

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER	<u>      </u>	

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1 Committee/Subcommittee hearing bill: Health & Human Services  
2 Access Subcommittee  
3 Representative Fresen offered the following:  
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. This act may be cited as the "Florida Safe  
8 Harbor Act."

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

14 39.001 Purposes and intent; personnel standards and  
15 screening.—

16 (4) SEXUAL EXPLOITATION SERVICES.—

17 (a) The Legislature recognizes that child sexual  
18 exploitation is a serious problem nationwide and in this state.  
19 Many of these children have a history of abuse and neglect.

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20 Traffickers maintain control of child victims through  
21 psychological manipulation, force, drug addiction, or the  
22 exploitation of economic, physical, or emotional vulnerability.  
23 Children exploited through the sex trade often find it difficult  
24 to trust adults because of their abusive experiences. These  
25 children make up a population that is difficult to serve and  
26 even more difficult to rehabilitate.

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

30 1. To ensure the safety of children.

31 2. To provide for the treatment of such children.

32 3. To sever the bond between exploited children and  
33 traffickers and to reunite these children with their families or  
34 provide them with appropriate guardians.

35 4. To enable such children to be willing and reliable  
36 witnesses in the prosecution of traffickers.

37 (c) The Legislature finds that sexually exploited children  
38 need special care and services including counseling, health  
39 care, substance abuse treatment, educational opportunities, and  
40 a safe environment secure from traffickers.

41 (d) It is the intent of the Legislature that this state  
42 provide such care and services to all sexually exploited  
43 children in this state who are not otherwise receiving  
44 comparable services, such as those under the federal Trafficking  
45 Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

46 (8)(7) OFFICE OF ADOPTION AND CHILD PROTECTION.-

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

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48 1. Oversee the preparation and implementation of the state  
49 plan established under subsection (9) ~~(8)~~ and revise and update  
50 the state plan as necessary.

51 2. Provide for or make available continuing professional  
52 education and training in the prevention of child abuse and  
53 neglect.

54 3. Work to secure funding in the form of appropriations,  
55 gifts, and grants from the state, the Federal Government, and  
56 other public and private sources in order to ensure that  
57 sufficient funds are available for the promotion of adoption,  
58 support of adoptive families, and child abuse prevention  
59 efforts.

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

62 a. Programs and services for the promotion of adoption,  
63 support of adoptive families, and prevention of child abuse and  
64 neglect.

65 b. Training programs for the prevention of child abuse and  
66 neglect.

67 c. Multidisciplinary and discipline-specific training  
68 programs for professionals with responsibilities affecting  
69 children, young adults, and families.

70 d. Efforts to promote adoption.

71 e. Postadoptive services to support adoptive families.

72 5. Monitor, evaluate, and review the development and  
73 quality of local and statewide services and programs for the  
74 promotion of adoption, support of adoptive families, and  
75 prevention of child abuse and neglect and shall publish and

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76 distribute an annual report of its findings on or before January  
77 1 of each year to the Governor, the Speaker of the House of  
78 Representatives, the President of the Senate, the head of each  
79 state agency affected by the report, and the appropriate  
80 substantive committees of the Legislature. The report shall  
81 include:

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

83 b. A summary of the adoption data collected and reported  
84 to the federal Adoption and Foster Care Analysis and Reporting  
85 System (AFCARS) and the federal Administration for Children and  
86 Families.

87 c. A summary of the child abuse prevention data collected  
88 and reported to the National Child Abuse and Neglect Data System  
89 (NCANDS) and the federal Administration for Children and  
90 Families.

91 d. A summary detailing the timeliness of the adoption  
92 process for children adopted from within the child welfare  
93 system.

94 e. Recommendations, by state agency, for the further  
95 development and improvement of services and programs for the  
96 promotion of adoption, support of adoptive families, and  
97 prevention of child abuse and neglect.

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

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

102 ~~(10)-(9)~~ FUNDING AND SUBSEQUENT PLANS.-

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103 (b) The office and the other agencies and organizations  
104 listed in paragraph ~~(9)(8)~~(a) shall readdress the state plan and  
105 make necessary revisions every 5 years, at a minimum. Such  
106 revisions shall be submitted to the Speaker of the House of  
107 Representatives and the President of the Senate no later than  
108 June 30 of each year divisible by 5. At least biennially, the  
109 office shall review the state plan and make any necessary  
110 revisions based on changing needs and program evaluation  
111 results. An annual progress report shall be submitted to update  
112 the state plan in the years between the 5-year intervals. In  
113 order to avoid duplication of effort, these required plans may  
114 be made a part of or merged with other plans required by either  
115 the state or Federal Government, so long as the portions of the  
116 other state or Federal Government plan that constitute the state  
117 plan for the promotion of adoption, support of adoptive  
118 families, and prevention of child abuse, abandonment, and  
119 neglect are clearly identified as such and are provided to the  
120 Speaker of the House of Representatives and the President of the  
121 Senate as required above.

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

125 39.01 Definitions.—When used in this chapter, unless the  
126 context otherwise requires:

127 (2) "Abuse" means any willful act or threatened act that  
128 results in any physical, mental, or sexual abuse, injury, or  
129 harm that causes or is likely to cause the child's physical,  
130 mental, or emotional health to be significantly impaired. Abuse

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131 of a child includes acts or omissions. Corporal discipline of a  
132 child by a parent or legal custodian for disciplinary purposes  
133 does not in itself constitute abuse when it does not result in  
134 harm to the child.

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

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

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

142 (c) To have been voluntarily placed with a licensed child-  
143 caring agency, a licensed child-placing agency, an adult  
144 relative, the department, or the former Department of Health and  
145 Rehabilitative Services, after which placement, under the  
146 requirements of this chapter, a case plan has expired and the  
147 parent or parents or legal custodians have failed to  
148 substantially comply with the requirements of the plan;

149 (d) To have been voluntarily placed with a licensed child-  
150 placing agency for the purposes of subsequent adoption, and a  
151 parent or parents have signed a consent pursuant to the Florida  
152 Rules of Juvenile Procedure;

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

155 (f) To be at substantial risk of imminent abuse,  
156 abandonment, or neglect by the parent or parents or legal  
157 custodians; or

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158       (g) To have been sexually exploited and to have no parent,  
159 legal custodian, or responsible adult relative currently known  
160 and capable of providing the necessary and appropriate  
161 supervision and care.

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

164       (g) The sexual exploitation of a child, which includes  
165 allowing, encouraging, or forcing a child to:

- 166       1. Solicit for or engage in prostitution; or  
167       2. Engage in a sexual performance, as defined by chapter  
168 827; or  
169       3. Participate in the trade of sex trafficking as provided  
170 in s. 796.035.

171       Section 4. Subsection (2) of section 39.402, Florida  
172 Statutes, are amended to read:

173       39.402 Placement in a shelter.-

174       (2) A child taken into custody may be placed or continued  
175 in a shelter only if one or more of the criteria in subsection  
176 (1) apply ~~applies~~ and the court has made a specific finding of  
177 fact regarding the necessity for removal of the child from the  
178 home and has made a determination that the provision of  
179 appropriate and available services will not eliminate the need  
180 for placement. In the case of a child who has been sexually  
181 exploited the child shall be placed in a shelter, which offers  
182 treatment for sexually exploited children.

183       Section 5. Paragraph (d) of subsection (3) of section  
184 39.521, Florida Statutes is amended to read:

185       39.521 Disposition hearings; powers of disposition.-

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186 (3) When any child is adjudicated by a court to be  
187 dependent, the court shall determine the appropriate placement  
188 for the child as follows:

189 (d) If the child cannot safely be placed in a nonlicensed  
190 placement, the court shall commit the child to temporary legal  
191 custody of the department. Such commitment invests in the  
192 department all rights and responsibilities of a legal custodian.  
193 The department shall not return a child to the physical care and  
194 custody of the person from whom the child was removed, except  
195 for court-approved visitation periods, without the approval of  
196 the court. Any order for visitation or other contact must  
197 conform to the provisions of s. 39.0139. In the case of a child  
198 who is alleged to have been sexually exploited the child shall  
199 be placed in a facility, which offers treatment for sexually  
200 exploited children. The term of such commitment continues until  
201 terminated by the court or until the child reaches the age of  
202 18. After the child is committed to the temporary legal custody  
203 of the department, all further proceedings under this section  
204 are governed by this chapter.

205 Section 6. Section 39.524, Florida Statutes, is created to  
206 read:

207 39.524 Placement of sexually exploited children.-

208 (1) Except as provided in s. 39.407, any dependent child 6  
209 years of age or older who has been found to be a victim of  
210 sexual exploitation as defined in s. 39.01(67)(g) must be  
211 assessed for placement in a facility which is appropriate to  
212 serve sexually exploited children. The assessment shall be  
213 conducted by the department or its agent and shall incorporate



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214 and address current and historical information from any law  
215 enforcement reports; psychological testing or evaluation that  
216 has occurred; current and historical information from the  
217 guardian ad litem, if one has been assigned; current and  
218 historical information from any current therapist, teacher, or  
219 other professional who has knowledge of the child and has worked  
220 with the child; and any other information concerning the  
221 availability and suitability of appropriate placement. (2) The  
222 results of the assessment described in subsection (1) and the  
223 actions taken as a result of the assessment must be included in  
224 the next judicial review of the child. At each subsequent  
225 judicial review, the court must be advised in writing of the  
226 status of the child's placement, with special reference  
227 regarding the stability of the placement and the permanency  
228 planning for the child.

229 (3) Each facility shall report to the department its  
230 success in achieving permanency for children who have been  
231 sexually exploited and placed by the department at intervals  
232 that allow the current information to be provided to the court  
233 at each judicial review for the child.

234 (4) (a) The department shall address the child welfare  
235 service needs of sexually exploited children as a component of  
236 the department's master plan. This determination shall be made  
237 in consultation with local law enforcement, runaway and homeless  
238 youth program providers, local probation departments, lead  
239 agencies and sub contract providers, local guardians ad litem,  
240 public defenders, state attorney's offices, and child advocates

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241 and service providers who work directly with sexually exploited  
242 youth.

243 (b) The department shall develop guidelines for serving  
244 children who have been sexually exploited, and shall produce a  
245 report to the President of the Senate and the Speaker of the  
246 House of Representatives detailing the departments plan by June  
247 1, 2013. At a minimum the plan must include:

248 1. Assessment of Need - the department shall estimate the  
249 number of children who have been sexually exploited that are in  
250 need of services currently and over the next 5 years.

251 2. Residential Services - the department shall consider all  
252 options for treating children who have been sexually exploited  
253 and provide recommendations on the best options of care for  
254 these children and reunification with the child's family, if  
255 appropriate.

256 3. Services - the department shall recommend specific  
257 service needs, including but not limited to, assessment,  
258 security, crisis and behavioral health services that are needed  
259 for children who have been sexually exploited.

260 4. Coordination - the department shall consider and  
261 recommend partnership opportunities with law enforcement and  
262 other state and local government entities to best serve children  
263 who have been sexually exploited.

264 (c) The department may, to the extent that funds are  
265 available, in conjunction with local law enforcement officials,  
266 contract with an appropriate not-for-profit agency having  
267 experience working with sexually exploited children to train law  
268 enforcement officials who are likely to encounter sexually

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269 exploited children in the course of their law enforcement duties  
270 on the provisions of this section and how to identify and obtain  
271 appropriate services for sexually exploited children

272 (5) By December 1 of each year, the department shall  
273 report to the Legislature on the placement of children in  
274 facilities that provide treatment for sexually exploited  
275 children during the year, including the criteria used to  
276 determine the placement of children, the number of children who  
277 were evaluated for placement, the number of children who were  
278 placed based upon the evaluation, and the number of children who  
279 were not placed.

280 Section 7. Section 409.1678, Florida Statutes, is created  
281 to read:

282 409.1678 Safe house services for children who are victims  
283 of sexual exploitation.-

284 (1) As used in this section, the term:

285 (a) "Child advocate" means an employee of a short-term  
286 safe house who has been trained to work with and advocate for  
287 the needs of sexually exploited children. The advocate shall  
288 accompany the child to all court appearances, meetings with law  
289 enforcement, and the state attorney's office and shall serve as  
290 a liaison between the short-term safe house and the court.

291 (b) "Safe house" means a living environment that has set  
292 aside gender-specific, separate, and distinct living quarters  
293 for sexually exploited children who have been adjudicated  
294 dependent or delinquent and need to reside in a secure  
295 residential facility with staff members awake 24 hours a day. A  
296 safe house shall be operated by a licensed family foster home or

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297 residential child-caring agency as defined in s. 409.175,  
298 including a runaway youth center as defined in s. 409.441. Each  
299 facility must be appropriately licensed in this state as a  
300 residential child-caring agency as defined in s. 409.175 and  
301 must be accredited by July 1, 2013. A safe house serving  
302 children who have been sexually exploited must have available  
303 staff or contract personnel with the clinical expertise,  
304 credentials, and training to provide services identified in  
305 paragraph (2) (a).

306 (c) "Secure" means that a child is supervised 24 hours a  
307 day by staff members who are awake while on duty.

308 (d) "Sexually exploited child" means a dependent child who  
309 has suffered sexual exploitation as defined in s. 39.01(67)(g)  
310 and is ineligible for relief and benefits under the federal  
311 Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

312 (e) "Short-term safe house" means a shelter operated by a  
313 licensed residential child-caring agency as defined in s.  
314 409.175, including a runaway youth center as defined in s.  
315 409.441, that has set aside gender-specific, separate, and  
316 distinct living quarters for sexually exploited children. In  
317 addition to shelter, the house shall provide services and care  
318 to sexually exploited children, including food, clothing,  
319 medical care, counseling, and appropriate crisis intervention  
320 services at the time they are taken into custody by law  
321 enforcement or the department.

322 (2) (a) The lead agency, not-for-profit agency, or local  
323 government entity providing safe-house services is responsible  
324 for security, crisis intervention services, general counseling

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325 and victim-witness counseling, a comprehensive assessment,  
326 residential care, transportation, access to behavioral health  
327 services, recreational activities, food, clothing, supplies,  
328 infant care, and miscellaneous expenses associated with caring  
329 for these children; for necessary arrangement for or provision  
330 of educational services, including life skills services and  
331 planning services to successfully transition residents back to  
332 the community; and for ensuring necessary and appropriate health  
333 and dental care.

334 (b) This section does not prohibit any provider of these  
335 services from appropriately billing Medicaid for services  
336 rendered, from contracting with a local school district for  
337 educational services, or from obtaining federal or local funding  
338 for services provided, as long as two or more funding sources do  
339 not pay for the same specific service that has been provided to  
340 a child.

341 (c) The lead agency, not-for-profit agency, or local  
342 government entity providing safe-house services has the legal  
343 authority for children served in a safe-house program, as  
344 provided in chapter 39 or this chapter, as appropriate, to  
345 enroll the child in school, to sign for a driver's license for  
346 the child, to cosign loans and insurance for the child, to sign  
347 for medical treatment of the child, and to authorize other such  
348 activities.

349 Section 8. Paragraphs (e) and (j) of subsection (2) of  
350 section 409.175, Florida Statutes, are amended to read:

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351 409.175 Licensure of family foster homes, residential  
352 child-caring agencies, and child-placing agencies; public  
353 records exemption.—

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

355 (e) "Family foster home" means a private residence in which  
356 children who are unattended by a parent or legal guardian are  
357 provided 24-hour care. Such homes include emergency shelter  
358 family homes, safe houses, and specialized foster homes for  
359 children with special needs. A person who cares for a child of a  
360 friend for a period not to exceed 90 days, a relative who cares  
361 for a child and does not receive reimbursement for such care  
362 from the state or federal government, or an adoptive home which  
363 has been approved by the department or by a licensed child-  
364 placing agency for children placed for adoption is not  
365 considered a family foster home.

366 (j) "Residential child-caring agency" means any person,  
367 corporation, or agency, public or private, other than the  
368 child's parent or legal guardian, that provides staffed 24-hour  
369 care for children in facilities maintained for that purpose,  
370 regardless of whether operated for profit or whether a fee is  
371 charged. Such residential child-caring agencies include, but are  
372 not limited to, maternity homes, runaway shelters, group homes  
373 that are administered by an agency, emergency shelters that are  
374 not in private residences, short-term safe houses, safe houses,  
375 and wilderness camps. Residential child-caring agencies do not  
376 include hospitals, boarding schools, summer or recreation camps,  
377 nursing homes, or facilities operated by a governmental agency  
378 for the training, treatment, or secure care of delinquent youth,

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379 or facilities licensed under s. 393.067 or s. 394.875 or chapter  
380 397.

381 Section 9. Paragraph (f) of subsection (2) of section  
382 796.07, Florida Statutes, is republished, and subsection (6) of  
383 that section is amended, to read:

384 796.07 Prohibiting prostitution and related acts,~~etc.;~~  
385 ~~evidence; penalties; definitions.-~~

386 (2) It is unlawful:

387 (f) To solicit, induce, entice, or procure another to  
388 commit prostitution, lewdness, or assignation.

389 (6) A person who violates paragraph (2)(f) shall be  
390 assessed a civil penalty of \$5,000 ~~\$500~~ if the violation results  
391 in any judicial disposition other than acquittal or dismissal.  
392 Of the proceeds from each penalty ~~penalties~~ assessed under this  
393 subsection, \$500 shall be paid to the circuit court  
394 administrator for the sole purpose of paying the administrative  
395 costs of treatment-based drug court programs provided under s.  
396 397.334 and \$4,500 shall be paid to the Department of Children  
397 and Family Services for the sole purpose of funding services for  
398 sexually exploited children.

399 Section 10. Section 960.065, Florida Statutes, is amended  
400 to read:

401 960.065 Eligibility for awards.-

402 (1) Except as provided in subsection (2), the following  
403 persons shall be eligible for awards pursuant to this chapter:

404 (a) A victim.

405 (b) An intervenor.

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406 (c) A surviving spouse, parent or guardian, sibling, or  
407 child of a deceased victim or intervenor.

408 (d) Any other person who is dependent for his or her  
409 principal support upon a deceased victim or intervenor.

410 (2) Any claim filed by or on behalf of a person who:

411 (a) Committed or aided in the commission of the crime upon  
412 which the claim for compensation was based;

413 (b) Was engaged in an unlawful activity at the time of the  
414 crime upon which the claim for compensation is based;

415 (c) Was in custody or confined, regardless of conviction,  
416 in a county or municipal detention facility, a state or federal  
417 correctional facility, or a juvenile detention or commitment  
418 facility at the time of the crime upon which the claim for  
419 compensation is based;

420 (d) Has been adjudicated as a habitual felony offender,  
421 habitual violent offender, or violent career criminal under s.  
422 775.084; or

423 (e) Has been adjudicated guilty of a forcible felony  
424 offense as described in s. 776.08, is ineligible ~~shall not be~~  
425 ~~eligible~~ for an award.

426 (3) Any claim filed by or on behalf of a person who was in  
427 custody or confined, regardless of adjudication, in a county or  
428 municipal facility, a state or federal correctional facility, or  
429 a juvenile detention, commitment, or assessment facility at the  
430 time of the crime upon which the claim is based, who has been  
431 adjudicated as a habitual felony offender under s. 775.084, or  
432 who has been adjudicated guilty of a forcible felony offense as  
433 described in s. 776.08, renders the person ineligible ~~shall not~~



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434 ~~be eligible~~ for an award. Notwithstanding the foregoing, upon a  
435 finding by the Crime Victims' Services Office of the existence  
436 of mitigating or special circumstances that would render such a  
437 disqualification unjust, an award may be approved. A decision  
438 that mitigating or special circumstances do not exist in a case  
439 subject to this section does ~~shall~~ not constitute final agency  
440 action subject to review pursuant to ss. 120.569 and 120.57.

441 (4) Payment may not be made under this chapter if the  
442 person who committed the crime upon which the claim is based  
443 will receive any direct or indirect financial benefit from such  
444 payment, unless such benefit is minimal or inconsequential.  
445 Payment may not be denied based on the victim's familial  
446 relationship to the offender or based upon the sharing of a  
447 residence by the victim and offender, except to prevent unjust  
448 enrichment of the offender.

449 (5) A person is not ineligible for an award pursuant to  
450 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that  
451 person is a victim of sexual exploitation of a child as defined  
452 in s. 39.01(67) (g).

453 Section 11. This act shall take effect January 1, 2013.  
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456

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458 **T I T L E A M E N D M E N T**

459 Remove the entire title and insert:

460 A bill to be entitled

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461 An act relating to sexual exploitation; providing a short title;  
462 amending s. 39.001, F.S.; providing legislative intent and  
463 goals; conforming cross-references; amending s. 39.01, F.S.;  
464 revising the definitions of the terms "abuse," "child who is  
465 found to be dependent," and "sexual abuse of a child"; amending  
466 s. 39.402, F.S.; providing that a child who has been sexually  
467 exploited shall be placed in a shelter which offers treatment;  
468 amending s. 39.521, F.S.; providing that a child who has been  
469 sexually exploited shall be placed in a facility which offers  
470 treatment; creating s. 39.524, F.S.; requiring assessment of  
471 certain children for placement in a facility that treats  
472 sexually exploited children; providing for use of such  
473 assessments; requiring the Department of Children and Family  
474 Services to address child welfare service needs of sexually  
475 exploited children as a component of their master plans;  
476 requiring the Department of Children and Family Services to  
477 develop guidelines for treating sexually exploited children;  
478 requiring a report that details those guidelines to be submitted  
479 to the legislature; requiring an annual report concerning  
480 placements of sexually exploited children; creating s. 409.1678,  
481 F.S.; providing definitions; providing duties, responsibilities,  
482 and requirements for safe houses and their operators; amending  
483 s. 409.175, F.S.; revising the definitions of the terms "family  
484 foster home" and "residential child-caring agency"; amending s.  
485 796.07, F.S.; providing for an increased civil penalty for  
486 soliciting another to commit prostitution or related acts;  
487 providing for disposition of proceeds; amending s. 960.065,

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488 F.S.; allowing victim compensation for sexually exploited  
489 children; providing an effective date.