

## CHAPTER 2017-23

### Committee Substitute for Committee Substitute for Senate Bill No. 852

An act relating to human trafficking; amending s. 39.524, F.S.; requiring the Department of Children and Families or a sheriff's office to conduct a multidisciplinary staffing on child victims of commercial sexual exploitation to determine the child's service and placement needs; revising the date by which the department or sheriff's office must submit a report to the Legislature on child commercial sexual exploitation and safe-harbor placements; revising the contents of the report, including recommendations by the Office of Program Policy Analysis and Government Accountability study on commercial sexual exploitation of children; requiring the department to maintain certain data on the child victims; amending s. 92.565, F.S.; adding commercial sexual activity as a crime in which the defendant's admission is admissible during trial; amending s. 409.016, F.S.; defining the term "commercial sexual exploitation"; amending s. 409.1678, F.S.; deleting the term "sexually exploited child"; removing an obsolete date; conforming provisions to changes made by the act; amending s. 409.1754, F.S.; requiring the department or sheriff's office to conduct multidisciplinary staffings for child victims; requiring a service plan for all victims of child commercial sexual exploitation; requiring the department or sheriff's office to follow up on all victims of child commercial sexual exploitation within a specified timeframe; amending s. 464.013, F.S.; revising the continuing medical education course requirements for certain relicensures or recertifications to include a course in human trafficking; providing requirements and procedures for the course; amending s. 907.041, F.S.; adding human trafficking to the list of crimes requiring pretrial detention of the defendant; reenacting s. 790.065(2)(c), F.S., relating to the sale and delivery of firearms to incorporate the amendment made to s. 907.041, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 39.524, Florida Statutes, is amended to read:

39.524 Safe-harbor placement.—

(1) Except as provided in s. 39.407 or s. 985.801, a dependent child 6 years of age or older who is suspected of being or has been found to be a victim of commercial sexual exploitation as defined in s. 409.016 s. 39.01(70)(g) must be assessed, and the department or a sheriff's office acting under s. 39.3065 must conduct a multidisciplinary staffing pursuant to s. 409.1754(2), to determine the child's need for services and his or her need for placement in a safe house or safe foster home as provided in s. 409.1678 using the initial screening and assessment instruments provided in s. 409.1754(1). If such placement is determined to be appropriate for the

child as a result of this assessment, the child may be placed in a safe house or safe foster home, if one is available. However, the child may be placed in another setting, if the other setting is more appropriate to the child's needs or if a safe house or safe foster home is unavailable, as long as the child's behaviors are managed so as not to endanger other children served in that setting.

(2) The results of the assessment described in s. 409.1754(1), the multidisciplinary staffing described in s. 409.1754(2), and the actions taken as a result of the assessment must be included in the disposition hearing or next judicial review of the child. At each subsequent judicial review, the court must be advised in writing of the status of the child's placement, with special reference regarding the stability of the placement, any specialized services, and the permanency planning for the child.

(3)(a) By October ~~December~~ 1 of each year, the department, with information from community-based care agencies and certain sheriff's offices acting under s. 39.3065, shall report to the Legislature on the prevalence of child commercial sexual exploitation; the specialized services provided and placement of such children; the local service capacity assessed pursuant to s. 409.1754; the placement of children in safe houses and safe foster homes during the year, including the criteria used to determine the placement of children; the number of children who were evaluated for placement; the number of children who were placed based upon the evaluation; ~~and the number of children who were not placed;~~ and the department's response to the findings and recommendations made by the Office of Program Policy Analysis and Government Accountability in its annual study on commercial sexual exploitation of children, as required by s. 409.16791.

(b) The department shall maintain data specifying the number of children who were verified as victims of commercial sexual exploitation, who were referred to nonresidential services in the community, who were placed in a safe house or safe foster home, and who were referred to a safe house or safe foster home for whom placement was unavailable, and shall identify the counties in which such placement was unavailable. The department shall include this data in its report under this subsection so that the Legislature may consider this information in developing the General Appropriations Act.

Section 2. Subsection (2) of section 92.565, Florida Statutes, is amended to read:

92.565 Admissibility of confession in sexual abuse cases.—

(2) In any criminal action in which the defendant is charged with a crime against a victim under s. 787.06(3), involving commercial sexual activity; s. 794.011; s. 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse; s. 827.04, involving sexual abuse; s. 827.071; or s. 847.0135(5), or any other crime involving sexual abuse of another, or with any attempt, solicitation, or

conspiracy to commit any of these crimes, the defendant’s memorialized confession or admission is admissible during trial without the state having to prove a corpus delicti of the crime if the court finds in a hearing conducted outside the presence of the jury that the state is unable to show the existence of each element of the crime, and having so found, further finds that the defendant’s confession or admission is trustworthy. Factors which may be relevant in determining whether the state is unable to show the existence of each element of the crime include, but are not limited to, the fact that, at the time the crime was committed, the victim was:

- (a) Physically helpless, mentally incapacitated, or mentally defective, as those terms are defined in s. 794.011;
- (b) Physically incapacitated due to age, infirmity, or any other cause; or
- (c) Less than 12 years of age.

Section 3. Present subsections (1), (2), and (3) of section 409.016, Florida Statutes, are redesignated as subsections (2), (3), and (4), respectively, and a new subsection (1) is added to that section, to read:

409.016 Definitions.—As used in this chapter:

(1) “Commercial sexual exploitation” means the use of any person under the age of 18 years for sexual purposes in exchange for money, goods, or services or the promise of money, goods, or services.

Section 4. Section 409.1678, Florida Statutes, is amended to read:

409.1678 Specialized residential options for children who are victims of commercial sexual exploitation.—

(1) DEFINITIONS.—As used in this section, the term:

(a) “Safe foster home” means a foster home certified by the department under this section to care for sexually exploited children.

(b) “Safe house” means a group residential placement certified by the department under this section to care for sexually exploited children.

~~(c) “Sexually exploited child” means a child who has suffered sexual exploitation as defined in s. 39.01(70)(g) and is ineligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.~~

(2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

(a) A safe house and a safe foster home shall provide a safe, separate, and therapeutic environment tailored to the needs of commercially sexually exploited children who have endured significant trauma and are not eligible for relief and benefits under the federal Trafficking Victims Protection Act,

22 U.S.C. ss. 7101 et seq. Safe houses and safe foster homes shall use a model of treatment that includes strength-based and trauma-informed approaches.

(b) A safe house or a safe foster home must be certified by the department. A residential facility accepting state funds appropriated to provide services to ~~sexually exploited children or child victims of commercial sexual exploitation~~ sex trafficking must be certified by the department as a safe house or a safe foster home. An entity may not use the designation “safe house” or “safe foster home” and hold itself out as serving child victims of commercial sexual exploitation ~~sexually exploited children~~ unless the entity is certified under this section.

(c) To be certified, a safe house must hold a license as a residential child-caring agency, as defined in s. 409.175, and a safe foster home must hold a license as a family foster home, as defined in s. 409.175. A safe house or safe foster home must also:

1. Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate.

2. Serve exclusively one sex.

3. Group child victims of commercial sexual exploitation ~~sexually exploited children~~ by age or maturity level.

4. Care for child victims of commercial sexual exploitation ~~sexually exploited children~~ in a manner that separates those children from children with other needs. Safe houses and safe foster homes may care for other populations if the children who have not experienced commercial sexual exploitation do not interact with children who have experienced commercial sexual exploitation.

5. Have awake staff members on duty 24 hours a day, if a safe house.

6. Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location that is isolated from major transportation centers and common trafficking areas.

7. Meet other criteria established by department rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered.

(d) Safe houses and safe foster homes shall provide services tailored to the needs of child victims of commercial sexual exploitation ~~sexually exploited children~~ and shall conduct a comprehensive assessment of the service needs of each resident. In addition to the services required to be provided by residential child caring agencies and family foster homes, safe houses and safe foster homes must provide, arrange for, or coordinate, at a minimum, the following services:

1. Victim-witness counseling.
2. Family counseling.
3. Behavioral health care.
4. Treatment and intervention for sexual assault.
5. Education tailored to the child's individual needs, including remedial education if necessary.
6. Life skills and workforce training.
7. Mentoring by a survivor of commercial sexual exploitation, if available and appropriate for the child.
8. Substance abuse screening and, when necessary, access to treatment.
9. Planning services for the successful transition of each child back to the community.
10. Activities structured in a manner that provides child victims of commercial sexual exploitation ~~sexually-exploited-children~~ with a full schedule.

(e) The community-based care lead agencies shall ensure that foster parents of safe foster homes and staff of safe houses complete intensive training regarding, at a minimum, the needs of child victims of commercial sexual exploitation ~~sexually-exploited-children~~, the effects of trauma and sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches. The department shall specify the contents of this training by rule and may develop or contract for a standard curriculum. The department may establish by rule additional criteria for the certification of safe houses and safe foster homes that shall address the security, therapeutic, social, health, and educational needs of child victims of commercial sexual exploitation ~~sexually-exploited-children~~.

(f) The department shall inspect safe houses and safe foster homes before certification and annually thereafter to ensure compliance with the requirements of this section. The department may place a moratorium on referrals and may revoke the certification of a safe house or safe foster home that fails at any time to meet the requirements of, or rules adopted under, this section.

(g) The certification period for safe houses and safe foster homes shall run concurrently with the terms of their licenses.

(3) SERVICES WITHIN A RESIDENTIAL TREATMENT CENTER OR HOSPITAL.—~~No later than July 1, 2015,~~ Residential treatment centers licensed under s. 394.875, and hospitals licensed under chapter 395 that provide residential mental health treatment, shall provide specialized

treatment for commercially sexually exploited children in the custody of the department who are placed in these facilities pursuant to s. 39.407(6), s. 394.4625, or s. 394.467. The specialized treatment must meet the requirements of subparagraphs (2)(c)1. and 3.-7., paragraph (2)(d), and the department's treatment standards adopted pursuant to this section. The facilities shall ensure that children are served in single-sex groups and that staff working with such children are adequately trained in the effects of trauma and sexual exploitation, the needs of child victims of commercial sexual exploitation ~~sexually exploited children~~, and how to address those needs using strength-based and trauma-informed approaches.

(4) FUNDING FOR SERVICES; CASE MANAGEMENT.—

(a) This section does not prohibit any provider of services for child victims of commercial sexual exploitation ~~sexually exploited children~~ from appropriately billing Medicaid for services rendered, from contracting with a local school district for educational services, or from obtaining federal or local funding for services provided, as long as two or more funding sources do not pay for the same specific service that has been provided to a child.

(b) The community-based care lead agency shall ensure that all child victims of commercial sexual exploitation ~~sexually exploited children~~ residing in safe houses or safe foster homes or served in residential treatment centers or hospitals pursuant to subsection (3) have a case manager and a case plan, whether or not the child is a dependent child.

(5) SCOPE OF AVAILABILITY OF SERVICES.—To the extent possible provided by law and with authorized funding, the services specified in this section may be available to all child victims of commercial sexual exploitation who are not eligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq., ~~sexually exploited children~~ whether such services are accessed voluntarily, as a condition of probation, through a diversion program, through a proceeding under chapter 39, or through a referral from a local community-based care or social service agency.

(6) LOCATION INFORMATION.—

(a) Information about the location of a safe house, safe foster home, or other residential facility serving child victims of commercial sexual exploitation ~~victims of sexual exploitation~~, as defined in s. 409.016 ~~s. 39.01(70)(g)~~, 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 safe house, safe foster home, or other residential facility serving child victims of commercial sexual exploitation ~~victims of sexual exploitation~~, as defined in s. 409.016 ~~s.~~

39.01(70)(g), 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 safe house, safe foster home, or other 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.

Section 5. Section 409.1754, Florida Statutes, is amended to read:

409.1754 Commercial sexual exploitation of children Sexually exploited children; screening and assessment; training; multidisciplinary staffings; service plans ~~ease management~~; task forces.—

(1) SCREENING AND ASSESSMENT.—

(a) The department shall develop or adopt one or more initial screening and assessment instruments to identify, determine the needs of, plan services for, and determine the appropriate placement for child victims of commercial sexual exploitation who are not eligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq ~~sexually exploited children~~. The department shall consult state and local agencies, organizations, and individuals involved in the identification and care of such ~~sexually exploited~~ children when developing or adopting initial screening and assessment instruments. Initial screening and assessment instruments shall assess the appropriate placement of child victims of commercial sexual exploitation ~~a sexually exploited child~~, including whether placement in a safe house or safe foster home as provided in s. 409.1678 is appropriate, and shall consider, at a minimum, the following factors:

1. Risk of the child running away.
2. Risk of the child recruiting other children into the commercial sex trade.
3. Level of the child’s attachment to his or her exploiter.
4. Level and type of trauma that the child has endured.
5. Nature of the child’s interactions with law enforcement.
6. Length of time that the child was a victim of commercial sexual exploitation ~~sexually exploited~~.
7. Extent of any substance abuse by the child.

(b) The initial screening and assessment instruments shall be validated, if possible, and must be used by the department, juvenile assessment centers as provided in s. 985.135, and community-based care lead agencies.

(c) The department shall adopt rules that specify the initial screening and assessment instruments to be used and provide requirements for their use and for the reporting of data collected through their use.

(d) The department, or a sheriff's office acting under s. 39.3065, the Department of Juvenile Justice, and community-based care lead agencies may use additional assessment instruments in the course of serving sexually exploited children.

(2) MULTIDISCIPLINARY STAFFINGS AND SERVICE PLANS.—

(a) The department, or a sheriff's office acting under s. 39.3065, shall conduct a multidisciplinary staffing for each child that is a suspected or verified victim of commercial sexual exploitation. The department or sheriff's office shall coordinate the staffing and invite individuals involved in the child's care, including, but not limited to, the child, if appropriate; the child's family or legal guardian; the child's guardian ad litem; Department of Juvenile Justice staff; school district staff; local health and human services providers; victim advocates; and any other persons who may be able to assist the child.

(b) The staffing must use the assessment, local services, and local protocols required by this section to develop a service plan. The service plan must identify the needs of the child and his or her family, the local services available to meet those needs, and whether placement in a safe house or safe foster home is needed. If the child is dependent, the case plan required by s. 39.6011 may meet the requirement for a service plan, but must be amended to incorporate the results of the multidisciplinary staffing. If the child is not dependent, the service plan is voluntary and the department or sheriff's office shall provide the plan to the victim and his or her family or legal guardian and offer to make any needed referrals to local service providers.

(c) The services identified in the service plan should be provided in the least restrictive environment and may include, but need not be limited to, the following:

1. Emergency shelter and runaway center services;
2. Outpatient individual or group counseling for the victim and the victim's family or legal guardian;
3. Substance use disorder treatment services;
4. Drop-in centers or mentoring programs;
5. Commercial sexual exploitation treatment programs;



6. Child advocacy center services pursuant to s. 39.3035;
7. Prevention services such as those provided by the Florida Network of Youth and Family Services and the PACE Center for Girls;
8. Family foster care;
9. Therapeutic foster care;
10. Safe houses or safe foster homes;
11. Residential treatment programs; and
12. Employment or workforce training.

(d) The department, or a sheriff's office acting under s. 39.3065, shall follow up with all verified victims of commercial sexual exploitation who are dependent within 6 months of the completion of the child abuse investigation, and such information must be included in the report required under s. 39.524. The followup must determine the following:

1. Whether a referral was made for the services recommended in the service plan;
2. Whether the services were received and, if not, the reasons why;
3. Whether the services or treatments were completed and, if not, the reasons why;
4. Whether the victim has experienced commercial sexual exploitation since the verified report;
5. Whether the victim has run away since the verified report;
6. The type and number of placements, if applicable;
7. The educational status of the child;
8. The employment status of the child; and
9. Whether the child has been involved in the juvenile or criminal justice system.

(e) The department, or a sheriff's office acting under s. 39.3065, shall follow up with all verified victims of commercial sexual exploitation who are not dependent within 6 months after the child abuse investigation is completed and the information must be used in the report required under s. 39.524. The followup for nondependent victims and their families is voluntary, and the victim, family, or legal guardian is not required to respond. The followup must attempt to determine the following:

1. Whether a referral was made for the services recommended in the service plan;
2. Whether the services were received and, if not, the reasons why;
3. Whether the services or treatments were completed and, if not, the reasons why;
4. Whether the victim has experienced commercial sexual exploitation since the verified report;
5. Whether the victim has run away since the verified report;
6. The educational status of the child;
7. The employment status of the child; and
8. Whether the child has been involved in the juvenile or criminal justice system.

**(3)(2) TRAINING; LOCAL PROTOCOLS CASE MANAGEMENT; TASK FORCES.—**

(a)~~1~~. The department, or a sheriff's office acting under s. 39.3065, and community-based care lead agencies shall ensure that cases in which a child is alleged, suspected, or known to be a victim of commercial sexual exploitation ~~have been sexually exploited~~ are assigned to child protective investigators and case managers who have specialized intensive training in handling cases involving a sexually exploited child. The department, sheriff's office, and lead agencies shall ensure that child protective investigators and case managers receive this training before accepting a case involving a commercially sexually exploited child.

(b)~~2~~. The Department of Juvenile Justice shall ensure that juvenile probation staff or contractors administering the detention risk assessment instrument pursuant to s. 985.14 receive specialized intensive training in identifying and serving commercially sexually exploited children.

~~(b) The department and community-based care lead agencies shall conduct regular multidisciplinary staffings relating to services provided for sexually exploited children to ensure that all parties possess relevant information and services are coordinated across systems. The department or community-based care lead agency, as appropriate, shall coordinate these staffings and invite individuals involved in the child's care, including, but not limited to, the child's guardian ad litem, juvenile justice system staff, school district staff, service providers, and victim advocates.~~

(c)~~1~~. Each region of the department and each community-based care lead agency shall jointly assess local service capacity to meet the specialized service needs of commercially sexually exploited children and establish a plan to develop the necessary capacity. Each plan shall be developed in

consultation with community-based care lead agencies, local law enforcement officials, local school officials, runaway and homeless youth program providers, local probation departments, children's advocacy centers, guardians ad litem, public defenders, state attorneys' offices, safe houses, and child advocates and service providers who work directly with commercially sexually exploited children.

~~(d)2.~~ Each region of the department and each community-based care lead agency shall establish local protocols and procedures for working with commercially sexually exploited children which are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the commercial sexual exploitation is actively occurring, occurred in the past, or is inactive but likely to recur; and the differing community resources and degrees of familial support that are available. Child protective investigators and case managers must use these protocols and procedures when working with a victim of commercial sexual exploitation sexually exploited child.

~~(4)3.~~ LOCAL RESPONSE TO HUMAN TRAFFICKING; TRAINING; TASK FORCE.—

(a) To the extent that funds are available, the local regional director may provide training to local law enforcement officials who are likely to encounter child victims of commercial sexual exploitation sexually exploited children in the course of their law enforcement duties. Training ~~must shall~~ address ~~the provisions of~~ this section and how to identify and obtain appropriate services for such sexually exploited children. The local circuit administrator may contract with a not-for-profit agency with experience working with commercially sexually exploited children to provide the training. Circuits may work cooperatively to provide training, which may be provided on a regional basis. The department shall assist circuits to obtain available funds for the purpose of conducting law enforcement training from the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice.

(b) Circuit administrators or their designees, chief probation officers of the Department of Juvenile Justice or their designees, and the chief operating officers of community-based care lead agencies or their designees shall participate in any task force, committee, council, advisory group, coalition, or other entity in their service area that is involved in coordinating responses to address human trafficking or commercial sexual exploitation of children. If such entity does not exist, the circuit administrator for the department shall initiate one.

Section 6. Paragraph (c) is added to subsection (3) of section 464.013, Florida Statutes, to read:

464.013 Renewal of license or certificate.—

(3) The board shall by rule prescribe up to 30 hours of continuing education biennially as a condition for renewal of a license or certificate.

(c) Notwithstanding the exemption in paragraph (a), as part of the maximum biennial continuing education hours required under this subsection, the board shall require each person licensed or certified under this chapter to complete a 2-hour continuing education course on human trafficking, as defined in s. 787.06(2). The continuing education course must consist of data and information on the types of human trafficking, such as labor and sex, and the extent of human trafficking; factors that place a person at greater risk of being a victim of human trafficking; public and private social services available for rescue, food, clothing, and shelter referrals; hotlines for reporting human trafficking which are maintained by the National Human Trafficking Resource Center and the United States Department of Homeland Security; validated assessment tools for identifying a human trafficking victim and general indicators that a person may be a victim of human trafficking; procedures for sharing information related to human trafficking with a patient; and referral options for legal and social services. All licensees must complete this course for every biennial licensure renewal on or after January 1, 2019.

Section 7. Subsection (4) of section 907.041, Florida Statutes, is amended to read:

907.041 Pretrial detention and release.—

(4) PRETRIAL DETENTION.—

(a) As used in this subsection, “dangerous crime” means any of the following:

1. Arson;
2. Aggravated assault;
3. Aggravated battery;
4. Illegal use of explosives;
5. Child abuse or aggravated child abuse;
6. Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
7. Aircraft piracy;
8. Kidnapping;
9. Homicide;
10. Manslaughter;

- 11. Sexual battery;
- 12. Robbery;
- 13. Carjacking;
- 14. Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;
- 15. Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority;
- 16. Burglary of a dwelling;
- 17. Stalking and aggravated stalking;
- 18. Act of domestic violence as defined in s. 741.28;
- 19. Home invasion robbery;
- 20. Act of terrorism as defined in s. 775.30;
- 21. Manufacturing any substances in violation of chapter 893; ~~and~~
- 22. Attempting or conspiring to commit any such crime; and
- 23. Human trafficking.

(b) No person charged with a dangerous crime shall be granted nonmonetary pretrial release at a first appearance hearing; however, the court shall retain the discretion to release an accused on electronic monitoring or on recognizance bond if the findings on the record of facts and circumstances warrant such a release.

(c) The court may order pretrial detention if it finds a substantial probability, based on a defendant’s past and present patterns of behavior, the criteria in s. 903.046, and any other relevant facts, that any of the following circumstances exist:

- 1. The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant’s appearance at subsequent proceedings;
- 2. The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer, or has attempted or conspired to do so, and that no condition of release will reasonably prevent the obstruction of the judicial process;
- 3. The defendant is charged with trafficking in controlled substances as defined by s. 893.135, that there is a substantial probability that the defendant has committed the offense, and that no conditions of release will

reasonably assure the defendant's appearance at subsequent criminal proceedings;

4. The defendant is charged with DUI manslaughter, as defined by s. 316.193, and that there is a substantial probability that the defendant committed the crime and that the defendant poses a threat of harm to the community; conditions that would support a finding by the court pursuant to this subparagraph that the defendant poses a threat of harm to the community include, but are not limited to, any of the following:

a. The defendant has previously been convicted of any crime under s. 316.193, or of any crime in any other state or territory of the United States that is substantially similar to any crime under s. 316.193;

b. The defendant was driving with a suspended driver license when the charged crime was committed; or

c. The defendant has previously been found guilty of, or has had adjudication of guilt withheld for, driving while the defendant's driver license was suspended or revoked in violation of s. 322.34;

5. The defendant poses the threat of harm to the community. The court may so conclude, if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons;

6. The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed;

7. The defendant has violated one or more conditions of pretrial release or bond for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial; or

8.a. The defendant has ever been sentenced pursuant to s. 775.082(9) or s. 775.084 as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal, or the state attorney files a notice seeking that the defendant be sentenced pursuant to s. 775.082(9) or s. 775.084, as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;

b. There is a substantial probability that the defendant committed the offense; and

c. There are no conditions of release that can reasonably protect the community from risk of physical harm or ensure the presence of the accused at trial.

(d) When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency shall promptly notify the state attorney of the arrest and shall provide the state attorney with such information as the arresting agency has obtained relative to:

1. The nature and circumstances of the offense charged;
2. The nature of any physical evidence seized and the contents of any statements obtained from the defendant or any witness;
3. The defendant's family ties, residence, employment, financial condition, and mental condition; and
4. The defendant's past conduct and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.

(e) When a person charged with a crime for which pretrial detention could be ordered is arrested, the arresting agency may detain such defendant, prior to the filing by the state attorney of a motion seeking pretrial detention, for a period not to exceed 24 hours.

(f) The pretrial detention hearing shall be held within 5 days of the filing by the state attorney of a complaint to seek pretrial detention. The defendant may request a continuance. No continuance shall be for longer than 5 days unless there are extenuating circumstances. The defendant may be detained pending the hearing. The state attorney shall be entitled to one continuance for good cause.

(g) The state attorney has the burden of showing the need for pretrial detention.

(h) The defendant is entitled to be represented by counsel, to present witnesses and evidence, and to cross-examine witnesses. The court may admit relevant evidence without complying with the rules of evidence, but evidence secured in violation of the United States Constitution or the Constitution of the State of Florida shall not be admissible. No testimony by the defendant shall be admissible to prove guilt at any other judicial proceeding, but such testimony may be admitted in an action for perjury, based upon the defendant's statements made at the pretrial detention hearing, or for impeachment.

(i) The pretrial detention order of the court shall be based solely upon evidence produced at the hearing and shall contain findings of fact and conclusions of law to support it. The order shall be made either in writing or orally on the record. The court shall render its findings within 24 hours of the pretrial detention hearing.

(j) A defendant convicted at trial following the issuance of a pretrial detention order shall have credited to his or her sentence, if imprisonment is imposed, the time the defendant was held under the order, pursuant to s. 921.161.

(k) The defendant shall be entitled to dissolution of the pretrial detention order whenever the court finds that a subsequent event has eliminated the basis for detention.

(l) The Legislature finds that a person who manufactures any substances in violation of chapter 893 poses a threat of harm to the community and that the factual circumstances of such a crime indicate a disregard for the safety of the community. The court shall order pretrial detention if the court finds that there is a substantial probability that a defendant charged with manufacturing any substances in violation of chapter 893 committed such a crime and if the court finds that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons.

Section 8. For the purpose of incorporating the amendment made by this act to section 907.041(4)(a), Florida Statutes, in a reference thereto, paragraph (c) of subsection (2) of section 790.065, Florida Statutes, is reenacted to read:

790.065 Sale and delivery of firearms.—

(2) Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall, during the licensee's call or by return call, forthwith:

(c)1. Review any records available to it to determine whether the potential buyer or transferee has been indicted or has had an information filed against her or him for an offense that is a felony under either state or federal law, or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or transferee under s. 741.30, has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046, or has been arrested for a dangerous crime as specified in s. 907.041(4)(a) or for any of the following enumerated offenses:

- a. Criminal anarchy under ss. 876.01 and 876.02.
- b. Extortion under s. 836.05.
- c. Explosives violations under s. 552.22(1) and (2).
- d. Controlled substances violations under chapter 893.
- e. Resisting an officer with violence under s. 843.01.
- f. Weapons and firearms violations under this chapter.



- g. Treason under s. 876.32.
- h. Assisting self-murder under s. 782.08.
- i. Sabotage under s. 876.38.
- j. Stalking or aggravated stalking under s. 784.048.

If the review indicates any such indictment, information, or arrest, the department shall provide to the licensee a conditional nonapproval number.

2. Within 24 working hours, the department shall determine the disposition of the indictment, information, or arrest and inform the licensee as to whether the potential buyer is prohibited from receiving or possessing a firearm. For purposes of this paragraph, "working hours" means the hours from 8 a.m. to 5 p.m. Monday through Friday, excluding legal holidays.

3. The office of the clerk of court, at no charge to the department, shall respond to any department request for data on the disposition of the indictment, information, or arrest as soon as possible, but in no event later than 8 working hours.

4. The department shall determine as quickly as possible within the allotted time period whether the potential buyer is prohibited from receiving or possessing a firearm.

5. If the potential buyer is not so prohibited, or if the department cannot determine the disposition information within the allotted time period, the department shall provide the licensee with a conditional approval number.

6. If the buyer is so prohibited, the conditional nonapproval number shall become a nonapproval number.

7. The department shall continue its attempts to obtain the disposition information and may retain a record of all approval numbers granted without sufficient disposition information. If the department later obtains disposition information which indicates:

- a. That the potential buyer is not prohibited from owning a firearm, it shall treat the record of the transaction in accordance with this section; or
- b. That the potential buyer is prohibited from owning a firearm, it shall immediately revoke the conditional approval number and notify local law enforcement.

8. During the time that disposition of the indictment, information, or arrest is pending and until the department is notified by the potential buyer that there has been a final disposition of the indictment, information, or arrest, the conditional nonapproval number shall remain in effect.

Section 9. This act shall take effect October 1, 2017.

Approved by the Governor May 23, 2017.

Filed in Office Secretary of State May 23, 2017.