

1 A bill to be entitled
2 An act relating to human trafficking; amending s.
3 787.06, F.S.; providing a mandatory minimum sentence
4 for certain human trafficking offenses; amending s.
5 847.001, F.S.; expanding the definition of the term
6 "adult theater"; amending s. 943.0583, F.S.;
7 prohibiting the assessment of certain fees and costs
8 to victims of human trafficking seeking criminal
9 records expungement; reenacting ss. 402.82(4)(b),
10 450.021(5), and 450.045(3)(a), F.S., relating to
11 electronic benefits transfer program; minimum age,
12 general; and proof of identity and age, posting of
13 notices; respectively, to incorporate the amendments
14 made by the act; reenacting ss. 943.0582(5),
15 943.0585(4)(a), 943.059(4)(a), and 961.06(1), F.S.,
16 relating to prearrest, postarrest, or teen court
17 diversion program expunction; court-ordered expunction
18 of criminal history records; court-ordered sealing of
19 criminal history records; and compensation for
20 wrongful incarceration; respectively, to incorporate
21 the amendments made by the act; providing an effective
22 date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Subsection (3) of section 787.06, Florida
27 Statutes, is amended to read:

28 787.06 Human trafficking.—

29 (3) Any person who knowingly, or in reckless disregard of
30 the facts, engages in human trafficking, or attempts to engage
31 in human trafficking, or benefits financially by receiving
32 anything of value from participation in a venture that has
33 subjected a person to human trafficking:

34 (a)1. For labor or services of any child under the age of
35 18 commits a felony of the first degree, punishable as provided
36 in s. 775.082, s. 775.083, or s. 775.084 with a minimum
37 mandatory term of imprisonment of 10 years.

38 2. Using coercion for labor or services of an adult
39 commits a felony of the first degree, punishable as provided in
40 s. 775.082, s. 775.083, or s. 775.084 with a minimum mandatory
41 term of imprisonment of 10 years.

42 (b) Using coercion for commercial sexual activity of an
43 adult commits a felony of the first degree, punishable as
44 provided in s. 775.082, s. 775.083, or s. 775.084 with a minimum
45 mandatory term of imprisonment of 10 years.

46 (c)1. For labor or services of any child under the age of
47 18 who is an unauthorized alien commits a felony of the first
48 degree, punishable as provided in s. 775.082, s. 775.083, or s.
49 775.084 with a minimum mandatory term of imprisonment of 10
50 years.

51 2. Using coercion for labor or services of an adult who is
52 an unauthorized alien commits a felony of the first degree,
53 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
54 with a minimum mandatory term of imprisonment of 10 years.

55 (d) Using coercion for commercial sexual activity of an
56 adult who is an unauthorized alien commits a felony of the first
57 degree, punishable as provided in s. 775.082, s. 775.083, or s.
58 775.084 with a minimum term of imprisonment of 10 years.

59 (e)1. For labor or services who does so by the transfer or
60 transport of any child under the age of 18 from outside this
61 state to within the state commits a felony of the first degree,
62 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
63 with a minimum term of imprisonment of 10 years.

64 2. Using coercion for labor or services who does so by the
65 transfer or transport of an adult from outside this state to
66 within the state commits a felony of the first degree,
67 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
68 with a minimum term of imprisonment of 10 years.

69 (f)1. For commercial sexual activity who does so by the
70 transfer or transport of any child under the age of 18 from
71 outside this state to within the state commits a felony of the
72 first degree, punishable by imprisonment for a term of years not
73 exceeding life, or as provided in s. 775.082, s. 775.083, or s.
74 775.084 with a minimum term of imprisonment of 10 years.

75 2. Using coercion for commercial sexual activity who does

76 | so by the transfer or transport of an adult from outside this
77 | state to within the state commits a felony of the first degree,
78 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084
79 | with a minimum term of imprisonment of 10 years.

80 | (g) For commercial sexual activity in which any child
81 | under the age of 18, or in which any person who is mentally
82 | defective or mentally incapacitated as those terms are defined
83 | in s. 794.011(1), is involved commits a life felony, punishable
84 | as provided in s. 775.082(3)(a)6., s. 775.083, or s. 775.084
85 | with a minimum mandatory term of imprisonment of 10 years.

86 |
87 | For each instance of human trafficking of any individual under
88 | this subsection, a separate crime is committed and a separate
89 | punishment is authorized.

90 | Section 2. Paragraph (b) of subsection (2) of section
91 | 847.001, Florida Statutes, is amended to read:

92 | 847.001 Definitions.—As used in this chapter, the term:

93 | (2) "Adult entertainment establishment" means the
94 | following terms as defined:

95 | (b) "Adult theater" means an enclosed building or an
96 | enclosed space within a building used for presenting either
97 | films, live plays, dances, or other performances that are
98 | distinguished or characterized by an emphasis on matter
99 | depicting, describing, or relating to specific sexual activities
100 | for observation by patrons, and which restricts or purports to

101 restrict admission only to adults, or any business that features
102 a person who engages in specific sexual activities for
103 observation by a patron, and which restricts or purports to
104 restrict admission to only adults.

105 Section 3. Subsection (3) of section 943.0583, Florida
106 Statutes, is amended to read:

107 943.0583 Human trafficking victim expunction.—

108 (3) A person who is a victim of human trafficking may
109 petition for the expunction of a criminal history record
110 resulting from the arrest or filing of charges for an offense
111 committed or reported to have been committed while the person
112 was a victim of human trafficking, which offense was committed
113 or reported to have been committed as a part of the human
114 trafficking scheme of which the person was a victim or at the
115 direction of an operator of the scheme, including, but not
116 limited to, violations under chapters 796 and 847, without
117 regard to the disposition of the arrest or of any charges.
118 However, this section does not apply to any offense listed in s.
119 775.084(1)(b)1. Determination of the petition under this section
120 should be by a preponderance of the evidence. A conviction
121 expunged under this section is deemed to have been vacated due
122 to a substantive defect in the underlying criminal proceedings.
123 If a person is adjudicated not guilty by reason of insanity or
124 is found to be incompetent to stand trial for any such charge,
125 the expunction of the criminal history record may not prevent

126 the entry of the judgment or finding in state and national
127 databases for use in determining eligibility to purchase or
128 possess a firearm or to carry a concealed firearm, as authorized
129 in s. 790.065(2)(a)4.c. and 18 U.S.C. s. 922(t), nor shall it
130 prevent any governmental agency that is authorized by state or
131 federal law to determine eligibility to purchase or possess a
132 firearm or to carry a concealed firearm from accessing or using
133 the record of the judgment or finding in the course of such
134 agency's official duties. A victim seeking expungement may not
135 be assessed a filing or copy fee under s. 28.24 or as otherwise
136 provided for under law.

137 Section 4. For the purpose of incorporating the amendment
138 made by this act to section 847.001, Florida Statutes, in a
139 reference thereto, paragraph (b) of subsection (4) of section
140 402.82, Florida Statutes, is reenacted to read:

141 402.82 Electronic benefits transfer program.—

142 (4) Use or acceptance of an electronic benefits transfer
143 card is prohibited at the following locations or for the
144 following activities:

145 (b) An adult entertainment establishment as defined in s.
146 847.001.

147 Section 5. For the purpose of incorporating the amendment
148 made by this act to section 847.001, Florida Statutes, in a
149 reference thereto, subsection (5) of section 450.021, Florida
150 Statutes, is reenacted to read:

151 450.021 Minimum age; general.—

152 (5) In order to better ensure the elimination of minors
 153 being exploited and becoming victims of human trafficking, a
 154 person under the age of 18, whether or not such person's
 155 disabilities of nonage have been removed by marriage or
 156 otherwise, may not be employed, permitted, or suffered to work
 157 in an adult theater, as defined in s. 847.001(2)(b).

158 Section 6. For the purpose of incorporating the amendment
 159 made by this act to section 847.001, Florida Statutes, in a
 160 reference thereto, paragraph (a) of subsection (3) of section
 161 450.045, Florida Statutes, is reenacted to read:

162 450.045 Proof of identity and age; posting of notices.—

163 (3)(a) In order to provide the department and law
 164 enforcement agencies the means to more effectively identify,
 165 investigate, and arrest persons engaging in human trafficking,
 166 an adult theater, as defined in s. 847.001(2)(b), shall obtain
 167 proof of the identity and age of each of its employees or
 168 independent contractors, and shall verify the validity of the
 169 identification and age verification document with the issuer,
 170 before his or her employment or provision of services as an
 171 independent contractor.

172 Section 7. For the purpose of incorporating the amendment
 173 made by this act to section 943.0583, Florida Statutes, in a
 174 reference thereto, subsection (5) of section 943.0582, Florida
 175 Statutes, is reenacted to read:

176 943.0582 Prearrest, postarrest, or teen court diversion
177 program expunction.—

178 (5) Expunction or sealing granted under this section does
179 not prevent the minor who receives such relief from petitioning
180 for the expunction or sealing of a later criminal history record
181 as provided for in ss. 943.0583, 943.0585, and 943.059, if the
182 minor is otherwise eligible under those sections.

183 Section 8. For the purpose of incorporating the amendment
184 made by this act to section 943.0583, Florida Statutes, in a
185 reference thereto, paragraph (a) of subsection (4) of section
186 943.0585, Florida Statutes, is reenacted to read:

187 943.0585 Court-ordered expunction of criminal history
188 records.—The courts of this state have jurisdiction over their
189 own procedures, including the maintenance, expunction, and
190 correction of judicial records containing criminal history
191 information to the extent such procedures are not inconsistent
192 with the conditions, responsibilities, and duties established by
193 this section. Any court of competent jurisdiction may order a
194 criminal justice agency to expunge the criminal history record
195 of a minor or an adult who complies with the requirements of
196 this section. The court shall not order a criminal justice
197 agency to expunge a criminal history record until the person
198 seeking to expunge a criminal history record has applied for and
199 received a certificate of eligibility for expunction pursuant to
200 subsection (2) or subsection (5). A criminal history record that

201 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,
202 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,
203 s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
204 s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in
205 s. 907.041, or any violation specified as a predicate offense
206 for registration as a sexual predator pursuant to s. 775.21,
207 without regard to whether that offense alone is sufficient to
208 require such registration, or for registration as a sexual
209 offender pursuant to s. 943.0435, may not be expunged, without
210 regard to whether adjudication was withheld, if the defendant
211 was found guilty of or pled guilty or nolo contendere to the
212 offense, or if the defendant, as a minor, was found to have
213 committed, or pled guilty or nolo contendere to committing, the
214 offense as a delinquent act. The court may only order expunction
215 of a criminal history record pertaining to one arrest or one
216 incident of alleged criminal activity, except as provided in
217 this section. The court may, at its sole discretion, order the
218 expunction of a criminal history record pertaining to more than
219 one arrest if the additional arrests directly relate to the
220 original arrest. If the court intends to order the expunction of
221 records pertaining to such additional arrests, such intent must
222 be specified in the order. A criminal justice agency may not
223 expunge any record pertaining to such additional arrests if the
224 order to expunge does not articulate the intention of the court
225 to expunge a record pertaining to more than one arrest. This

226 section does not prevent the court from ordering the expunction
227 of only a portion of a criminal history record pertaining to one
228 arrest or one incident of alleged criminal activity.

229 Notwithstanding any law to the contrary, a criminal justice
230 agency may comply with laws, court orders, and official requests
231 of other jurisdictions relating to expunction, correction, or
232 confidential handling of criminal history records or information
233 derived therefrom. This section does not confer any right to the
234 expunction of any criminal history record, and any request for
235 expunction of a criminal history record may be denied at the
236 sole discretion of the court.

237 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
238 criminal history record of a minor or an adult which is ordered
239 expunged by a court of competent jurisdiction pursuant to this
240 section must be physically destroyed or obliterated by any
241 criminal justice agency having custody of such record; except
242 that any criminal history record in the custody of the
243 department must be retained in all cases. A criminal history
244 record ordered expunged that is retained by the department is
245 confidential and exempt from the provisions of s. 119.07(1) and
246 s. 24(a), Art. I of the State Constitution and not available to
247 any person or entity except upon order of a court of competent
248 jurisdiction. A criminal justice agency may retain a notation
249 indicating compliance with an order to expunge.

250 (a) The person who is the subject of a criminal history

251 record that is expunged under this section or under other
252 provisions of law, including former s. 893.14, former s. 901.33,
253 and former s. 943.058, may lawfully deny or fail to acknowledge
254 the arrests covered by the expunged record, except when the
255 subject of the record:

- 256 1. Is a candidate for employment with a criminal justice
257 agency;
- 258 2. Is a defendant in a criminal prosecution;
- 259 3. Concurrently or subsequently petitions for relief under
260 this section, s. 943.0583, or s. 943.059;
- 261 4. Is a candidate for admission to The Florida Bar;
- 262 5. Is seeking to be employed or licensed by or to contract
263 with the Department of Children and Families, the Division of
264 Vocational Rehabilitation within the Department of Education,
265 the Agency for Health Care Administration, the Agency for
266 Persons with Disabilities, the Department of Health, the
267 Department of Elderly Affairs, or the Department of Juvenile
268 Justice or to be employed or used by such contractor or licensee
269 in a sensitive position having direct contact with children, the
270 disabled, or the elderly;
- 271 6. Is seeking to be employed or licensed by the Department
272 of Education, any district school board, any university
273 laboratory school, any charter school, any private or parochial
274 school, or any local governmental entity that licenses child
275 care facilities;

276 7. Is seeking to be licensed by the Division of Insurance
 277 Agent and Agency Services within the Department of Financial
 278 Services; or

279 8. Is seeking to be appointed as a guardian pursuant to s.
 280 744.3125.

281 Section 9. For the purpose of incorporating the amendment
 282 made by this act to section 943.0583, Florida Statutes, in a
 283 reference thereto, paragraph (a) of subsection (4) of section
 284 943.059, Florida Statutes, is reenacted to read:

285 943.059 Court-ordered sealing of criminal history
 286 records.—The courts of this state shall continue to have
 287 jurisdiction over their own procedures, including the
 288 maintenance, sealing, and correction of judicial records
 289 containing criminal history information to the extent such
 290 procedures are not inconsistent with the conditions,
 291 responsibilities, and duties established by this section. Any
 292 court of competent jurisdiction may order a criminal justice
 293 agency to seal the criminal history record of a minor or an
 294 adult who complies with the requirements of this section. The
 295 court shall not order a criminal justice agency to seal a
 296 criminal history record until the person seeking to seal a
 297 criminal history record has applied for and received a
 298 certificate of eligibility for sealing pursuant to subsection
 299 (2). A criminal history record that relates to a violation of s.
 300 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,

301 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
302 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
303 s. 916.1075, a violation enumerated in s. 907.041, or any
304 violation specified as a predicate offense for registration as a
305 sexual predator pursuant to s. 775.21, without regard to whether
306 that offense alone is sufficient to require such registration,
307 or for registration as a sexual offender pursuant to s.
308 943.0435, may not be sealed, without regard to whether
309 adjudication was withheld, if the defendant was found guilty of
310 or pled guilty or nolo contendere to the offense, or if the
311 defendant, as a minor, was found to have committed or pled
312 guilty or nolo contendere to committing the offense as a
313 delinquent act. The court may only order sealing of a criminal
314 history record pertaining to one arrest or one incident of
315 alleged criminal activity, except as provided in this section.
316 The court may, at its sole discretion, order the sealing of a
317 criminal history record pertaining to more than one arrest if
318 the additional arrests directly relate to the original arrest.
319 If the court intends to order the sealing of records pertaining
320 to such additional arrests, such intent must be specified in the
321 order. A criminal justice agency may not seal any record
322 pertaining to such additional arrests if the order to seal does
323 not articulate the intention of the court to seal records
324 pertaining to more than one arrest. This section does not
325 prevent the court from ordering the sealing of only a portion of

326 a criminal history record pertaining to one arrest or one
327 incident of alleged criminal activity. Notwithstanding any law
328 to the contrary, a criminal justice agency may comply with laws,
329 court orders, and official requests of other jurisdictions
330 relating to sealing, correction, or confidential handling of
331 criminal history records or information derived therefrom. This
332 section does not confer any right to the sealing of any criminal
333 history record, and any request for sealing a criminal history
334 record may be denied at the sole discretion of the court.

335 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
336 history record of a minor or an adult which is ordered sealed by
337 a court pursuant to this section is confidential and exempt from
338 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
339 Constitution and is available only to the person who is the
340 subject of the record, to the subject's attorney, to criminal
341 justice agencies for their respective criminal justice purposes,
342 which include conducting a criminal history background check for
343 approval of firearms purchases or transfers as authorized by
344 state or federal law, to judges in the state courts system for
345 the purpose of assisting them in their case-related
346 decisionmaking responsibilities, as set forth in s. 943.053(5),
347 or to those entities set forth in subparagraphs (a)1., 4., 5.,
348 6., 8., 9., and 10. for their respective licensing, access
349 authorization, and employment purposes.

350 (a) The subject of a criminal history record sealed under

351 this section or under other provisions of law, including former
352 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
353 deny or fail to acknowledge the arrests covered by the sealed
354 record, except when the subject of the record:

355 1. Is a candidate for employment with a criminal justice
356 agency;

357 2. Is a defendant in a criminal prosecution;

358 3. Concurrently or subsequently petitions for relief under
359 this section, s. 943.0583, or s. 943.0585;

360 4. Is a candidate for admission to The Florida Bar;

361 5. Is seeking to be employed or licensed by or to contract
362 with the Department of Children and Families, the Division of
363 Vocational Rehabilitation within the Department of Education,
364 the Agency for Health Care Administration, the Agency for
365 Persons with Disabilities, the Department of Health, the
366 Department of Elderly Affairs, or the Department of Juvenile
367 Justice or to be employed or used by such contractor or licensee
368 in a sensitive position having direct contact with children, the
369 disabled, or the elderly;

370 6. Is seeking to be employed or licensed by the Department
371 of Education, a district school board, a university laboratory
372 school, a charter school, a private or parochial school, or a
373 local governmental entity that licenses child care facilities;

374 7. Is attempting to purchase a firearm from a licensed
375 importer, licensed manufacturer, or licensed dealer and is

376 subject to a criminal history check under state or federal law;

377 8. Is seeking to be licensed by the Division of Insurance
378 Agent and Agency Services within the Department of Financial
379 Services;

380 9. Is seeking to be appointed as a guardian pursuant to s.
381 744.3125; or

382 10. Is seeking to be licensed by the Bureau of License
383 Issuance of the Division of Licensing within the Department of
384 Agriculture and Consumer Services to carry a concealed weapon or
385 concealed firearm. This subparagraph applies only in the
386 determination of an applicant's eligibility under s. 790.06.

387 Section 10. For the purpose of incorporating the amendment
388 made by this act to section 943.0583, Florida Statutes, in a
389 reference thereto, subsection (1) of section 961.06, Florida
390 Statutes, is reenacted to read:

391 961.06 Compensation for wrongful incarceration.—

392 (1) Except as otherwise provided in this act and subject
393 to the limitations and procedures prescribed in this section, a
394 person who is found to be entitled to compensation under the
395 provisions of this act is entitled to:

396 (a) Monetary compensation for wrongful incarceration,
397 which shall be calculated at a rate of \$50,000 for each year of
398 wrongful incarceration, prorated as necessary to account for a
399 portion of a year. For persons found to be wrongfully
400 incarcerated after December 31, 2008, the Chief Financial

401 Officer may adjust the annual rate of compensation for inflation
402 using the change in the December-to-December "Consumer Price
403 Index for All Urban Consumers" of the Bureau of Labor Statistics
404 of the Department of Labor;

405 (b) A waiver of tuition and fees for up to 120 hours of
406 instruction at any career center established under s. 1001.44,
407 any Florida College System institution as defined in s.
408 1000.21(3), or any state university as defined in s. 1000.21(6),
409 if the wrongfully incarcerated person meets and maintains the
410 regular admission requirements of such career center, Florida
411 College System institution, or state university; remains
412 registered at such educational institution; and makes
413 satisfactory academic progress as defined by the educational
414 institution in which the claimant is enrolled;

415 (c) The amount of any fine, penalty, or court costs
416 imposed and paid by the wrongfully incarcerated person;

417 (d) The amount of any reasonable attorney's fees and
418 expenses incurred and paid by the wrongfully incarcerated person
419 in connection with all criminal proceedings and appeals
420 regarding the wrongful conviction, to be calculated by the
421 department based upon the supporting documentation submitted as
422 specified in s. 961.05; and

423 (e) Notwithstanding any provision to the contrary in s.
424 943.0583 or s. 943.0585, immediate administrative expunction of
425 the person's criminal record resulting from his or her wrongful

426 | arrest, wrongful conviction, and wrongful incarceration. The
427 | Department of Legal Affairs and the Department of Law
428 | Enforcement shall, upon a determination that a claimant is
429 | entitled to compensation, immediately take all action necessary
430 | to administratively expunge the claimant's criminal record
431 | arising from his or her wrongful arrest, wrongful conviction,
432 | and wrongful incarceration. All fees for this process shall be
433 | waived.

434

435 | The total compensation awarded under paragraphs (a), (c), and
436 | (d) may not exceed \$2 million. No further award for attorney's
437 | fees, lobbying fees, costs, or other similar expenses shall be
438 | made by the state.

439 | Section 11. This act shall take effect July 1, 2018.