

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HFS 14-02 Human Trafficking

SPONSOR(S): Healthy Families Subcommittee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Healthy Families Subcommittee		Entress	Brazzell

SUMMARY ANALYSIS

Sexual exploitation of a child is defined in s. 39.01(67)(g), F.S., which includes allowing, encouraging, or forcing a child to solicit for or engage in prostitution; engage in a sexual performance, as defined by chapter 827; or participate in the trade of sex trafficking as specified in s. 796.035, F.S. Children experiencing sexual exploitation often become bonded with their exploiters and do not see themselves as victims. These children experience trauma and are exposed to danger, but are often unable to leave their exploiter to seek help. Safe homes provide residential care and services to sexually exploited children.

S. 409.1678, F.S., governs safe homes. The bill changes statutory requirements for safe houses to establish standards for residential treatment of sexually exploited children and authorizes safe foster homes. The bill creates a certification program for safe houses and safe foster homes at the Department of Children and Families (DCF), and requires certification in order for these facilities to accept state funds specifically allocated to care for sexually exploited children. The bill allows DCF to operate one secure safe house as a pilot program, sets requirements for that safe house, provides for judicial oversight, and requires an evaluation of the pilot program.

The bill also makes administrative changes to the requirements for DCF and the community-based care agencies (CBCs) related to sexually exploited children. The bill requires DCF to create or adopt initial screening and assessment instruments for use in identifying and serving sexually exploited children, and allows a child to be placed in a safe house if the assessment instrument determines that is the most appropriate setting and a safe house is available. The bill also requires DCF, the CBCs, and the Department of Juvenile Justice (DJJ) to specially train certain employees to work with sexually exploited children. The bill requires DCF and the CBCs to hold multidisciplinary staffings to coordinate services for sexually exploited children.

The bill requires DCF and the CBCs to plan and to have response protocols in place regarding serving sexually exploited children. The bill also requires DCF, the CBCs, and DJJ to participate on any local task forces related to this population.

The bill requires the Office of Program Policy Analysis and Government Accountability to conduct a study on commercial sexual exploitation of children in Florida and specifies topics for inclusion in the study.

The bill has an effective date of July 1, 2014.

The bill has a negative indeterminate fiscal impact to DCF.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Human Trafficking

Florida law defines human trafficking as “soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.”¹ Human trafficking is a form of modern-day slavery, which involves the exploitation of persons for commercial sex or forced labor.² Trafficking often subjects victims to force, fraud, and coercion.³

There are no definitive statistics on the extent of human trafficking. The U.S. Department of State estimates that as many as 27 million victims are being trafficked worldwide at any given time. They also estimate that there were approximately 40,000 victims being trafficked in the United States in 2012.⁴ Florida is estimated to have the third highest rate of human trafficking in the United States, following New York and California.⁵

Commercial Sex Trafficking of Minors

Human trafficking involving commercial sex is also known as commercial sexual exploitation or commercial sex trafficking. The United States Trafficking Victims Protection Act of 2000 defines sex trafficking as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.⁶

In cases of commercial sex trafficking of minors, pimps often operate as the primary domestic sex traffickers and target particularly vulnerable youth, such as runaway and homeless youth.⁷ Pimps may engage in a “grooming” process where a child is showered with gifts, treats, and compliments in order to earn his or her trust.⁸ Often the children have low self-esteem and may come from broken families or have past childhood trauma which may include sexual or physical abuse.⁹ This makes the children easier targets because they are emotionally vulnerable, looking for someone to love and care for them. After the pimp earns the child’s trust the pimp may engage in physical, sexual, and/or emotional abuse of the child.¹⁰ The effect is to psychologically and emotionally break the child so that he or she becomes completely dependent on the pimp.¹¹ Psychologists and clinicians call this phenomenon “traumatic bonding.”¹² This occurs where a person has dysfunctional attachment that occurs in the presence of danger, shame, or exploitation. These situations often include seduction, deception or betrayal, and some form of danger or risk is always present.¹³ While this is a common way that commercial sexual exploitation occurs, some children are commercially sexually exploited by family members or organized networks.¹⁴

¹ S. 787.06(2)(d), F.S.

² S. 787.06(1)(a), F.S.

³ *Id.*

⁴ *Trafficking in Persons Report 2013*, U.S. Department of State, accessible at: <http://www.state.gov/j/tip/rls/tiprpt/2013/>, last accessed January 6, 2014.

⁵ Healthy Families Subcommittee Presentation by Professor Terry Coonan, FSU Human Rights Center, January 14, 2014.

⁶ Trafficking Victims Protection Act of 2000, 22 USC 7101.

⁷ Sex Trafficking of Children in the United States, The Polaris Project, accessible at: <http://www.polarisproject.org/what-we-do/policy-advocacy/prosecuting-traffickers/895-sex-trafficking-of-minors> (last accessed March 2, 2014).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

The Department of Homeland Security (DHS) reports that each year as many as 100,000-300,000 children in the United States are at risk of being trafficked for commercial sex in the United States.¹⁵

Commercial Sex Trafficking of Minors in Florida

The Department of Children and Families (DCF) verified 182 victims of commercial sex trafficking in FY 2012-13. Of these, nine victims were exploited by their caregiver, and 27 victims were removed from their caregivers. DCF also identified an additional 185 children who may be at risk of becoming commercial sexual exploitation victims.^{16, 17} According to DCF, there are likely many more victims in Florida than have been identified.

Safe Harbor Act

The Florida Safe Harbor Act of 2012 allows sexually exploited children to be treated as dependent children¹⁸ rather than delinquent children.¹⁹ The act amended Florida law to make child prostitution abuse of a child, rather than a criminal act by the child, and allows children who are victims of sexual exploitation to be adjudicated dependent.²⁰

Law enforcement officers are required to deliver a minor taken into custody to the DCF when there is probable cause to believe he or she has been sexually exploited.²¹ Safe houses and short-term safe houses were created by the Safe Harbor Act, and DCF is authorized to place sexually exploited children in these facilities.²²

Efforts by Department of Children and Families and the Department of Juvenile Justice

The Department of Juvenile Justice (DJJ) conducted a tri-county pilot project implementing a screening tool for commercial sexual exploitation of children in 2012-2013. In total, there were 353 individual youth screened. Of the 353 screenings, 42 youth were verified as victims of commercial sexual exploitation. This means that 11.9% of the youth that had a history of running away (the prerequisite for a screening), and were screened, were ultimately verified by DCF as a sexual exploitation victim.²³

¹⁵ *Human Trafficking 101 for School Administrators and Staff*, Blue Campaign, The Department of Homeland Security, accessible at: <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&ved=0CCoQFJAA&url=http%3A%2F%2Fwww.hs.gov%2Fsites%2Fdefault%2Ffiles%2Fpublications%2Fblue-campaign%2FBlue%2520Campaign%2520-%2520Human%2520Trafficking%2520101%2520for%2520School%2520Administrators%2520and%2520Staff.pdf&ei=4DvMU6oO4vrkQeAsYDoBg&usq=AFQjCNGLuEaOhuEVFzRuCTYISWLOrgTQ7w&sig2=AskcWjhjSulLHF6D7LHrcg>, (last accessed January 7, 2014).

¹⁶ Florida Department of Children and Families Annual Human Trafficking Report 2012-13 Federal Fiscal Year.

¹⁷ To determine whether a child is at risk of becoming a commercial sexual exploitation victim, DCF looked at three additional data sets in their IT system for dependent children (FSFN). The three indicators in FSFN indicate that that the child possibly has involvement in sexual exploitation, is possibly involved in prostitution, or were previously verified as a victim of human trafficking.

¹⁸ A child who is found to be dependent is a child who pursuant to ch. 39, F.S., is found by the court:

- (a) To have been abandoned, abused, or neglected by the child's parent or parents or legal custodians;
- (b) To have been surrendered to the department, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption;
- (c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents or legal custodians have failed to substantially comply with the requirements of the plan;
- (d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a parent or parents have signed a consent pursuant to the Florida Rules of Juvenile Procedure;
- (e) To have no parent or legal custodians capable of providing supervision and care;
- (f) To be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians; or
- (g) To have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.

¹⁹ S. 39.001(4)(b)(2), F.S.

²⁰ S. 39.01(67), F.S.; however, child prostitution is not considered sexual abuse of a child if the child is under arrest or being prosecuted in a delinquency or criminal proceed for a violation in chapter 796 (offenses related to prostitution) or forcing a child to solicit for or engage in prostitution, engage in a sexual performance, as defined by chapter 827, or participate in the trade of sex trafficking as provided in s. 796.035.

²¹ S. 39.401(2)(b), F.S.

²² S. 409.1678, F.S.

²³ Sexual Exploitation of Youth, Department of Juvenile Justice, January 23, 2014.

DCF primarily becomes aware of minors who are sexually exploited due to a call to the child abuse hotline or because the child is in the dependency system. As with any allegation of abuse, when allegations of commercial sexual exploitation of a child are reported to DCF's child abuse hotline and the hotline employee believes that the report meets the statutory definition of abuse, abandonment or neglect, an investigation by a child protective investigator is triggered.²⁴ If the allegation is verified and the child has no known parent, legal custodian, or responsible adult relative who is capable of providing the necessary and appropriate supervision and care, DCF may petition to have the child adjudicated dependent.²⁵

Community-based care lead agencies (CBCs) determine placements for children who have been adjudicated dependent.²⁶ According to DCF, CBCs may also provide services to victims of human trafficking who are not adjudicated dependent as a means of preventing future involvement in the child welfare system. DCF has taken steps to strengthen the infrastructure for serving victims of human trafficking, such as training its child protective investigators and participating in regional task forces.

DJJ has also been working to identify and provide services to human trafficking victims. In addition to the pilot project cited above, the agency secretary chairs the Florida Children and Youth Cabinet's Human Trafficking Workgroup.²⁷ The workgroup focuses on identifying ways in which Florida can end child sex trafficking. The workgroup has representation from the Governor's Office of Adoption and Child Protection, DCF, DJJ, the Florida State University Center for the Advancement of Human Rights and other stakeholders. Workgroup members have begun researching best practices throughout the nation as well as monitoring proposed legislation addressing child sex trafficking.²⁸

Human Trafficking Task Forces

Many programs for identifying and providing services for human trafficking victims have emerged through local efforts, which are unique to each community. Human trafficking task forces began as a way to raise awareness, coordinate responses, and share information regarding available services. There are nineteen regional task forces dedicated to fighting human trafficking developed throughout Florida.²⁹ The task forces consist of community members involved in human trafficking issues in that area of the state. This may include law enforcement, providers, schools, and faith based organizations. DCF is involved in the leadership in all task forces. The task forces meet at least monthly and operate according to the community's needs.

Services for Victims of Human Trafficking in Florida

Serving victims of human trafficking presents challenges for a variety of reasons.³⁰ These children often do not see themselves as exploited or victims and thus will not self-identify. Instead, they often develop a "trauma bond" with the traffickers, and see themselves as a companion to the trafficker.³¹ These children often run away from their placements, including from safe houses.³² In a DJJ pilot program, DJJ found that of 64% of children who were confirmed victims of commercial exploitation had a history of over 5 instances of running away.³³ Victims may also try to recruit other children from their placements to go work for the pimp.³⁴

²⁴ S. 39.201(2)(a), F.S.

²⁵ S. 39.01(15)(g), F.S.

²⁶ E-mail correspondence with the Florida Department of Children and Families, December 20, 2013, on file with subcommittee staff.

²⁷ Florida Children and Youth Cabinet: Human Trafficking Workgroup, accessible at: <http://www.flgov.com/childrens-cabinet-human-trafficking-workgroup/> (last accessed February 2, 2014).

²⁸ *Id.*

²⁹ The task forces are in the following counties: Alachua, Bay, Broward, Collier, Duval, Escambia, Hernando, Lake, Leon, Manatee, Marion, Martin, Miami-Dade, Okaloosa, Orange, Palm Beach, Pinellas, Polk, and St. Johns.

³⁰ Testimony from the panel of providers for victims of human trafficking, Healthy Families Subcommittee, February 19, 2014.

³¹ Testimony from the Detective McBride, Healthy Families Subcommittee, February 15, 2014.

³² Testimony from the panel of providers for victims of human trafficking, Healthy Families Subcommittee, February 19, 2014.

³³ Sexual Exploitation of Youth, Department of Juvenile Justice, January 23, 2014.

³⁴ Testimony from the panel of providers for victims of human trafficking, Healthy Families Subcommittee, February 19, 2014.

Services are not consistently available across the state.³⁵ Availability depends on the local response which has emerged to meet the challenge in that area.³⁶ Children's family situations also vary.³⁷ Some children come from the dependency system, but others have a family which wants to remain involved with them and to help.³⁸ There is also not a standardized assessment tool for identifying victims,³⁹ and due to inconsistent training, the level of awareness of the signs of victimization and appropriate responses varies among personnel.⁴⁰

Residential Services - Safe Houses

The Safe Harbor Act in 2012 provided for "safe houses". Safe houses are homes for sexually exploited children who have been adjudicated dependent or delinquent and need to reside in a secure⁴¹ residential facility.⁴² Safe houses must provide a living environment that has set aside gender-specific, separate, and distinct living quarters for sexually exploited children and must have awake staff members 24 hours a day. Safe houses must also hold a license as a family foster home or residential child-caring agency. Each facility must be appropriately licensed in this state as a family foster home or a residential child-caring agency as defined in s. 409.175, F.S., and must have applied for accreditation within 1 year after being licensed.⁴³ A safe house serving children who have been sexually exploited must have available staff or contract personnel who have the clinical expertise, credentials, and training to provide:

- Security;
- Crisis intervention services;
- General counseling and victim-witness counseling;
- A comprehensive assessment;
- Residential care;
- Transportation;
- Access to behavioral health services;
- Recreational activities;
- Food;
- Clothing;
- Supplies;
- Infant care;
- Miscellaneous expenses associated with caring for these children;
- Provide necessary arrangement for or provision of educational services, including life skills services and planning services for the successful transition of residents back to the community; and
- Ensuring necessary and appropriate health care and dental care.⁴⁴

DCF is required to assess dependent children for placement in a safe house if the child is older than six. The assessment is required to incorporate and address the following:

- Current and historical information from any law enforcement reports;
- Psychological testing or evaluation that has occurred;
- Current and historical information from the guardian ad litem, if one has been assigned;
- Current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; and

³⁵ Testimony from the Detective McBride, Healthy Families Subcommittee, February 15, 2014.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ E-mail correspondence with the Department of Children and Families, December 23, 2013, on file with committee staff.

⁴⁰ Testimony from the Detective McBride, Healthy Families Subcommittee, February 15, 2014.

⁴¹ The term "secure" is defined as a facility which is supervised 24 hours a day by staff members who are awake while on duty.

⁴² S. 409.1678 (1)(b), F.S.

⁴³ According to DCF, there are currently no entities that accredit safe houses and safe houses are not sure what type of accreditation they are required to have. No safe houses have applied for accreditation at this time.

⁴⁴ S. 409.1671, F.S.

- Any other information concerning the availability and suitability of safe-house placement.

The child may be placed in a safe house if such placement is determined to be appropriate as a result of this assessment and if one is available, but placement is not required.⁴⁵ There are currently two safe houses in Florida, with a total of 11 beds statewide. A third safe house is projected to open in 2014 with 7 beds.⁴⁶

Residential Services - Therapeutic Foster Homes

The Citrus Health Network developed the Citrus Helping Adolescents Negatively Impacted by Commercial Exploitation (CHANCE) Program in South Florida.⁴⁷ The program uses therapeutic foster care and a community response team for victims of commercial sexual exploitations.⁴⁸ The program places children in a therapeutic foster home, where only one child is placed.⁴⁹ The parents receive specialized training for this population. Foster parents are required to be available 24 hours per day, 7 days per week, to respond to crises or the need for special therapeutic interventions.⁵⁰ The foster homes are also required to have an advanced alarm system to alert the foster parents of intruders and allow the parents to be aware if the child is leaving the home.⁵¹ The CHANCE program also includes the following intensive clinical and support services:

- Assessment and evaluation of the child and the family;
- Individual therapy 2-5 times per week with a therapist trained in trauma focused-cognitive behavioral therapy and motivational interviewing;
- Family therapy available as necessary;
- Assignment of a life coach who is a survivor of commercial sexual exploitation for each child;
- Assignment of a peer mentor to provider peer support and encouragement;
- Clinical staff available 24/7 for crisis management or supportive intervention;
- Certified behavioral analyst services to address the behavioral needs of this population;
- Targeted case management to facilitate linkage to all appropriate support services;
- Regular monitoring by the treatment team to ensure all service and treatment plan goals are consistently pursued; and
- Group therapy with other survivors of commercial sex exploitation.

The University of South Florida is contracted to conduct an evaluation of the CHANCE program. The evaluation will be available in November 2014.⁵²

Residential Services - Specialized Group Placements

Specialized group placements are also available to serve commercially sexually exploited children. These group placements do not meet the statutory criteria to be safe houses, but have specialized programs serving sexually exploited children. These facilities may also serve children who have not experienced sexual exploitation. OASIS offers group placements for children served by DCF and DJJ as well as children not involved in either system.⁵³ To participate in its program for sex trafficking victims, the victims must be placed there by their caregivers. This program serves both boys and girls. The OASIS program was funded through a specific legislative line item.⁵⁴ Other providers with specialized programs that are not designated as safe houses include Chrysalis, Images of Glory, and Deveraux.⁵⁵

⁴⁵ S. 39.524, F.S.

⁴⁶ E-mail correspondence with the Florida Department of Children and Families, December 20, 2013, on file with subcommittee staff.

⁴⁷ Testimony from Human Trafficking Panel, Healthy Families Subcommittee Meeting, February 19, 2014.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ E-mail correspondence with the Department of Children and Families, February 24, 2014, on file with subcommittee staff.

⁵⁴ E-mail correspondence with the Department of Children and Families, January 14, 2014, on file with subcommittee staff.

⁵⁵ E-mail correspondence with the Department of Children and Families, February 24, 2014, on file with subcommittee staff.

Other victims of human trafficking have been placed with parents or relatives, in mental health facilities, in substance abuse facilities, in therapeutic foster homes, in foster care, in DJJ detention centers, or remained in their current placement, after identification as a victim.⁵⁶

Non-Residential Services

The CHANCE program serves 17 children not placed in safe houses with wraparound services. These services include assessment and evaluation, treatment and service plan development, 24/7 on-call clinical staff, individualized and family therapy, life coaching, peer mentorship, case management, certified behavioral analyst services, substance abuse treatment, and psychiatric services.⁵⁷ Victims of human trafficking may be offered other services generally available to children in need through the existing service array, such as substance abuse services, mental health services, and educational services.⁵⁸

Residential Programs in Other States

Limited research has been completed nationwide regarding best practices to serve and treat victims of human trafficking. However, there are some residential programs in other states which serve victims of human trafficking.

Wellspring Living (Wellspring) is a residential facility in Georgia, which serves girls ages 12-17 who are victims of human trafficking.⁵⁹ This program is licensed as a “maximum watchful oversight” child care facility.⁶⁰ The facility has security features such as locked doors, unbreakable Plexiglas windows, and a fence surrounding the facility. While this program is a locked facility, it has alarmed doors that the children can open. If the alarmed door is pushed there is a delay for the door to open and alarms inform the program staff that somebody has tried to leave the facility. While Wellspring considers themselves a locked facility, exit can occur without the involvement of facility staff. At Wellspring, girls receive trauma-informed therapies, life skills classes, education,⁶¹ group therapies, family therapy, and other needed services.⁶² Following the program, most girls return to their families or to a foster-home or group home setting. The program is working to develop a study of its effectiveness.

In California, Children of the Night (COTN) is a private, non-profit program for children between the ages of 11 and 17 that receives referrals from across the country and only accepts those children whom it believes are willing to leave prostitution and participate in long-term, comprehensive treatment. COTN is a homelike environment with 24 beds.⁶³ The children follow a highly structured program that includes attending an on-site school and a college placement program.⁶⁴ After children complete the comprehensive program of academic and life-skills education, caseworkers are available to provide ongoing case management to graduates.⁶⁵ COTN has existed since its inception through the sole support of private contributions from individuals, corporations, and foundations.⁶⁶

Treatment for Victims of Human Trafficking

Trauma-Focused Cognitive Behavioral Therapy

In the immediate as well as long-term aftermath of exposure to trauma, children are at risk of developing significant emotional and behavioral difficulties.⁶⁷ Trauma-focused cognitive behavioral

⁵⁶ Florida Department of Children and Families Annual Human Trafficking Report 2012-13 Federal Fiscal Year.

⁵⁷ Testimony from Human Trafficking Panel, Healthy Families Subcommittee Meeting, February 19, 2014.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Provider Resource Results, State of Georgia Out-of-Home Care*, accessible at:

https://www.gascore.com/resourceguide/search_results.cfm.

⁶¹ Testimony from Human Trafficking Panel, Healthy Families Subcommittee Meeting, February 19, 2014.

⁶² *Wellspring Living for Girls*, Wellspring Living, accessible at: <https://wellspringliving.org/wellspring-living-for-girls/>.

⁶³ Children of the Night, accessible at: <https://www.childrenofthenight.org/index.html>, last accessed March 2, 2014.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Trauma-Focused Cognitive Behavioral Therapy for Children Affected by Sexual Abuse or Trauma, The Administration for Children and Families, U.S. Department of Health and Human Services, August 2012, accessible at: <https://www.childwelfare.gov/pubs/trauma/>.

therapy (TF-CBT) is an evidence-based treatment approach shown to help children, adolescents, and their caregivers overcome trauma-related difficulties.⁶⁸ It is designed to reduce negative emotional and behavioral responses following child sexual abuse, domestic violence, traumatic loss, and other traumatic events.⁶⁹ The treatment is based on learning and cognitive theories, and addresses distorted beliefs and attributions related to the abuse.⁷⁰ TF-CBT provides a supportive environment in which children are encouraged to talk about their traumatic experience.⁷¹ TF-CBT combines elements drawn from:

- Cognitive therapy, which aims to change behavior by addressing a person's thoughts or perceptions, particularly those thinking patterns that create distorted or unhelpful views;
- Behavioral therapy, which focuses on modifying habitual responses (e.g., anger, fear) to identified situations or stimuli; and
- Family therapy, which examines patterns of interactions among family members to identify and alleviate problems.⁷²

TF-CBT is a short-term treatment typically provided in 12 to 18 sessions of 50 to 90 minutes, depending on treatment needs.⁷³ The intervention is usually provided in outpatient mental health facilities, but it has been used in hospital, group home, school, community, residential, and in-home settings.⁷⁴

Recent research findings suggest that TF-CBT is more effective than nondirective or client centered treatment approaches for children who have a history of multiple traumas (e.g., sexual abuse, exposure to domestic violence, physical abuse, as well as other traumas).⁷⁵

Strengths-Based Approach

An individualized, strengths-based approach refers to policies, practice methods, and strategies that identify and draw upon the strengths of children, families, and communities.⁷⁶ Strengths-based practice involves a shift from a deficit approach, which emphasizes problems and pathology, to a positive partnership with the family.⁷⁷ The approach acknowledges each child and family's unique set of strengths and challenges, and engages the family as a partner in developing and implementing the service plan.⁷⁸

Involuntary Examination and Commitment

Current law allows children who have not committed any crimes to be confined to receive treatment and keep those children safe. Under s. 394.463, also known as the Baker Act, children can be involuntarily confined in a hospital or crisis stabilization unit for mental health assessment.⁷⁹ In 2012 there were 25,286 involuntary exams of children between the ages of 4 and 17 in Florida.⁸⁰

The assessment is performed by an expert, a physician or clinical psychologist.⁸¹ If an involuntary examination finds that child needs involuntary inpatient placement (IPP) for treatment, he or she is either retained in the facility where the involuntary exam was performed or transferred to a mental health treatment facility.⁸² The court must hold a hearing within 5 days and find that the child needs IPP

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *An Individualized, Strengths-Based Approach in Public Child Welfare Driven Systems of Care*, Administration for Children and Families, US Department of Health and Human Services, *accessible at*:

<https://www.childwelfare.gov/pubs/acloserlook/strengthsbased/strengthsbased1.cfm> (last accessed February 25, 2014).

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ S. 394.463, F.S.

⁸⁰ *Baker Act Examinations for Youth in Calendar Year 2012*, Annette Christy, Associate Professor, University of South Florida, September 2013.

⁸¹ S. 394.463 (2)(f), F.S.

⁸² S. 394.467 (2), F.S.

in order for the child to continue receiving services.⁸³ The court must review whether or not the child requires involuntary inpatient treatment every six months.⁸⁴

Section 39.407(6), F.S., allows DCF to place children involuntarily in mental health treatment facilities.⁸⁵ At the facility, the dependent children are examined by a psychiatrist or psychologist to determine whether treatment is necessary.⁸⁶ The treatment program must review the appropriateness and suitability of the placement every 30 days to determine whether the child is receiving benefit toward the treatment goals and whether the child could be treated in a less restrictive treatment program.⁸⁷ The court with jurisdiction over the child must also conduct a hearing to review the status of the child's residential treatment plan every 3 months after the child's admission to the residential treatment program.⁸⁸

Effect of Proposed Changes

Initial Screening and Assessment Instruments

The bill creates s. 409.1754, F.S., related to administrative requirements for serving sexually exploited children. The bill deletes the current assessment process to determine whether a child should be placed in a safe house and requires DCF to develop or adopt one or more initial screening and assessment instruments to identify, determine the needs of, plan services for, and identify an appropriate residential environment for sexually exploited children. The bill requires that the assessment instruments include the ability to determine whether placement in a safe house is appropriate. The bill requires that the initial screening and assessment instruments used to determine appropriate residential placement of a sexually exploited child consider:

- Risk of the sexually exploited child running away;
- Risk of the sexually exploited child recruiting other children into the commercial sex trade;
- Level of the sexually exploited child's attachment to his or her exploiter;
- Level and type of trauma that the sexually exploited child has endured;
- Nature of the child's interactions with law enforcement;
- Length of time that the child was sexually exploited; and
- Extent of any substance abuse by the sexually exploited child.

The bill specifies that that if a safe house placement is determined to be the most appropriate setting using the assessment tool, the child may be placed in a safe house, as long as a placement is available. However, the bill specifies that a child may be placed in another setting if it is more appropriate to his or her needs and the child's behaviors can be managed in those settings in a manner that does not endanger other children, or if a safe house or safe foster home is not available.

The bill requires the initial screening and assessment instruments to be validated if possible and requires the instruments to be used by the DCF, juvenile assessment centers, CBCs, and providers serving sexually exploited children. The bill requires DCF to consult state and local agencies, organizations, and individuals involved in the identification and care of sexually exploited children to develop or adopt the initial screening and assessment instruments. The bill requires DCF to establish rules specifying the initial screening and assessment instruments to be used, the requirements for their use, and the reporting of data collected through them and specifies that entities are not precluded from using additional assessment instruments in the course of serving sexually exploited children.

DCF and CBC Requirements

⁸³ S. 394.467 (6), F.S.

⁸⁴ S. 394.467 (7)(d), F.S.

⁸⁵ S. 39.407(6), F.S.

⁸⁶ S. 39.407(6 (b)-(c), F.S.

⁸⁷ S. 39.407(6 (f), F.S.

⁸⁸ S. 39.407(6)(h), F.S.

The bill requires DCF and CBCs to assign cases where a child is alleged, suspected, or known to have been sexually exploited to child protective investigators (CPIs) and case managers who have received specialized intensive training in investigating cases involving a sexually exploited child. Similarly, the bill requires the Department of Juvenile Justice juvenile probation staff administering the detention risk assessment instrument to have specialized intensive training in identifying and serving sexually exploited children. The bill specifies CPIs and case managers must receive this training prior to accepting any case involving sexually exploited children.

The bill requires DCF and CBCs to conduct regular multidisciplinary staffings for sexually exploited children to ensure that all relevant information is known to all parties and that services are coordinated across systems. The bill requires DCF or the CBC to coordinate these staffings and invite individuals involved in the child's care. The bill specifies that this may include, but is not limited to, staff from the juvenile justice system, the school district, service providers, and victim advocates.

The bill requires each CBC and DCF region to jointly identify the service needs of sexually exploited children and plan for developing sufficient capacity to meet them.

The bill requires each CBC and DCF circuit to establish local protocols and procedures that are responsive to the varying circumstances that sexually exploited children are in. The bill requires the protocols and procedures to address the full continuum of needs of sexually exploited children to the extent of available funding. The bill requires that the protocols and procedures be used by CMs and CPIs when working with a sexually exploited child.

The bill requires the local DCF circuit administrator or his or her designee, the local circuit director of the Department of Juvenile Justice or his or her designee, and the CBC chief operating officer, or his or her designee to participate in any task force, committee, council, advisory group, coalition, or other entity active in the circuit for coordinating responses to address human trafficking or sexual exploitation of children. If no such entity exists, the bill specifies that the local DCF circuit administrator must work to initiate one.

The bill provides DCF rulemaking authority regarding the administrative requirements.

Safe Houses and Safe Foster Homes

The bill amends the definition of "safe house" as a "group residential placement certified by DCF to care for sexually exploited children," and creates and defines "safe foster home" as "a foster home certified by DCF to care for sexually exploited children."

The bill also amends the definition of a sexually exploited child to include those children who have not been adjudicated dependent, which permits them to be served by safe houses and safe foster homes.

The bill specifies that safe houses and safe foster homes are required to provide a safe, separate, and therapeutic environment tailored to the needs of sexually exploited children who have endured significant trauma. The bill requires DCF to certify safe homes and safe foster homes.

Certification Requirements

The bill amends the current requirements for safe houses, and creates requirements for safe foster homes, in order to be certified by DCF. The bill requires that safe houses and safe foster homes be licensed as residential child-caring agencies or licensed family foster homes, respectively, and that safe houses have awake staff on duty 24 hours a day.

The bill requires that safe houses and safe foster homes house a single sex, group children with similar chronological ages or levels of maturity together, and treat and care for these children in a manner that separates them from children with other needs. The bill specifies that safe houses and safe foster homes may care for other populations, as long as those populations do not interact with the sexually

exploited children. The bill requires that safe houses and safe foster homes use trauma-informed and strength based approaches to care, to the extent possible and appropriate.

The bill requires that safe houses and safe foster homes provide appropriate security through facility design, hardware, technology, staffing, and siting, including but not limited to using external video monitoring or alarmed doors, or being situated in a remote location. The bill specifies that sexually exploited children must be allowed to exit the safe house or safe foster home if they choose.

Services

The bill requires safe houses and safe foster homes to provide services tailored to the needs of sexually exploited children and to determine these needs on a case-by-case basis. The bill specifies that in addition to the services required for traditional foster homes and child caring facilities, safe houses and safe foster homes also coordinate the following services:

- A comprehensive assessment of the service needs of each resident;
- Victim-witness counseling;
- Family counseling;
- Behavioral health services;
- Treatment and intervention for sexual assault;
- Life skills services;
- Mentoring by a survivor of sexual exploitation, if available and appropriate;
- Substance abuse screening, and where necessary, access to treatment;
- Planning services for the successful transition of residents back to the community;
- Activities for sexually exploited children residing in the safe house, scheduled in a manner that provides them with a full schedule; and
- Any additional services determined by DCF.

The bill requires foster parents of safe foster homes to complete intensive training regarding the needs of sexually exploited children, the effects of trauma and sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches. The bill requires DCF to specify this training by rule. The bill also allows DCF to establish additional criteria in rule for the certification of safe houses and safe foster homes.

The bill requires that safe houses and safe foster homes reapply for certification and be inspected annually. The bill allows DCF to place a moratorium on referrals and revoke the certification of a safe house or safe foster home if it does not meet the requirements of certification.

The bill specifies that in order to accept state funds specifically allocated to provide services to sexually exploited children, the residential facility must be certified as a safe house or safe foster home.

Secure Safe House Pilot Program

The bill authorizes DCF to facilitate the development of one secure safe house on a pilot basis in order to evaluate the therapeutic benefits of a secure residential setting within the broader array of residential and community-based services available to meet the needs of sexually exploited children. The bill specifies that the secure safe house is intended for those sexually exploited children with the greatest needs and for whom no less restrictive placement has been or will be effective in addressing the effects of severe abuse, violence, trauma, or exploiter control endured by the child. The bill specifies that the setting is only available to sexually exploited children who have been, or are in the process of being, adjudicated dependent. The bill specifies that children can remain in the secure safe house from five days to up to 10 months.

The bill requires DCF to select the region where the secure safe house can be sited and to collaborate with the local CBC to design the pilot project. The bill specifies that the secure safe house must be a certified safe house, have no more than 15 beds, and have security features to prevent any entry into

or exit from the facility or its grounds without the involvement of staff. The bill specifies that these features may include, but are not limited to, walls, fencing, gates, and locking doors.

The bill requires that the facility staff, the child, the child's parent or guardian, and the case manager develop a plan regarding how the child will be cared for at least thirty days prior to leaving the facility.

Placement in the Secure Safe House and Due Process

The bill specifies that sexually exploited dependent children may be placed in the secure safe house from any region of Florida and that DCF, in consultation with the CBCs serving the children, must approve all placements in the secure safe house. The bill also provides that a child may only be placed in the secure safe house if he or she has intensive needs, mental health issues, or other factors which prevent the child from being safely cared for in a less restrictive setting.

The bill specifies that in addition to the other criteria required to be used to determine whether safe house placement is appropriate for a child, a child's lack of willingness to participate in less intensive programs and lack of treatment progress in less restrictive placements must also be considered. The bill specifies that DCF may establish additional criteria for placement in the secure safe house.

The bill allows a dependent child to be taken to a secure safe house for evaluation of the appropriateness of placement for treatment if:

- There is probable cause that the child has been sexually exploited;
- The child meets the criteria to be placed in a safe house;
- The child recently engaged in behaviors that subject the child to victimization, violence, emotional harm, serious bodily harm, or health risks that endanger the child, posing a real and present threat of substantial harm to the child's well-being;
- There is a substantial likelihood that without care or treatment the child will endanger or cause serious bodily harm to others, as evidenced by previous behavior; and
- Less restrictive placement alternatives are unlikely to be effective in keeping the child from engaging in the behaviors specified above, as determined by a DCF or CBC employee.

The bill allows a DCF official to initiate an evaluation of a child if the child is the subject of an open investigation or under the supervision of the court, as long as the child meets the criteria for evaluation specified above. The bill allows a CPI, law enforcement officer, case manager, or other qualified individual to transport the child to the secure safe house for assessment and stabilization.

The bill allows the secure safe house to admit the child for assessment and stabilization pending the filing and adjudication of a petition by DCF alleging the need for a change in placement. The bill requires the secure safe house to provide notice regarding the child's admittance for assessment to the child's parent or guardian, foster parent, case manager, and guardian ad litem (GAL). The bill specifies that if the child does not have a GAL and a lawyer, the court must appoint them.

The bill requires a psychiatrist, clinical psychologist, licensed mental health counselor, or licensed clinical social worker at the secure safe house to evaluate the child. The bill specifies that this professional must have experience working with sexually exploited children. The bill requires the evaluation be conducted as soon as it is appropriate to do so, given the child's emotional, mental, and physical condition and that facility staff continue evaluating the child throughout the placement for evaluation in the secure safe house. The bill permits the staff to access and request relevant information, including, the child's case file, and allows the child's parent or guardian, foster parent, case manager, and GAL to provide any information they believe is relevant to the evaluation. The bill requires that the evaluation be based on whether the child meets criteria for admission to the secure safe house.

If the evaluator determines that a secure safe house would not best meet the child's needs, DCF must place the child in the least restrictive setting which is appropriate for the child's needs. If the evaluator determines that placement in the secure safe house would best meet the child's needs, DCF must

petition the court within 24 hours for placement, and the secure safe house must admit the child for placement pending a judicial determination. If the evaluator determines that additional evaluation is required before a determination may be made, DCF must petition the court within 24 hours to extend the placement for evaluation purposes up to 30 days or until a determination may be made regarding the need for extended secure safe house placement for treatment, whichever comes first. The child shall remain in the secure safe house pending the court order.

The bill requires DCF to provide all evaluations to the child's parent or guardian, case manager, and GAL.

The bill specifies that if the evaluation results in a determination that placement for treatment in a secure safe house would best meet the child's needs, DCF may file a petition for placement in dependency court. The bill requires DCF to provide notice to the child's parents. The bill specifies that if the child's parents consent to the placement, the court must enter an order placing the child in the secure safe house for up to 45 days, pending review by the court. The bill also specifies that if the child's parents refuse or are unable to consent, within 24 hours of the filing of the petition, the court must hear all parties in person or by counsel, or both. The bill specifies that if the court concludes that the child meets the criteria for placement in the secure safe house, it must order that the child be placed in the secure safe house for a period of up to 45 days, pending review by the court.

The bill requires the secure safe house to review the child's progress toward the treatment goals and assess whether the child's needs can be met in a less restrictive treatment program. This review and assessment must be done every 20 days, commencing upon the beginning of treatment according to the treatment plan. The bill requires the secure safe house to submit a report of its findings to the child's parent or guardian, the GAL, the case manager, DCF, and the court. The bill specifies that DCF may not reimburse a secure safe house until the secure safe house has submitted every written report that is due.

The bill requires the court to conduct an initial review of the status of the child's treatment plan no later than 35 days after the child's placement in the secure safe house. The bill also requires the court to review the child's treatment plan 20 days after the initial review and then every 60 days thereafter, until the child no longer requires placement in the secure safe house, or until the child has resided in the secure safe house for 10 months. The bill specifies that if the child has resided in the secure safe house for 9 months, a court hearing must be held to determine an appropriate setting and appropriate services for the child after 10 months.

The bill requires the child's continued placement in a secure safe house to be a subject of judicial review at any time that a judicial review is held pursuant to s. 39.701, F.S. The bill specifies that if, at any time, the court determines that the child has not been sexually exploited or that the placement in the safe house is no longer appropriate, the court must order DCF to place the child in the least restrictive setting that is best suited to meet the child's needs. The bill requires DCF to place the child in another setting when continued placement in the secure safe house is no longer appropriate.

Services in the Secure Safe Home

The bill requires the secure safe house to prepare an individualized treatment plan for the child within 10 days after placement for treatment. The bill requires the treatment plan to be approved by DCF and to address the preliminary residential treatment and comprehensive discharge, identifying care appropriate for the child upon completion of residential treatment.

The bill requires the child to be involved in the preparation of the plan to the maximum feasible extent, consistent with the child's ability to do so. The bill requires the GAL, child's parents, guardian, or foster parents, and staff from the child's home school district to be involved with the child's treatment and discharge planning needs. The bill authorizes other individuals to participate in plan development, as appropriate. The bill requires the secure safe house to provide a copy and an explanation of the plan to the child, the child's parent or guardian, the GAL, the case manager, and the court.

Pilot Program Evaluation

The bill requires DCF to contract for an evaluation of the secure safe house. The bill specifies that the evaluation must address the effectiveness in facilitating the rehabilitation of sexually exploited children. The bill specifies that the evaluation must describe the program model and facility design, assess the effectiveness of the facility in meeting the treatment and security needs of sexually exploited children, analyze its cost-effectiveness, and provide recommendations regarding the continued operation of the pilot program and any changes or enhancements. The bill specifies that the evaluation must be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2018.

OPPAGA Study

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study on commercial sexual exploitation of children in Florida. The bill requires the study to assess the extent of sexual exploitation of children in Florida, including the prevalence in various regions of the state, estimates of the number of youth who have been sexually exploited, and service gaps for treating this population. The bill requires the study to analyze the operation of safe houses in Florida and address the effectiveness of safe houses and safe foster homes in addressing the safety, therapeutic, health, and emotional needs of sexually exploited children, including the nature and appropriateness of subsequent placements, extent of sexual exploitation post-placement, and educational attainment.

The bill requires OPPAGA to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2017.

The bill requires DCF to establish rules regarding the initial screening and assessment instruments and the training for staff of safe houses and foster parents in safe foster homes. The bill provides DCF rulemaking authority regarding additional criteria for certification of safe houses and safe foster homes.

B. SECTION DIRECTORY:

- Section 1:** Creates s. 409.1754, F.S., relating to sexually exploited children.
- Section 2:** Amends s. 409.1678, F.S., relating to specialized residential options for children who are victims of sexual exploitation.
- Section 3:** Amends s. 39.524, F.S., relating to safe-harbor residential placement.
- Section 4:** Creates s. 39.4072, F.S., relating to evaluation for secure safe house placement of a dependent sexually exploited child.
- Section 5:** Creates s. 39.4074, F.S., relating to placement in a secure safe house of a dependent sexually exploited child.
- Section 6:** Creates an unnumbered section of law relating to the Office of Program Policy Analysis and Government Accountability.
- Section 7:** Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has a negative indeterminate fiscal impact to the Department of Children and Families.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

The due process clauses of the U.S. and Florida Constitutions prohibit a state from depriving any person, including a minor, of life, liberty or property without due process of law.⁸⁹ Secure placements affect the constitutionally-protected liberty interests of a minor. A minor must therefore be provided with due process before his or her liberty interests may be overridden. The U.S. Supreme Court has established three requirements which must be met before a state can override a minor's liberty interests:⁹⁰

- (1) An inquiry must be performed by a neutral fact-finder, which is not required to be in the form of a judicial inquiry;
- (2) The inquiry must probe the child's background using all available resources, including an interview with the minor; and
- (3) There must be periodic review by a neutral fact-finder.

The state bears the burden of establishing each of these requirements by clear and convincing evidence.⁹¹ The state must additionally establish that the secure placement serves a compelling state interest which is being accomplished through the least intrusive means possible.⁹²

The bill addresses these issues by:

- Establishing criteria that must be met to place a child for evaluation or treatment;
- Requiring an evaluation by a trained professional of whether the child meets criteria for placement in the safe house;
- Providing for the evaluator to access information about the child to inform the evaluation;
- Providing for court involvement in placing the child for evaluation and then for treatment; and
- Requiring ongoing review by the court of the child's progress and the appropriateness of the placement.

⁸⁹ U.S.C.A. Const. Amend. 14; Article 1, section 9, Florida Constitution. *M.W. v. Davis*, 756 So.2d 90, 97 (Fla. 2000). This includes rights to both substantive and procedural due process. Substantive due process protects the full panoply of individual rights from unwarranted encroachment by the government while procedural due process serves as a vehicle to ensure fair treatment through the proper administration of justice where substantive rights are at issue

⁹⁰ *Parham v. J.R.*, 442, U.S. 584, 99 S.Ct. 2493, 61 L.Ed.2d 101 (1979); these requirements were adopted in Florida in *M.W. v. Davis*, 756 So.2d 90, 97 (Fla. 2000).

⁹¹ *State v. Westerheide*, 831 So.2d 93 (Fla. 2002)

⁹² *Florida Dept. of Children and Families v. F.L.*, 880 So.2d 602 (Fla. 2004).

Additionally, the bill requires the appointment of both a guardian ad litem and a lawyer to represent the child during the process.

B. RULE-MAKING AUTHORITY:

The bill requires DCF to establish rules regarding the initial screening and assessment instruments and the training for staff of safe houses and foster parents in safe foster homes. The bill provides DCF rulemaking authority regarding additional criteria for certification of safe houses and safe foster homes.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES