

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: 11/17/15 - KW

Department: County Attorney's Office

Bulk Item: Yes No

Staff Contact: Lisa Granger, (305) 292-3470

AGENDA ITEM WORDING: A public hearing for an ordinance pertaining to human trafficking by requiring that all adult entertainment workers obtain a worker identification card after providing age verification through the Tax Collector.

ITEM BACKGROUND: On July 15, 2015, the BOCC gave direction to the County Attorney's Office to draft an ordinance requiring adult entertainment workers to obtain a worker identification card to aid in the prevention of human trafficking of underage performers. The topic was raised by the Keys Coalition, Inc., a local non-profit formed to raise the awareness of domestic human trafficking.

The proposed ordinance would require adult entertainment workers to obtain a worker identification card from the Monroe County Tax Collector. In order to obtain a worker identification card, an applicant would need to provide various information including proof that an applicant is a least 18 years of age.

PREVIOUS RELEVANT BOCC ACTION: On July 15, 2015 BOCC directed staff to draft an Ordinance.
10/21/15 (R-14) BOCC scheduled a public hearing for 11/17/15 at 1:30 P.M. in Key West, FL

CONTRACT/AGREEMENT CHANGES: Not applicable.

STAFF RECOMMENDATIONS: Approval

TOTAL COST: Adv. Costs **INDIRECT COST:** _____ **BUDGETED:** Yes No

DIFFERENTIAL OF LOCAL PREFERENCE: N/A

COST TO COUNTY: Adv. Costs **SOURCE OF FUNDS:** _____

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Attorney OMB/Purchasing _____ Risk Management _____

DOCUMENTATION: Included Not Required _____

DISPOSITION: _____ **AGENDA ITEM #** _____

ORDINANCE NO. - 2015

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, PERTAINING TO HUMAN TRAFFICKING; REQUIRING THAT ADULT ENTERTAINMENT WORKERS OBTAIN WORKER IDENTIFICATION CARDS AFTER PROVIDING AGE VERTIFICATION; PROVIDING FOR DEFINITIONS; PROVIDING FOR GENERAL REQUIREMENTS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; PROVIDING FOR APPLICABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, human trafficking is a form of modern-day slavery, which involves the exploitation of persons for commercial sex or forced labor and often subjects victims to force, fraud and coercion; and

WHEREAS, while many victims of human trafficking are forced to work in prostitution or the sexual entertainment industry, trafficking also occurs in forms of labor exploitation, such as domestic servitude and restaurant, janitorial, sweatshop factory and agricultural work; and

WHEREAS, traffickers use various techniques to instill fear in victims to keep them enslaved such as isolation, threats of imprisonment and deportation, confiscation of passports, visas or other identification documents and threats of violence toward victims or their families; and

WHEREAS, under Article VIII, Section 1(f) of the Florida Constitution, the Board of County Commissioners has the authority to legislate on the an issue that impacts the health, safety and welfare of its citizens on a county-wide basis, except within the territorial jurisdiction of a municipality which has adopted an ordinance in conflict; and,

WHEREAS, the Board of County Commissioners finds that it will serve the public health, safety and welfare of the citizens of Monroe County to require adult entertainment performers to obtain a worker identification card after providing age verification; and,

WHEREAS, the Board of County Commissioners finds that it will serve the public health, safety and welfare of the citizens of Monroe County to ensure that minors are not employed in the adult entertainment establishments in Monroe County: and,

WHEREAS, Board of County Commissioners finds that requiring worker's identification cards will aid in the prohibition of human trafficking in Monroe County; and,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, that:

Section 1. Definitions

The following words, phrases, or terms when used in this Ordinance shall, unless the content otherwise indicates, have the meanings provided below:

- A. **Adult** means a person 18 years of age or older.
- B. To the extent permitted by Florida law, the term **Adult Entertainment Establishment** shall have the same meaning as that term is defined in F.S. 847.001.
- C. **Bodywork Services** means services involving therapeutic touching or manipulation of the body using specialized techniques.
- D. **Business or establishment** means any place of business or any club, organization, person, firm, corporation or partnership, wherein massage or bodywork services are provided and such establishment is not owned by a health care profession regulated pursuant to Chapter 456, Florida Statutes, and defined in F.S. 456.001.
- E. **Human trafficking** means transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person regulated pursuant to Chapter 787, Florida Statutes, and defined in F.S. 787.06.
- F. **Massage services** means the manipulation of the soft tissues of the human body with the hand, foot, arm, or elbow, whether or not such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.
- G. **Performer** means any adult who provides services designed to appeal to erotic or sexual appetites or inclinations at an adult entertainment establishment in pursuance of a trade, calling, business or occupation.

Section 2. Worker Identification Card

- A. **Worker identification card required.** No person shall act as a performer in an adult entertainment business or establishment without having obtained a valid current worker identification card from the Monroe County Tax Collector.

B. Application for worker identification card. An application for worker identification card shall be submitted to the Monroe County Tax Collector on a form created by the Tax Collector which contains the following information:

- (1) The applicant's full name;
- (2) Any other names including "stage" names or aliases used by the applicant;
- (3) The applicant's date of birth;
- (4) The applicant's height and weight;
- (5) A photograph of the applicant, provided by the applicant of a size approximating a passport picture size;
- (6) The applicant's present residence address and telephone number;
- (7) Proof that the applicant is at least eighteen (18) years old by submittal of two (2) of the following:
 - a. Original birth certificate;
 - b. Original passport or visa which includes date of birth;
 - c. Original driver's license;
 - d. Original Florida ID Card;
 - e. Any other original photo ID, which includes the applicant's date of birth.

C. False statement or false information in applying for a worker identification card. It shall be unlawful for any person applying for a worker identification card to make a false statement or otherwise provide false information to facilitate the issuance of same.

D. Fees. The applicant shall pay an annual worker's identification card fee of \$225.00 with each new request for a worker identification card. The fee is payable each year starting July 1. The fee becomes delinquent on October 1 if not paid of every year. If the fee is not paid on or before October 1 then penalty fees as set forth by the Tax Collector shall apply.

E. Issuance of worker identification card. The Tax Collector is responsible for verifying all information contained on an application for a worker identification card. Upon determining that the worker identification card should be issued, the Tax Collector shall immediately render a work identification card to the applicant. Said worker identification card shall include the applicant's name, photograph, which was provided by the applicant, and card number. Should the Tax Collector determine that the proof submitted with the application for the worker identification card as required hereinabove is not satisfactory; the Tax Collector shall deny issuance of said worker identification card and shall provide written notification to the applicant stating the reason(s) for any such denial. The issuance of the Tax Collector's written notification shall be the final administrative action of the County.

- F. Retention of worker identification card.** All persons required pursuant to this Code to obtain a work identification card shall keep same on their person or with their personal belongings at all times while performing at an adult entertainment business or establishment. The adult entertainment business or establishment shall retain a photocopy of all worker identification cards issued to performers performing at said business or establishment. Worker identification cards and photocopies of worker identification cards shall be made available to law enforcement officers or code compliance officers for inspection upon demand during the business hours of the adult entertainment business or establishment.
- G. Appeal.** In the event that an applicant for a worker identification card is denied, said applicant may request emergency injunctive relief from the Circuit Court of the Sixteenth Judicial Circuit of the State of Florida. Due to the overriding public interest in not having minors perform in adult entertainment businesses and/or establishments and to prohibit human trafficking, no provisional worker identification cards shall be issued by the Tax Collector.
- H. Transfer of worker identification card prohibited.** A worker identification card shall not be transferred from one person to another; however, the person to whom the worker identification card was issued may utilize that card in any and all licensed adult entertainment businesses and/or establishments.
- I. Alteration of worker identification card prohibited.** It shall be unlawful for any person to alter or otherwise change the contents of a worker identification card without the written permission of the Tax Collector.
- J. Requirement of managers, owners, and operators to verify worker identification cards of performers.** Persons managing, owning, or operating an adult entertainment business or establishment may not allow performers to perform in said business or establishment without a worker identification card. Any person managing, owning or operating an adult entertainment business or establishment shall verify prior to each act, performance or shift that any performer performing in said adult entertainment business or establishment is eighteen (18) years of age or older and has a current valid worker identification card.
- K. Enforcement.** Any state, county or municipal law enforcement officer is authorized to enforce this ordinance pursuant to F.S. 901.15(1).
- L. Penalties and Remedies.**
- (1) Any person who violates this ordinance shall, upon conviction, be punished by a maximum of 60 days in jail and/or \$500 fine. If the person convicted is an owner, manager, and/or operator of an adult entertainment business or establishment, the Clerk shall notify the Tax Collector, the County Attorney, and the City Attorney for the municipality in which the establishment is located, if any.
- (2) In addition to any penalty imposed upon a person found in violation of this ordinance, the County Attorney and/or the City Attorney for the municipality where the business or establishment in which the violation is alleged to have occurred may seek injunctive relief against the business or establishment.

Section 3. Severability

If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is for any reason held by a Court of competent jurisdiction to be unconstitutional, inoperative, or void, such holding shall not affect the remainder of this Ordinance.

Section 4. Repeal of Laws in Conflict

All local laws and ordinances in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Laws and Ordinances

The provisions of this Ordinance shall become and be made a part of the Monroe County Code. The sections of this Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "chapter", "section," "article," or other appropriate word.

Section 6. Captions

The captions, section headings, and section designations used in this Ordinance are for convenience only and shall have no effect on the interpretation of the provisions of this Ordinance.

Section 7. Applicability

This Ordinance shall apply throughout Monroe County except within a municipality which has enacted an ordinance in conflict with this ordinance.

Section 8. Effective Date

This Ordinance shall take effect upon filing with the Department of State by the Clerk.

PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Monroe County, Florida, at a regular meeting of said board held on the 17th of November, 2015.

Mayor Danny L. Kolhage _____
Mayor Pro Tem Heather Carruthers _____
Commissioner George Neugent _____
Commissioner David Rice _____
Commissioner Sylvia Murphy _____

**BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA**

BY: _____
Mayor Danny L. Kolhage

(SEAL)
ATTEST: AMY HEAVILIN, CLERK

Deputy Clerk

**MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:**
Lisa Granger

**LISA GRANGER
ASSISTANT COUNTY ATTORNEY**
Date 11/3/15

DANISE D. HENRIQUEZ, CFC
Monroe County Tax Collector
1200 Truman Ave. Ste. 101 Key West, FL 33040
P.O. Box 1129, Key West, FL 33041 (305)295-5063 or (305)295-5061 Fax (305)295-5020

WORKER IDENTIFICATION CARD

Date: _____

Full Name: _____
(First, middle, last)

Stage name or aliases: _____

Current Address: _____

City: _____ State: _____ Zip: _____

Current Mailing Address: _____

City: _____ State: _____ Zip: _____

Telephone # _____ Email address: _____

Date of Birth: _____

Sex: _____ Weight: _____

Height: _____ Hair Color: _____ Eye Color: _____

IT SHALL BE UNLAWFUL FOR ANY PERSON APPLYING FOR A WORKER IDENTIFICATION CARD TO MAKE A FALSE STATEMENT OR OTHERWISE PROVIDE FALSE INFORMATION WHICH IS INTENDED TO FACILITATE THE ISSUANCE OF SAME.

Applicant's Signature: _____

STAFF USE ONLY

____ APPROVED ISSUE DATE: _____ PROOF OF AGE: _____

____ DENIED ACCOUNT # _____ DRIVERS LICENSE # _____

STAFF INITIALS: _____ OTHER ID (type/#) _____

**NOTICE OF INTENTION TO CONSIDER
ADOPTION OF COUNTY ORDINANCE**

NOTICE IS HEREBY GIVEN TO WHOM IT MAY CONCERN that on **November 17, 2015** at **3:00 P.M.**, or as soon thereafter as may be heard, in the **Commission Chambers** located in the **Harvey Government Center, 1200 Truman Avenue, Key West, Monroe County, Florida**, the **Board of County Commissioners of Monroe County, Florida**, intends to consider the adoption of the following County ordinance:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, PERTAINING TO HUMAN TRAFFICKING; REQUIRING THAT ADULT ENTERTAINMENT WORKERS OBTAIN WORKER IDENTIFICATION CARDS AFTER PROVIDING AGE VERTIFICATION; PROVIDING FOR DEFINITIONS; PROVIDING FOR GENERAL REQUIREMENTS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; PROVIDING FOR APPLICABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

Pursuant to Section 286.0105, Florida Statutes, notice is given that if a person decides to appeal any decision made by the Board with respect to any matter considered at such hearings or meetings, he will need a record of the proceedings, and that, for such purpose, he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".

Dated at Key West, Florida, this 23rd day of October, 2015.

(SEAL)

AMY HEAVILIN, Clerk of the Circuit Court
and ex officio Clerk of the Board of County
Commissioners of Monroe County, Florida

Publication dates:

KW Citizen (Tu) 10/27/15
Keynoter (Wed) 10/28//15
Reporter (Fr) 10/30/15

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: October 21, 2015 (MAR) Department: County Attorney's Office

Bulk Item: Yes X No Staff Contact /Phone #: Lisa Granger, (305) 292-3470

AGENDA ITEM WORDING: Approval to advertise a public hearing for an ordinance pertaining to human trafficking by requiring that all adult entertainment workers obtain a worker identification card after providing age verification through the Tax Collector.

ITEM BACKGROUND: On July 15 2015, the BOCC gave direction to the County Attorney's Office to draft an ordinance requiring adult entertainment workers to obtain a worker identification card to aid in the prevention of human trafficking of underage performers. The topic was raised by the Keys Coalition, Inc., a local non-profit formed to raise the awareness of domestic human trafficking.

The proposed ordinance would require adult entertainment workers to obtain a worker identification card from the Monroe County Tax Collector. In order to obtain a worker identification card, an applicant would need to provide various information including proof of that an applicant is at least 18 years of age.

PREVIOUS RELEVANT BOCC ACTION: On July 15, 2015, BOCC directed staff to draft an Ordinance.

CONTRACT/AGREEMENT CHANGES: Not applicable.

STAFF RECOMMENDATIONS: Approval

TOTAL COST: _____ **INDIRECT COST:** _____ **BUDGETED:** Yes X No

DIFFERENTIAL OF LOCAL PREFERENCE: N/A

COST TO COUNTY: _____ **SOURCE OF FUNDS:** _____

REVENUE PRODUCING: Yes No X **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Attorney [Signature] OMB/Purchasing _____ Risk Management _____

DOCUMENTATION: Included X Not Required _____

DISPOSITION: _____

AGENDA ITEM # R-14
Approved 50

Additional Back-up:
Copies of cited Florida Statutes;
Florida Constitution

- **Article VIII, Section 1. (f),
Florida Constitution**
- **Sec. 847.001, Florida Statutes**
- **Sec. 456.001, Florida Statutes**
- **Sec. 787.06, Florida Statutes**
- **Sec. 901.15(1), Florida Statutes**

ARTICLE VIII

LOCAL GOVERNMENT

Florida
Constitution

SECTION 1. Counties.

SECTION 2. Municipalities.

SECTION 3. Consolidation.

SECTION 4. Transfer of powers.

SECTION 5. Local option.

SECTION 6. Schedule to Article VIII.

SECTION 1. Counties.—

(a) **POLITICAL SUBDIVISIONS.** The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment or apportionment of the public debt.

(b) **COUNTY FUNDS.** The care, custody and method of disbursing county funds shall be provided by general law.

(c) **GOVERNMENT.** Pursuant to general or special law, a county government may be established by charter which shall be adopted, amended or repealed only upon vote of the electors of the county in a special election called for that purpose.

(d) **COUNTY OFFICERS.** There shall be elected by the electors of each county, for terms of four years, a sheriff, a tax collector, a property appraiser, a supervisor of elections, and a clerk of the circuit court; except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office. When not otherwise provided by county charter or special law approved by vote of the electors, the clerk of the circuit court shall be ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds.

(e) **COMMISSIONERS.** Except when otherwise provided by county charter, the governing body of each county shall be a board of county commissioners composed of five or seven members serving staggered terms of four years. After each decennial census the board of county commissioners shall divide the county into districts of contiguous territory as nearly equal in population as practicable. One commissioner residing in each district shall be elected as provided by law.

(f) **NON-CHARTER GOVERNMENT.** Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.

(g) **CHARTER GOVERNMENT.** Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.

(h) **TAXES; LIMITATION.** Property situate within municipalities shall not be subject to taxation for services

rendered by the county exclusively for the benefit of the property or residents in unincorporated areas.

(i) COUNTY ORDINANCES. Each county ordinance shall be filed with the custodian of state records and shall become effective at such time thereafter as is provided by general law.

(j) VIOLATION OF ORDINANCES. Persons violating county ordinances shall be prosecuted and punished as provided by law.

(k) COUNTY SEAT. In every county there shall be a county seat at which shall be located the principal offices and permanent records of all county officers. The county seat may not be moved except as provided by general law. Branch offices for the conduct of county business may be established elsewhere in the county by resolution of the governing body of the county in the manner prescribed by law. No instrument shall be deemed recorded until filed at the county seat, or a branch office designated by the governing body of the county for the recording of instruments, according to law.

History.—Am. H.J.R. 1907, 1973; adopted 1974; Am. H.J.R. 452, 1984; adopted 1984; Am. H.J.R. 125, 1998; adopted 1998; Am. proposed by Constitution Revision Commission, Revision No. 8, 1998, filed with the Secretary of State May 5, 1998; adopted 1998.

Select Year:

The 2015 Florida Statutes

[Title XLVI](#)
CRIMES

[Chapter 847](#)
OBSCENITY

[View Entire Chapter](#)

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

- (1) “Adult” means a person 18 years of age or older.
- (2) “Adult entertainment establishment” means the following terms as defined:
 - (a) “Adult bookstore” means any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock books, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.
 - (b) “Adult theater” means an enclosed building or an enclosed space within a building used for presenting either films, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.
 - (c) “Special Cabaret” means any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.
 - (d) “Unlicensed massage establishment” means any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. The term “unlicensed massage establishment” does not include an establishment licensed under s. [480.043](#) which routinely provides medical services by state-licensed health care practitioners and massage therapists licensed under s. [480.041](#).
- (3) “Child pornography” means any image depicting a minor engaged in sexual conduct.
- (4) “Computer” means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions and includes any data storage facility or communications facility directly related to or operating in conjunction with such device. The term also includes: any online service, Internet service, or local bulletin board; any electronic storage device, including a floppy disk or other magnetic storage device; or any compact disc that has read-only memory and the capacity to store audio, video, or written materials.
- (5) “Deviate sexual intercourse” means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.
- (6) “Harmful to minors” means any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:
 - (a) Predominantly appeals to a prurient, shameful, or morbid interest;
 - (b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and

(c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

A mother's breastfeeding of her baby is not under any circumstance "harmful to minors."

(7) "Masochism" means sexual gratification achieved by a person through, or the association of sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture, or death.

(8) "Minor" means any person under the age of 18 years.

(9) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother's breastfeeding of her baby does not under any circumstance constitute "nudity," irrespective of whether or not the nipple is covered during or incidental to feeding.

(10) "Obscene" means the status of material which:

(a) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;

(b) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined herein; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value.

A mother's breastfeeding of her baby is not under any circumstance "obscene."

(11) "Person" includes individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.

(12) "Sadism" means sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture, or death upon another person or an animal.

(13) "Sadomasochistic abuse" means flagellation or torture by or upon a person or animal, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from inflicting harm on another or receiving such harm oneself.

(14) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, "sexual battery" does not include an act done for a bona fide medical purpose.

(15) "Sexual bestiality" means any sexual act, actual or simulated, between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(16) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(17) "Sexual excitement" means the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

(18) "Sexually oriented material" means any book, article, magazine, publication, or written matter of any kind or any drawing, etching, painting, photograph, motion picture film, or sound recording that depicts sexual activity, actual or simulated, involving human beings or human beings and animals, that exhibits uncovered human genitals or the pubic region in a lewd or lascivious manner, or that exhibits human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(19) "Simulated" means the explicit depiction of conduct described in subsection (16) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

(20) "Specific sexual activities" includes the following sexual activities and the exhibition of the following anatomical areas:

- (a) Human genitals in the state of sexual stimulation or arousal.
- (b) Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or any excretory function, or representation thereof.
- (c) The fondling or erotic touching of human genitals, the pubic region, the buttocks, or the female breasts.
- (d) Less than completely and opaquely covered:
 - 1. Human genitals or the pubic region.
 - 2. Buttocks.
 - 3. Female breasts below the top of the areola.
 - 4. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

History.—s. 1, ch. 86-238; s. 4, ch. 88-283; s. 6, ch. 93-4; s. 70, ch. 96-388; s. 2, ch. 2001-54; s. 1, ch. 2001-177; s. 154, ch. 2007-5; s. 1, ch. 2008-120.

Select Year:

The 2015 Florida Statutes

Title XXXII
REGULATION OF PROFESSIONS
AND OCCUPATIONS

Chapter 456
HEALTH PROFESSIONS AND OCCUPATIONS:
GENERAL PROVISIONS

[View Entire
Chapter](#)

456.001 Definitions.—As used in this chapter, the term:

(1) “Board” means any board or commission, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the department, except that, for ss. [456.003-456.018](#), [456.022](#), [456.023](#), [456.025-456.033](#), and [456.039-456.082](#), “board” means only a board, or other statutorily created entity to the extent such entity is authorized to exercise regulatory or rulemaking functions, within the Division of Medical Quality Assurance.

(2) “Consumer member” means a person appointed to serve on a specific board or who has served on a specific board, who is not, and never has been, a member or practitioner of the profession, or of any closely related profession, regulated by such board.

(3) “Department” means the Department of Health.

(4) “Health care practitioner” means any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part III or part IV of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491.

(5) “License” means any permit, registration, certificate, or license, including a provisional license, issued by the department.

(6) “Licensee” means any person or entity issued a permit, registration, certificate, or license, including a provisional license, by the department.

(7) “Profession” means any activity, occupation, profession, or vocation regulated by the department in the Division of Medical Quality Assurance.

History.—s. 33, ch. 97-261; s. 72, ch. 99-397; s. 36, ch. 2000-160; s. 2, ch. 2002-199; s. 116, ch. 2014-17.

Note.—Former s. 455.501.

Select Year:

The 2015 Florida Statutes

<u>Title</u>	<u>Chapter 787</u>	<u>View Entire</u>
<u>XLVI</u> CRIMES	KIDNAPPING; FALSE IMPRISONMENT; LURING OR ENTICING A CHILD; CUSTODY OFFENSES	<u>Chapter</u>

787.06 Human trafficking.—

(1)(a) The Legislature finds that human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, teenagers, and adults. Thousands of victims are trafficked annually across international borders worldwide. Many of these victims are trafficked into this state. Victims of human trafficking also include citizens of the United States and those persons trafficked domestically within the borders of the United States. The Legislature finds that victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.

(b) The Legislature finds that while many victims of human trafficking are forced to work in prostitution or the sexual entertainment industry, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.

(c) The Legislature finds that traffickers use various techniques to instill fear in victims and to keep them enslaved. Some traffickers keep their victims under lock and key. However, the most frequently used practices are less obvious techniques that include isolating victims from the public and family members; confiscating passports, visas, or other identification documents; using or threatening to use violence toward victims or their families; telling victims that they will be imprisoned or deported for immigration violations if they contact authorities; and controlling the victims' funds by holding the money ostensibly for safekeeping.

(d) It is the intent of the Legislature that the perpetrators of human trafficking be penalized for their illegal conduct and that the victims of trafficking be protected and assisted by this state and its agencies. In furtherance of this policy, it is the intent of the Legislature that the state Supreme Court, The Florida Bar, and relevant state agencies prepare and implement training programs in order that judges, attorneys, law enforcement personnel, investigators, and others are able to identify traffickers and victims of human trafficking and direct victims to appropriate agencies for assistance. It is the intent of the Legislature that the Department of Children and Families and other state agencies cooperate with other state and federal agencies to ensure that victims of human trafficking can access social services and benefits to alleviate their plight.

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

(a) "Coercion" means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;

4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;

5. Causing or threatening to cause financial harm to any person;

6. Enticing or luring any person by fraud or deceit; or

7. Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03 to any person for the purpose of exploitation of that person.

(b) "Commercial sexual activity" means any violation of chapter 796 or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.

(c) "Financial harm" includes extortionate extension of credit, loan sharking as defined in s. 687.071, or employment contracts that violate the statute of frauds as provided in s. 725.01.

(d) "Human trafficking" means transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.

(e) "Labor" means work of economic or financial value.

(f) "Maintain" means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service.

(g) "Obtain" means, in relation to labor or services, to secure performance thereof.

(h) "Services" means any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.

(i) "Sexually explicit performance" means an act or show, whether public or private, that is live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.

(j) "Unauthorized alien" means an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3). The term shall be interpreted consistently with that section and any applicable federal rules or regulations.

(k) "Venture" means any group of two or more individuals associated in fact, whether or not a legal entity.

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

(a)1. For labor or services of any child under the age of 18 commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services of an adult commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Using coercion for commercial sexual activity of an adult commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c)1. For labor or services of any child under the age of 18 who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services of an adult who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Using coercion for commercial sexual activity of an adult who is an unauthorized alien commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e)1. For labor or services who does so by the transfer or transport of any child under the age of 18 from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Using coercion for labor or services who does so by the transfer or transport of an adult from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

2. Using coercion for commercial sexual activity who does so by the transfer or transport of an adult from outside this state to within the state commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(g) For commercial sexual activity in which any child under the age of 18, or in which any person who is mentally defective or mentally incapacitated as those terms are defined in s. 794.011(1), is involved commits a life felony, punishable as provided in s. 775.082(3)(a)6., s. 775.083, or s. 775.084.

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

(4)(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, with knowledge or in reckless disregard of the fact that, as a consequence of the sale or transfer, the minor will be subject to human trafficking commits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who permanently brands, or directs to be branded, a victim of an offense under this section commits a second degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this subsection, the term "permanently branded" means a mark on the individual's body that, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure.

(5) The Criminal Justice Standards and Training Commission shall establish standards for basic and advanced training programs for law enforcement officers in the subjects of investigating and preventing human trafficking crimes. Every basic skills course required for law enforcement officers to obtain initial certification must include training on human trafficking crime prevention and investigation.

(6) Each state attorney shall develop standards of instruction for prosecutors to receive training on the investigation and prosecution of human trafficking crimes and shall provide for periodic and timely instruction.

(7) Any real property or personal property that was used, attempted to be used, or intended to be used in violation of any provision of this section may be seized and shall be forfeited subject to the provisions of the Florida Contraband Forfeiture Act.

(8) In a prosecution under this section, the defendant's ignorance of the victim's age, the victim's misrepresentation of his or her age, or the defendant's bona fide belief of the victim's age cannot be raised as a defense.

(9)(a) Information about the location of a residential facility offering services for adult victims of human trafficking involving commercial sexual activity, which is held by an agency, as defined in s. 119.011, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such confidential and exempt information held by an agency before, on, or after the effective date of the exemption.

(b) Information about the location of a residential facility offering services for adult victims of human trafficking involving commercial sexual activity may be provided to an agency, as defined in s. 119.011, as necessary to maintain health and safety standards and to address emergency situations in the residential

facility.

(c) The exemptions from s. [119.07\(1\)](#) and s. [24\(a\)](#), Art. I of the State Constitution provided in this subsection do not apply to facilities licensed by the Agency for Health Care Administration.

(d) This subsection is subject to the Open Government Sunset Review Act in accordance with s. [119.15](#) and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

History.—s. 2, ch. 2004-391; s. 1, ch. 2006-168; s. 5, ch. 2012-97; s. 300, ch. 2014-19; s. 7, ch. 2014-160; s. 96, ch. 2015-2; s. 2, ch. 2015-147.

Select Year:

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[Title XLVII](#)
CRIMINAL PROCEDURE AND CORRECTIONS

[Chapter 901](#)
ARRESTS

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901.15 When arrest by officer without warrant is lawful.—A law enforcement officer may arrest a person without a warrant when:

(1) The person has committed a felony or misdemeanor or violated a municipal or county ordinance in the presence of the officer. An arrest for the commission of a misdemeanor or the violation of a municipal or county ordinance shall be made immediately or in fresh pursuit.

(2) A felony has been committed and he or she reasonably believes that the person committed it.

(3) He or she reasonably believes that a felony has been or is being committed and that the person to be arrested has committed or is committing it.

(4) A warrant for the arrest has been issued and is held by another peace officer for execution.

(5) A violation of chapter 316 has been committed in the presence of the officer. Such an arrest may be made immediately or in fresh pursuit. Any law enforcement officer, upon receiving information relayed to him or her from a fellow officer stationed on the ground or in the air that a driver of a vehicle has violated chapter 316, may arrest the driver for violation of those laws when reasonable and proper identification of the vehicle and the violation has been communicated to the arresting officer.

(6) There is probable cause to believe that the person has committed a criminal act according to s. [790.233](#) or according to s. [741.31](#) or s. [784.047](#) which violates an injunction for protection entered pursuant to s. [741.30](#) or s. [784.046](#), or a foreign protection order accorded full faith and credit pursuant to s. [741.315](#), over the objection of the petitioner, if necessary.

(7) There is probable cause to believe that the person has committed an act of domestic violence, as defined in s. [741.28](#), or dating violence, as provided in s. [784.046](#). The decision to arrest shall not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to strongly discourage arrest and charges of both parties for domestic violence or dating violence on each other and to encourage training of law enforcement and prosecutors in these areas. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection, under s. [741.31\(4\)](#) or s. [784.047](#), or pursuant to a foreign order of protection accorded full faith and credit pursuant to s. [741.315](#), is immune from civil liability that otherwise might result by reason of his or her action.

(8) There is probable cause to believe that the person has committed child abuse, as defined in s. [827.03](#), or has violated s. [787.025](#), relating to luring or enticing a child for unlawful purposes. The decision to arrest does not require consent of the victim or consideration of the relationship of the parties. It is the public policy of this state to protect abused children by strongly encouraging the arrest and prosecution of persons who commit child abuse. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection is immune from civil liability that otherwise might result by reason of his or her action.

(9) There is probable cause to believe that the person has committed:

(a) Any battery upon another person, as defined in s. [784.03](#).