

Rising to the Challenge: Advocating for the Best Interests of Trafficked Children



Guardian Ad Litem Disabilities Conference

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National Human Trafficking Resource Center

- ◎ The NHTRC has collected data from the hotline since December of 2007. Data gathered from calls placed to the hotline between December 7, 2007 and December 31, 2015:
 - 6819 calls
 - 1136 reports, with 367 (32%) involving minor victims
 - female and 16.4% were male
 - 802 (71.0%) were classified as sex trafficking, 207 (18%) were classified as labor trafficking, 44 (4%) were classified as both, and 83 (7%) were not specified
- ◎ In 2013 commercial-front brothel was the most common venue for sex trafficking
- ◎ In 2014 Online ad
- ◎ In 2015 hotel/motel based sex trafficking

Human Trafficking Reports In Florida Safe Families Network (FSFN)

- *Human Trafficking-Commercial Sexual Exploitation of a Child (CSEC) In home, institutional, other:* This maltreatment applies to the commercial sexual exploitation of a child, the exchange of a sexual act for anything tangible, or the promise of an exchange. This includes: familial, pimp, gang led trafficking and renegade or survival sex, which does not require a third party. There are 3 types of investigations: in-home, institutional or other. (Examples: Exchanging money for sex; trading sex for food/housing/transportation; exotic dancing; parent exchanging sex with the child for drugs.) Does not require force, fraud or coercion.
- *Human Trafficking-Labor:* This maltreatment type is used in those cases in which the allegations appear to involve issues associated with labor trafficking, slavery, or servitude that do not appear to be sexual in nature.

Some Examples of Minor Sex Trafficking

- ⦿ A minor trading a sex act with an adult in exchange for a place to sleep.
- ⦿ A pimp prostituting out an adolescent.
- ⦿ A father trading his underage daughter for crack.
- ⦿ A mother allowing her landlord to have sex with her child as rent payment.
- ⦿ A fifteen year old trading a sex act with an adult for money
- ⦿ A nightclub owner providing shelter and food for minors in exchange for exotic dancing.

Human Trafficking Reports In Florida Safe Families Network (FSFN)

	2015				2014				2013			
Region	# of Reports	# of Verified	# open	Verified Rate	# of Reports	# of Verified	# open	Verified Rate	# of Reports	# of Verified	# open	Verified Rate
Central	265	59	48	27%	263	55	2	21%	240	54	0	23%
Southeast	223	51	21	25%	267	72	0	27%	217	69	0	32%
Suncoast	219	33	12	16%	214	22	0	10%	166	38	0	23%
Southern	150	46	19	35%	142	41	1	29%	146	44	0	30%
Northeast	172	22	25	15%	113	16	0	14%	102	14	0	14%
Northwest	87	17	19	25%	47	12	0	26%	48	11	0	23%
Totals	1116	228	144	23%	1046	218	3	21%	919	230	0	25%

DCF Risk Pool

- To identify a potential CSEC victim in DCF care includes all children in out-of-home care or in a living arrangement who meet one of the following criteria:
 - a) have 8 or more runaway episodes in the past year;
 - b) have ever had a runaway episode with possible involvement in prostitution;
 - c) have ever had a verified allegation of human trafficking (CSEC);
 - d) have ever had a verified allegation of sexual abuse; and/or,
 - e) have ever had a verified finding of sexual exploitation. This count fluctuates from day to day.
- On February 23, 2016 814 children met the criteria detailed above.
- 214 children were able to be verified as CSEC victims based only on the components of:
 - a) have ever had a runaway episode with possible involvement in prostitution
 - b) have ever had a verified allegation of human trafficking (CSEC).

Missing Youth

- The National Center for Missing and Exploited Children (NCMEC) estimates that:
 - 2014, 1 out of 6 of the reported endangered children were likely victims of sexual exploitation
 - 2015, this number increased to 1 out of 5
 - 74% of the reported endangered children were in the care of social services or foster care at the time they were reported missing

Common Characteristics Dependency Child/CSEC Victim

- Low self esteem
- History of physical abuse
- History of sexual abuse
- Runaway episodes
 - Drug abuse
- Troubled/dysfunctional families



Who is being exploited?

- ⦿ Unstable home life, runaways
- ⦿ Poor or disjointed family connections
- ⦿ Youth involved with DJJ or DCF
- ⦿ Low self-esteem/self worth
- ⦿ Lack of identify or poor self-concept
- ⦿ Desire to belong
- ⦿ Low socioeconomic status
- ⦿ Desire for material possessions

Control

- Fear of retaliation
- Beatings
- Choking
- Rape/gang rape
- Slashings/carvings/brandings
- Drawing gang graffiti on her naked body
- Threats against loved ones

Safe Harbor Act 2013 & HB 454 2016

- ⦿ The Florida Safe Harbor Act provides for the treatment of sexually exploited children as dependent children if they have no parent, legal custodian or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care (s. 409.1678, Florida statutes).
- ⦿ Full decriminalization of “child prostitution”
 - No child can consent to sexual abuse

Safe Harbor Beds

- 3 Drop in Centers
- 4 Safe Harbor Homes
 - All Serve Girls
 - New Home opening Dec 2016 for Transgender Females
- 2 Residential Campus
 - 2 Other Residential Campus are in development phase
- 2 STFC Program = 15 beds
- Outpatient In home Treatment – Central and Southern Regions

HB 7141 – Human Trafficking (“HT”)

Creates F.S. 409.1754—Sexually exploited children; screening and assessment; training; case management; task forces.

- ⦿ Department to develop or adopt screening and assessment instruments for the identification, service planning, and placement of sexually exploited children
- ⦿ Requires specialized intensive training of child protective investigators (“CPIs”) and case managers who handle cases involving sexually exploited children
- ⦿ Assignment of HT cases to these CPIs and case managers

HB 7141 – Human Trafficking (“HT”)

Screening of child shall consider, at a minimum:

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 sexually exploited.
7. Extent of any substance abuse by the child.

HB 7141 – Human Trafficking (“HT”)

Amends F.S. 409.1678, to require the Department to:

- ⦿ Define and identify "safe house" and "safe foster home“;
- ⦿ To create a certification process that goes hand-in-hand with the existing licensing process in order to self identify as a "safe house“ or "safe foster home“;
- ⦿ To inspect “safe houses” and “safe foster homes” prior to certification and annually thereafter; and to
- ⦿ Specify the contents of training for foster parents seeking the "safe foster home" designation; the lead agency will ensure the foster parent has completed the appropriate training.

HB 7141 – Human Trafficking (“HT”)

- Residential treatment centers are required to provide specialized treatment for sexually exploited children in the custody of the Department (out-of-home care) who are placed in these facilities.
- Department, Lead Agencies and other community stakeholders are required to:
 - Assess service needs and system gaps; and
 - Draft local protocols and procedures that allow for child-specific responses for sexually exploited children.

HB 7141 – Human Trafficking (“HT”)

- **Lead agency shall ensure that all sexually exploited children** residing in “safe houses” or “safe foster homes,” or served in residential treatment centers or hospitals, **have a case manager and a case plan, whether or not the child is a dependent child.**
- To the extent possible provided by law and with authorized funding, the **services specified in this section may be available to all 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.

HB 7141 – Human Trafficking (“HT”)

- ⦿ Each region of the Department and each community-based care lead agency shall establish local, child-specific protocols and procedures for working with sexually exploited children which are responsive to the individual circumstances of each child.
- ⦿ Department shall assist circuits to secure available funds for the purpose of conducting law enforcement training from the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice.

HB 7141 – Human Trafficking (“HT”)

Circuit administrators, chief probation officers of the DJJ, and the **COOs 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 HT or sexual exploitation of children.
- If such entity does not exist, the circuit administrator for the Department shall initiate one.

HB 7141 – Human Trafficking (“HT”)

Develop a **Statewide Council on Human Trafficking** to include the Department.

- *Goals:* Are to develop recommendations for comprehensive programs and services for victims of HT—including recommendations for certification criteria for “safe houses” and “safe foster homes”—and work with the Department to create and maintain an inventory of HT programs and services in each county.

HB 7141 – Human Trafficking (“HT”)

OPPAGA – (Office of Program Policy Analysis and Government Accountability) shall:

- Conduct an annual study on commercial sexual exploitation of children in Florida;
- Analyze the effectiveness of “safe houses,” “safe foster homes,” residential treatment centers and hospitals with specialized treatment programs for sexually exploited children; and
- Address safety, therapeutic, health, educational and emotional needs when considering other residential options for serving sexually exploited children.
- Effective date July 1, 2014.

Advocating For Trafficked Children in Dependencies

Goals of Advocacy

- ⦿ **Protect the child from further victimization**
- ⦿ **Provide for the child's healing: physical, psychological, emotional**
- ⦿ **§ 39.001(5)(b) recognizes goals for sexually exploited children**
 - **Safety**
 - **Treatment as dependent child not delinquent**
 - **Sever bond with trafficker**
 - **Reunite with family or appropriate guardian**
 - **Enable to be a willing and reliable witness in prosecution of trafficker**

Identifying Trafficking Victims

- ⦿ **Need to identify the child as a trafficking victim**
 - § 409.1754(1)
 - Providing for creation of initial screening and assessment instruments
 - Providing for specialized, intensive training for CPIs and CMs
 - Also, Fla. Adm. Code 65C-43.005
 - [Fla. Adm. Code 65C-43.001](#)
- ⦿ **Do not blindly trust “facts” provided; verify**
 - The child’s statements
 - The family’s statements
- ⦿ **Red flags: lack of clear history, verifiable school records, or birth certificate**
 - Fla. Adm. Code 65C-30.004 child’s identity must be verified within 15 days of removal
- ⦿ **Appoint an experienced GAL volunteer**
- ⦿ **§ 39.407**
 - Authorizes Department to obtain medical screening
 - Watch for communicable/sexually transmitted disease
 - Court may order treatment for sheltered child on evidence treatment is needed, including psychiatric or psychological services
 - Request appropriate screening if warranted by facts
- ⦿ **Be vigilant in continued fact-finding/information gathering**

Multidisciplinary Approach

Achieving best interests requires collaboration among various entities

- **Immigration authorities**
 - § 39.5075 Citizenship/Residency Status for Dependent Immigrant Children
 - Legislative intent to provide dependency services regardless of citizenship, residency, alien, or immigrant status § 39.001(5)(d)
 - Need letter of eligibility for services from Dept. of HHS/Office of Refugee Resettlement for federal benefits
 - CPI should coordinate with law enforcement to obtain
- **Other states**
 - § 985.801 Interstate Compact on Juveniles
 - Cooperation as to returning to or accepting from another state
- **CPIs**
 - Special training [§ 409.1754(1)]
 - § 39.301(2)(a), (b)(6) Department to report criminal allegations to law enforcement, including human trafficking
- **Law enforcement**
 - Child may be witness or defendant in criminal case
 - §39.301(c) Law enforcement to coordinate its investigation with Department whenever feasible
 - § 39.306 Provides for creation of working agreements between Department and law enforcement agencies

Multidisciplinary Approach

- **CLS Attorney**
 - Try to prevent any attempt to transfer jurisdiction from dependency court to juvenile/criminal court
 - Legislative intent to treat trafficking victims as dependent, not delinquent [§ 39.001(5)(b)]
- **Case manager**
 - Special training [§ 409.1754(1)]
- **Attorney ad litem (representing child)**
 - § 39.01305(3) AAL shall be appointed for dependent child who is victim of human trafficking per § 786.06(2)(d)
 - § 39.01305(2) does not require adjudication
 - § 39.01305(8) section does not limit authority of court to appoint attorney for child
 - Fla. R. Juv. P. 8.217
- **GAL attorney (representing child's best interests)**
- **GAL volunteer**
- **Parents' attorneys**
 - Ethical obligations if client suspected of trafficking
 - Cannot allow perjured testimony
 - Consult Fla. Bar Ethics Hotline if more than a suspicion
- **Child's school/day care provider**
- **Service providers**

Courtroom Advocacy

Check for special local court rules:

- **11th Circuit, Adm. Order 15-06**
- **Assignment of trafficking cases to specially-trained judge**

Traditional Best Interest assumptions may not apply:

- **§ 39.001-legislative purpose & intent must viewed through trafficking lens**
- **§ 39.001(5) (a) Sexual exploitation services**
 - **Recognizes seriousness of problem**
 - **Recognizes such children have little to no trust in adults**
 - **Recognizes this population is difficult to serve and even more difficult to rehabilitate**
- **Be prepared to argue creatively within chapter 39**

Courtroom Advocacy

- ⦿ **The Department's responsibility to the family must be viewed through a trafficking lens**
- ⦿ **§ 39.402(5) Requiring Department's reasonable efforts**
- ⦿ **Fla. Adm. Code 65C-30.002(2) regarding in-home safety plans**
- ⦿ **Fla. Adm. Code 65C-30.009 regarding least intrusive interventions**
- ⦿ **Parents may be traffickers or co-victims**
 - **May be sympathetic to trafficker**
 - **May be intimidated by trafficker**

Courtroom Advocacy – Best Interest Assumptions

“Time is of the essence”

- § 39.0136; Fla. R. Juv. P. 8.240
- Time limits are the child’s right
- Limits do not include delay from continuance on request by GAL, AAL, or the child
- Standard: substantial evidence best interests will be harmed

Open proceedings

- Assess for safety
- § 39.507(2)
 - Dependency proceedings open to the public
 - Except on special order upon court finding child’s welfare is best served by closed proceeding
- § 39.301(14)(b)-relatives may request written notice of hearings
- § 39.502(19)-Department required to provide that notice
 - Unless court determines the relative’s presence
 - Is impeding the process, or
 - Is detrimental to the child’s well-being
 - Court discretion

Courtroom Advocacy – Best Interest Assumptions

Visitation

- ◎ **Keeping Children Safe Act § 39.0139**
 - **Creates a rebuttable presumption of detriment to child from contact with**
 - **A parent or caregiver for whom court found probable cause of sexual abuse, or**
 - **Per § 39.01(69)(g) includes sexual exploitation**
 - **Person found or pled guilty to any one of several sexual crimes or substantially similar crimes in another state**
 - **The person may request hearing to overcome presumption**
 - **By clear and convincing evidence**
 - **That safety, well-being, and physical/mental/emotional health are not endangered by visitation**
 - **Hearsay admissible, including reports & recommendations of CPT, child's therapist, GAL**
 - **Court may place conditions on contact**
- ◎ **§ 39.509**
 - **Grandparents/step grandparents have a right to visit**
 - **Unless court finds not in the child's best interests or that it would interfere with case plan goals**

Courtroom Advocacy – Best Interest Assumptions

Visitation

- ◎ **§ 39.504 Injunction**
 - **Verified petition by any responsible person or court, sua sponte**
 - **Standard: reasonable cause**
 - Evidence of abuse or
 - Likelihood of abuse based on recent act/failure to act
 - **Primary purpose**
 - Protect the child
 - Promote the child's best interests
 - **Court may issue temporary ex parte injunction**
 - **Court to determine conditions**
 - **Remains in effect until modified or dissolved**
- ◎ **The respondent does not automatically become a party [§ 39.504(7)]**

Courtroom Advocacy – Best Interest Assumptions

Placement

- **Limits on placement**
 - § 39.0138 Criminal history & records check
- **Safe Harbor Placement § 39.524**
 - Child 6 yrs old+ found to be a victim of sexual exploitation per § 39.01(69)(g)
 - Must be assessed for safe harbor placement
 - § 409.1678
 - Creates Department-certified safe houses and safe foster homes
 - Safe, separate, therapeutic
 - Including strength-based and trauma-informed approaches
 - Results of assessment/status of placement must be included in judicial review [§ 409.1754(1)]

Courtroom Advocacy – Best Interest Assumptions

- Placement with relative caregiver could be deadly
- § 39.5085(2)(a)(3)
- Court must find the placement is in the child's best interests
- Even “non-offending” parent may not be safe
- Post-Disposition Change of Custody
- § 39.522 Best interests of child

Courtroom Advocacy – Best Interest Assumptions

Reunification

- ⦿ **Not necessarily in the child's best interests**
- ⦿ **§ 39.621; Fla. Adm. Code 65C-30.012: preference for reunification must be ruled out if not in child's best interests**
- ⦿ **Parents or other family members may themselves be the traffickers or co-victims of the trafficking**

Courtroom Advocacy

- ⦿ **Impact of new legislation**
- ⦿ **Might not fit neatly into current chapter 39 scheme**
- ⦿ **Be prepared to be proactive and creative**

HYPOTHETICALS



Emily, approximately 15 years old, came to the emergency room at a hospital in Tampa with her aunt and uncle. She gave her name as Emily Smith, but had no ID and said she was staying with her aunt and uncle while her parents were in California on a business trip. She was treated for chlamydia, which she told the doctor her boyfriend gave her.

Two months later, Emily was arrested for reckless driving and driving without a license. She told police that she had taken the car because she was hungry and there was no food at home. When police made contact with the owners of the vehicle, they said they were Emily's aunt and uncle, with whom she had been staying, and they refused to have her back in the home at that time. A shelter petition was filed when Emily's parents could not be reached. The aunt and uncle were given notice and appeared at the shelter hearing with a power of attorney allegedly signed by Emily's parents authorizing them to care for her while they are away. They ask for Emily to be returned to them, and Emily says she wants to go.

Emily's parents appear at the arraignment. They deny the allegations, demand trial, and request Emily be returned to them. They provide what looks like a birth certificate from another state. A background check of Emily's parents reveals they have minor drug possession convictions but none more recent than three years ago. However, their convictions are all from different areas of the state.

Meanwhile, the guardian ad litem volunteer has met with Emily twice. She still won't discuss anything about herself but has said she likes the foster home she's in, although in court she asks to go with her parents.

Emily's parents fail to appear for the adjudication hearing, and she is adjudicated dependent in their absence. The GAL volunteer explains this to Emily at a visit, and tells her that her parents won't be able to get her back without complying with a case plan. Emily begins to cry and says those people were not her parents or relatives. She recounts how she ran away from home when she was 13 because she was mad at her parents for something stupid. While she was sitting at the bus stop waiting for them to come find her, she started talking to this older teenage girl, who had nice clothes, a fancy cell phone, and told Emily that she knew a way where she could make lots of money and live on her own. Emily went with the girl to the girl's home, where she was kept captive and forced into prostitution. On the day she was rescued, she was home alone with one of the captors who had left the car keys out on the counter, and she took them and started driving. She provides her real name, Sandra, and her identifying information, including her real parents. She didn't say anything sooner because she was afraid they were going to take her back.

Sandra's biological parents are contacted and appear for the disposition hearing.