

CHAPTER 2017-155

Committee Substitute for House Bill No. 1379

An act relating to the Department of Legal Affairs; amending s. 16.617, F.S.; authorizing the Statewide Council on Human Trafficking to apply for and receive funding from additional sources to defray costs associated with the annual policy summit; amending s. 321.04, F.S.; requiring the Department of Highway Safety and Motor Vehicles to assign highway patrol officers to the Office of the Attorney General as requested; amending ss. 501.203 and 501.204, F.S.; updating references for purposes of the Florida Deceptive and Unfair Trade Practices Act; amending s. 736.0110, F.S.; providing that the Attorney General has standing to assert certain rights in certain proceedings; amending s. 736.1201, F.S.; defining the term “delivery of notice”; conforming a provision to changes made by the act; amending s. 736.1205, F.S.; requiring an authorized trustee to provide certain notice to the Attorney General rather than the state attorney; amending ss. 736.1206, 736.1207, 736.1208, and 736.1209, F.S.; conforming provisions; amending s. 896.101, F.S.; defining the term “virtual currency”; expanding the Florida Money Laundering Act to prohibit the laundering of virtual currency; amending s. 960.03, F.S.; revising definitions for purposes of crime victim assistance; amending s. 960.16, F.S.; providing that awards of emergency responder death benefits under a specified provision are not subject to subrogation; creating s. 960.194, F.S.; providing definitions; providing for awards to the surviving family members of first responders who, as a result of a crime, are killed answering a call for service in the line of duty; specifying considerations in the determination of the amount of such an award; providing for apportionment of awards in certain circumstances; authorizing rulemaking for specified purposes; providing for denial of benefits under certain circumstances; providing an effective date.

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

Section 1. Paragraph (d) is added to subsection (3) of section 16.617, Florida Statutes, to read:

16.617 Statewide Council on Human Trafficking; creation; membership; duties.—

(3) ORGANIZATION AND SUPPORT.—

(d) The council may apply for and accept funds, grants, gifts, and services from the state, the Federal Government or any of its agencies, or any other public or private source for the purpose of defraying costs associated with the annual statewide policy summit.

Section 2. Subsection (4) of section 321.04, Florida Statutes, is renumbered as subsection (5), and a new subsection (4) is added to that section, to read:

321.04 Personnel of the highway patrol; rank classifications; probationary status of new patrol officers; subsistence; special assignments.—

(4) Upon request of the Attorney General, the Department of Highway Safety and Motor Vehicles shall assign one or more patrol officers to the Office of the Attorney General for security services.

Section 3. Subsection (3) of section 501.203, Florida Statutes, is amended to read:

501.203 Definitions.—As used in this chapter, unless the context otherwise requires, the term:

(3) “Violation of this part” means any violation of this act or the rules adopted under this act and may be based upon any of the following as of July 1, 2017 2015:

(a) Any rules promulgated pursuant to the Federal Trade Commission Act, 15 U.S.C. ss. 41 et seq.;

(b) The standards of unfairness and deception set forth and interpreted by the Federal Trade Commission or the federal courts; or

(c) Any law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.

Section 4. Section 501.204, Florida Statutes, is amended to read:

501.204 Unlawful acts and practices.—

(1) Unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.

(2) It is the intent of the Legislature that, in construing subsection (1), due consideration and great weight shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to s. 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. s. 45(a)(1) as of July 1, 2017 2015.

Section 5. Subsection (3) of section 736.0110, Florida Statutes, is amended to read:

736.0110 Others treated as qualified beneficiaries.—

(3) The Attorney General may assert the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration

in this state. The Attorney General has standing to assert such rights in any judicial proceedings.

Section 6. Subsections (2), (3), and (4) of section 736.1201, Florida Statutes, are renumbered as subsections (3), (4), and (5), respectively, present subsection (5) of that section is amended, and a new subsection (2) is added to that section, to read:

736.1201 Definitions.—As used in this part:

(2) “Delivery of notice” means delivery of a written notice required under this part using any commercial delivery service requiring a signed receipt or by any form of mail requiring a signed receipt.

~~(5) “State attorney” means the state attorney for the judicial circuit of the principal place of administration of the trust pursuant to s. 736.0108.~~

Section 7. Section 736.1205, Florida Statutes, is amended to read:

736.1205 Notice that this part does not apply.—In the case of a power to make distributions, if the trustee determines that the governing instrument contains provisions that are more restrictive than s. 736.1204(2), or if the trust contains other powers, inconsistent with the provisions of s. 736.1204(3) that specifically direct acts by the trustee, the trustee shall notify the Attorney General by delivery of notice ~~state attorney~~ when the trust becomes subject to this part. Section 736.1204 does not apply to any trust for which notice has been given pursuant to this section unless the trust is amended to comply with the terms of this part.

Section 8. Subsection (2) of section 736.1206, Florida Statutes, is amended to read:

736.1206 Power to amend trust instrument.—

(2) In the case of a charitable trust that is not subject to ~~the provisions of~~ subsection (1), the trustee may amend the governing instrument to comply with ~~the provisions of s. 736.1204(2)~~ after delivery of notice to, and with the consent of, the state Attorney General.

Section 9. Section 736.1207, Florida Statutes, is amended to read:

736.1207 Power of court to permit deviation.—This part does not affect the power of a court to relieve a trustee from any restrictions on the powers and duties that are placed on the trustee by the governing instrument or applicable law for cause shown and on complaint of the trustee, the Attorney General ~~state attorney~~, or an affected beneficiary and notice to the affected parties.

Section 10. Paragraph (b) of subsection (4) of section 736.1208, Florida Statutes, is amended to read:

736.1208 Release; property and persons affected; manner of effecting.

(4) Delivery of a release shall be accomplished as follows:

(b) If the release is accomplished by reducing the class of permissible charitable organizations, by delivery of notice ~~a copy~~ of the release to the Attorney General, including a copy of the release ~~state attorney~~.

Section 11. Section 736.1209, Florida Statutes, is amended to read:

736.1209 Election to come under this part.—With the consent of that organization or organizations, a trustee of a trust for the benefit of a public charitable organization or organizations may come under s. 736.1208(5) by delivery of notice to filing with the state Attorney General of the an election, accompanied by the proof of required consent. Thereafter the trust shall be subject to s. 736.1208(5).

Section 12. Subsection (2) of section 896.101, Florida Statutes, is amended and reordered, to read:

896.101 Florida Money Laundering Act; definitions; penalties; injunctions; seizure warrants; immunity.—

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

(a)~~(b)~~ “Conducts” includes initiating, concluding, or participating in initiating or concluding a transaction.

(b)~~(f)~~ “Financial institution” means a financial institution as defined in 31 U.S.C. s. 5312 which institution is located in this state.

(c)~~(d)~~ “Financial transaction” means a transaction involving the movement of funds by wire or other means or involving one or more monetary instruments, which in any way or degree affects commerce, or a transaction involving the transfer of title to any real property, vehicle, vessel, or aircraft, or a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, commerce in any way or degree.

(d)~~(h)~~ “Knowing” means that a person knew; or, with respect to any transaction or transportation involving more than \$10,000 in U.S. currency or foreign equivalent, should have known after reasonable inquiry, unless the person has a duty to file a federal currency transaction report, IRS Form 8300, or a like report under state law and has complied with that reporting requirement in accordance with law.

(e)~~(a)~~ “Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity” means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under state or federal law, regardless of whether or not such activity is specified in paragraph (h) ~~(g)~~.

(f)(e) “Monetary instruments” means coin or currency of the United States or of any other country, virtual currency, travelers’ checks, personal checks, bank checks, money orders, investment securities in bearer form or otherwise in such form that title thereto passes upon delivery, and negotiable instruments in bearer form or otherwise in such form that title thereto passes upon delivery.

(g)(i) “Petitioner” means any local, county, state, or federal law enforcement agency; the Attorney General; any state attorney; or the statewide prosecutor.

(h)(g) “Specified unlawful activity” means any “racketeering activity” as defined in s. 895.02.

(i)(e) “Transaction” means a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safety deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

(j) “Virtual currency” means a medium of exchange in electronic or digital format that is not a coin or currency of the United States or any other country.

Section 13. Paragraph (f) is added to subsection (3) of section 960.03, Florida Statutes, paragraphs (c) and (d) of subsection (14) of that section are amended, and paragraph (e) is added to that subsection, to read:

960.03 Definitions; ss. 960.01-960.28.—As used in ss. 960.01-960.28, unless the context otherwise requires, the term:

(3) “Crime” means:

(f) A felony or misdemeanor that results in the death of an emergency responder, as defined in and solely for the purposes of s. 960.194, while answering a call for service in the line of duty, notwithstanding paragraph (c).

(14) “Victim” means:

(c) A person younger than 18 years of age who was the victim of a felony or misdemeanor offense of child abuse that resulted in a mental injury as defined by s. 827.03 but who was not physically injured; ~~or~~

(d) A person against whom a forcible felony was committed and who suffers a psychiatric or psychological injury as a direct result of that crime but who does not otherwise sustain a personal physical injury or death; or

(e) An emergency responder, as defined in and solely for the purposes of s. 960.194, who is killed answering a call for service in the line of duty.

Section 14. Section 960.16, Florida Statutes, is amended to read:

960.16 Subrogation.—~~Except for an award under s. 960.194, payment of an award pursuant to this chapter shall subrogate the state, to the extent of such payment, to any right of action accruing to the claimant or to the victim or intervenor to recover losses directly or indirectly resulting from the crime with respect to which the award is made. Causes of action which shall be subrogated under this section include, but are not limited to, any claim for compensation under any insurance provision, including an uninsured motorist provision, when such claim seeks to recover losses directly or indirectly resulting from the crime with respect to which the award is made.~~

Section 15. Section 960.194, Florida Statutes, is created to read:

960.194 Emergency responder death benefits.—

(1) For the purposes of this section, the term:

(a) “Call for service” means actively performing official duties, including the identification, prevention, or enforcement of the penal, traffic, or highway laws of this state, traveling to the scene of an emergency situation, and performing those functions for which the emergency responder has been trained and certified to perform.

(b) “Emergency responder” means a law enforcement officer, a firefighter, an emergency medical technician, or paramedic.

(c) “Emergency medical technician” has the same meaning as provided in s. 401.23.

(d) “Firefighter” has the same meaning as provided in s. 633.102.

(e) “Law enforcement officer” has the same meaning as provided in s. 943.10.

(f) “Paramedic” has the same meaning as provided in s. 401.23.

(g) “Surviving family members of an emergency responder” means the surviving spouse, children, parents or guardian, or siblings of a deceased emergency responder.

(2) Notwithstanding s. 960.065(1) and s. 960.13, the department may award for any one claim up to a maximum of \$50,000, to the surviving family members of an emergency responder who, as a result of a crime, is killed answering a call for service in the line of duty.

(3) In determining the amount of an award, the department shall determine whether, because of his or her conduct, the emergency responder contributed to his or her death, and the department shall reduce the amount

of the award or reject the claim altogether, in accordance with such determination. However, the department may disregard the contribution of the emergency responder to his or her own death when the record shows that such contribution was attributed to efforts by the emergency responder acting as an intervenor as defined in s. 960.03.

(4) If there are two or more persons entitled to an award pursuant to this section for the same incident, the award shall be apportioned among the claimants at the discretion and direction of the department.

(5) The department may adopt rules that establish award limits below the amount set forth in subsection (2) and establish criteria governing awards pursuant to this section.

(6) An award pursuant to this section shall be reduced or denied if the department has previously approved or paid out a claim under s. 960.13 to the same claimant regarding the same incident. An award for victim compensation under s. 960.13 shall be denied if the department has previously approved or paid out an emergency responder death benefits claim under this section.

Section 16. This act shall take effect July 1, 2017.

Approved by the Governor June 23, 2017.

Filed in Office Secretary of State June 23, 2017.