

Florida Safe Harbor Act (H.B. 99) by Representative Fresen

Highlights

House Bill 99 is the Florida Safe Harbor Act. This bill greatly impacts sexually exploited children in our state by:

- *Increasing fines* for soliciting prostitutes from \$500 to \$5,000;
- *Using fines to fund the creation of secure safe houses* with special living quarters for sexually exploited kids;
- *Providing sexually exploited kids residing in safe houses with an advocate*, responsible for accompanying child victims in their care to all important meetings and court appearances;
- *Requiring safe houses to provide services* including security, counseling, transportation, food, clothing, health and dental care and other services;
- *Specifying that sexually exploited children should be treated as dependent*, not delinquent, so long as they are not under arrest or being prosecuted for prostitution; and,
- *Authorizing the pursuit of training funds* so that law enforcement officials are informed about child sexual exploitation.

As of April 2, 2012, this bill has not been presented to the Governor. If approved, it takes effect January 1, 2013.

Detailed Analysis

Section 1

Establishes the "Florida Safe Harbor Act"

Section 2

Fla. Stat. § 39.001-Purposes and intent; personnel standards and screening

- Provides legislative intent that:
 - Sexually exploited children be treated as dependent rather than delinquent
 - The state provides care and services independent of citizenship if victims are not receiving comparable services, i.e., federal services
 - Bonds be severed between the child and traffickers and that child be reunited with family
 - Children be enabled to be willing and reliable witnesses against traffickers

Section 3

Fla. Stat. § 39.01-Definitions

- Expands the definition of "child who is found to be dependent" to include a sexually exploited child without a responsible adult capable for providing necessary and appropriate supervision and care.
- Under the definition of sexual abuse of a child for the purposes of finding a child dependent, expands sexual exploitation of a child to include;

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- The act of a child offering to engage or engaging in prostitution, providing the child is not under arrest or being prosecuted for prostitution.¹
- Allowing, encouraging, or forcing a child to participate in the trade of sex trafficking

Section 4

Fla. Stat. § 39.401-Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.

- Provides that law enforcement, upon probable cause to believe a child has been sexually exploited, deliver the child to DCF which may place the child in a short-term safe house, if available.
- Allows DCF to place a sexually exploited child in a short-term safe house pending a shelter hearing

Section 5

Creates Fla. Stat. § 39.524-Safe harbor placement

- Any dependent child 6 or older found to be a victim of sexual exploitation must be assessed for placement in a safe house. Establishes criteria for the assessment. If the assessment determines that a safe house is appropriate, the child may be placed in one if available. An available safe house is located within the circuit or otherwise reasonably accessible. The results of the assessment must be included in the next judicial review.
- DCF is required to report annually to the Legislature the placement of children in safe houses, criteria used for placement, youth assessed, placements based on the assessment, number of youth referred to a safe house but for whom placement was unavailable, and counties without an available safe house.

Section 6

Creates Fla. Stat. § 409.1678-Safe harbor for children who are victims of sexual exploitation

- Provides the following definitions
 - Child advocate – short-term safe house employees trained to work with and advocate for sexually exploited children; accompanies child to all court appearances, meetings with law enforcement, and the state attorney’s office; serves as liaison between the short-term safe house and the court.
 - Safe House – secure facility with gender-specific, separate and distinct living quarters for sexually exploited children adjudicated dependent or delinquent; must have staff or personnel with clinical expertise, credentials and training to serve these youth.
 - Secure – 24 hours awake staff
 - Short-term Safe House – a shelter with set aside gender-specific, separate and distinct quarters for sexually exploited children; provides services, food, clothing, medical and dental care, counseling and crisis intervention services.

¹ Per Kerry Schoolfield, House Health and Human Services Access Subcommittee, this language came from the Attorney General’s office, Florida Sheriff’s Association, and Florida Police Chiefs and gives law enforcement the discretion to prosecute a minor for prostitution if they believe the youth is not a victim of sexual exploitation.

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- DCF circuits must consult with certain stakeholders including local probation departments, law enforcement, courts officials, and advocates and address the needs of sexually exploited children in the circuit master plan
- The circuit administrator may provide training to law enforcement if funds are available. The Department of Children and Families shall assist in obtaining available funding through the federal Office of Juvenile Justice and Delinquency Prevention
- The lead agency, not-for-profit or local government entity providing safe house services:
 - Is responsible for the following and may contract with a not-for-profit with experience serving sexually exploited children for these services:
 - security, counseling and services, assessment, residential care, transportation, food, clothing, supplies, infant care, education, life skills, health and dental needs, and transition services
 - Serving, as provided by law and funding, all sexually exploited children whether voluntarily, as a condition of probation, through a diversion program, or referral.
 - Has authority to enroll a child in school, sign for a driver's license for the child, cosign on loans or insurance for the child, and authorize other such activities.
- Safe Harbor Act services are available to a sexually exploited child whether accessed voluntarily, as a condition of probation, or through a diversion program

Section 7

Fla. Stat. § 796.07-Prohibiting prostitution and related acts

- Increases the fine for soliciting, inducing, enticing, or procuring another for prostitution, lewdness or assignation from \$500 to \$5,000 to fund safe houses and short-term safe houses.

Section 8

Fla. Stat. §960.065-Eligibility for awards

- Provides that a victim of sexual exploitation is eligible for a victim assistance award even if the victim committed or aided in the commission of the crime or was engaged in unlawful activity at the time of the crime so long as the child is not a habitual felony offender or adjudicated guilty for a forcible felony offense

Section 9

Fla. Stat. §985.115- Release or delivery from custody

- Authorizes DJJ to release a child to a shelter or short-term safe house.

Section 10

- Provides an effective date of January 1, 2013.