ~~or~~

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 must
312 identify the parties present at the hearing and must contain
313 written findings:

314 1. That placement in shelter care is necessary based on the
315 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

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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; ~~or~~

347 d. The child has been sexually exploited; or

348 e.~~d.~~ The parent or legal custodian is alleged to have

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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 out-
363 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

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

395 2. In support of its determination as to whether reasonable
396 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:

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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 a sexually
418 exploited child as defined in s. 39.01(67)(g) meets the terms of
419 this 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)-(l).

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

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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

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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 available.

490 (2) The results of the assessment described in subsection
491 (1) and the actions taken as a result of the assessment must be
492 included in the next judicial review of the child. At each
493 subsequent judicial review, the court must be advised in writing

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494 of the status of the child's placement, with special reference
495 regarding the stability of the placement and the permanency
496 planning for the child.

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

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

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

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

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

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

537 (b) Each year, funds included in the General Appropriations
538 Act for safe houses and short-term safe houses as provided in s.
539 409.1678 shall be appropriated in a separately identified
540 special category that is designated in the act as "Special
541 Categories: Grants and Aids-Safe Houses."

542 (c) Each fiscal year, all funding increases for safe houses
543 and short-term safe houses as provided in s. 409.1678 which are
544 included in the General Appropriations Act shall be appropriated
545 in a lump-sum appropriation as defined in s. 216.011. In
546 accordance with s. 216.181(6) (a), the Executive Office of the
547 Governor shall require the department to submit a spending plan
548 that identifies the safe-house capacity shortage throughout the
549 state and proposes a distribution formula by district which
550 addresses the reported deficiencies. The spending plan must have
551 as its first priority the reduction or elimination of any bed

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552 shortage identified and must also provide for program
553 enhancements to ensure that safe houses and short-term safe
554 houses meet a minimum level of expected performance and provide
555 for expansion of services for sexually exploited children
556 described in s. 409.1678. Annual appropriation increases
557 appropriated in the lump-sum appropriation must be used in
558 accordance with the provisions of the spending plan.

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

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

571 322.28 Period of suspension or revocation.-

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

580 Section 9. Section 409.1678, Florida Statutes, is created

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581 to read:

582 409.1678 Safe harbor for children who are victims of sexual
583 exploitation.-

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

608 (2) As used in this section, the term:609 (a) "Child advocate" means an employee of a short-term safe

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610 house who has been trained to work with and advocate for the
611 needs of sexually exploited children. The advocate shall
612 accompany the child to all court appearances, meetings with law
613 enforcement and the state attorney's office, and shall serve as
614 a liaison between the short-term safe house and the court.

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

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

634 (d) "Short-term safe house" means a shelter operated by a
635 licensed family foster home or residential child-caring agency
636 as defined in s. 409.175, including a runaway youth center as
637 defined in s. 409.441, that has set aside gender-specific,
638 separate, and distinct living quarters for sexually exploited

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639 children. In addition to shelter, the house shall provide
640 services and care to sexually exploited children, including
641 food, clothing, medical care, counseling, and appropriate crisis
642 intervention services at the time they are taken into custody by
643 law enforcement or the department.

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

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668 ensures, to the extent that funds are available, that such
669 placement, services, and programs are readily accessible to
670 sexually exploited children residing within the district.

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

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

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

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

721 (f) The department may transfer all casework
722 responsibilities for children served under this program to the
723 entity that provides the safe-house service, including case
724 management and development and implementation of a case plan in
725 accordance with current standards for child protection services.

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726 When the department establishes this program in a community that
727 has a lead agency as described in s. 409.1671, the casework
728 responsibilities must be transferred to the lead agency.

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

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

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

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

748 (k) The department may adopt rules pursuant to ss.
749 120.536(1) and 120.54 to implement the provisions of this
750 section conferring duties upon it.

751 (l) All of the services created under this section may, to
752 the extent possible provided by law, be available to all
753 sexually exploited children whether they are accessed
754 voluntarily, as a condition of probation, through a diversion

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755 program, through a proceeding under chapter 39, or through a
756 referral from a local community based care or social service
757 agency.

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

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

777 796.07 Prohibiting prostitution and related acts, etc.;
778 evidence; penalties; definitions.-

779 (2) It is unlawful to:

780 (a) ~~To~~ Own, establish, maintain, or operate any place,
781 structure, building, or conveyance for the purpose of lewdness,
782 assignation, or prostitution.

783 (b) ~~To~~ Offer, or to offer or agree to secure, another for

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784 the purpose of prostitution or for any other lewd or indecent
785 act.

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

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

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

798 (e)-(f) ~~To~~ Solicit, induce, entice, or procure another to
799 commit prostitution, lewdness, or assignation.

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

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

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

807 ~~(i) To purchase the services of any person engaged in~~
808 ~~prostitution.~~

809 (3) It is unlawful for any person 16 years of age or older
810 to:

811 (a) Purchase the services of any person engaged in
812 prostitution.

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813 (b) Offer to commit, or to commit, or to engage in,
814 prostitution, lewdness, or assignation.

815 (c) Reside in, enter, or remain in, any place, structure,
816 or building, or to enter or remain in any conveyance, for the
817 purpose of prostitution, lewdness, or assignation.

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

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

827 Section 11. Paragraph (i) of subsection (1) of section
828 985.145, Florida Statutes, is amended to read:

829 985.145 Responsibilities of juvenile probation officer
830 during intake; screenings and assessments.—

831 (1) The juvenile probation officer shall serve as the
832 primary case manager for the purpose of managing, coordinating,
833 and monitoring the services provided to the child. Each program
834 administrator within the Department of Children and Family
835 Services shall cooperate with the primary case manager in
836 carrying out the duties and responsibilities described in this
837 section. In addition to duties specified in other sections and
838 through departmental rules, the assigned juvenile probation
839 officer shall be responsible for the following:

840 (i) *Recommendation concerning a petition.*—Upon determining
841 that the report, affidavit, or complaint complies with the

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

862 Section 12. Subsection (1) of section 985.15, Florida
863 Statutes, is amended to read:

864 985.15 Filing decisions.—

865 (1) The state attorney may in all cases take action
866 independent of the action or lack of action of the juvenile
867 probation officer and shall determine the action that is in the
868 best interest of the public and the child. If the child meets
869 the criteria requiring prosecution as an adult under s. 985.556,
870 the state attorney shall request the court to transfer and

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871 certify the child for prosecution as an adult or shall provide
872 written reasons to the court for not making such a request. In
873 all other cases, the state attorney may:

874 (a) File a petition for dependency;

875 (b) File a petition under chapter 984;

876 (c) File a petition for delinquency. In the case of a
877 report, affidavit, or complaint alleging a violation of s.
878 796.07(3), there is a presumption that a petition not be filed
879 unless the child has previously been adjudicated delinquent;

880 (d) File a petition for delinquency with a motion to
881 transfer and certify the child for prosecution as an adult;

882 (e) File an information under s. 985.557;

883 (f) Refer the case to a grand jury;

884 (g) Refer the child to a diversionary, pretrial
885 intervention, arbitration, or mediation program, or to some
886 other treatment or care program if such program commitment is
887 voluntarily accepted by the child or the child's parents or
888 legal guardian; or

889 (h) Decline to file.

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