

**Tab 1** **SB 468** by **Bradley**; (Identical to H 01393) Court Interpreter Services

**Tab 2** **CS/SB 678** by **CJ, Bradley**; (Similar to CS/H 00453) Forensic Investigative Genetic Genealogy Grant Program

**Tab 3** **CS/SB 718** by **CJ, Collins (CO-INTRODUCERS) Hooper**; (Similar to CS/CS/H 00231) Exposures of First Responders to Fentanyl and Fentanyl Analogs

720072 A S RCS ACJ, Collins Delete L.35 - 45: 02/13 11:31 AM

**Tab 4** **CS/SB 1036** by **CJ, Ingoglia**; (Similar to H 01449) Reclassification of Criminal Penalties

**Tab 5** **CS/SB 1154** by **CJ, Simon**; (Similar to CS/CS/H 01241) Probation and Community Control Violations

**Tab 6** **SB 1220** by **Martin**; (Similar to CS/H 01171) Schemes to Defraud

**Tab 7** **CS/SB 1222** by **CJ, Trumbull (CO-INTRODUCERS) Perry**; (Similar to CS/H 00549) Theft

**Tab 8** **SB 1284** by **Martin**; (Similar to H 00959) Health Care for Inmates

**Tab 9** **SB 1324** by **Ingoglia**; (Similar to CS/H 01589) Driving Without a Valid Driver License

386322—A S WD ACJ, Rouson btw L.169 - 170: 02/13 11:32 AM

**Tab 10** **SB 1656** by **Martin**; (Similar to CS/H 01545) Child Exploitation Offenses

~~381970~~—D S L WD ACJ, Martin Delete everything after 02/13 11:32 AM  
 910398 D S L RCS ACJ, Martin Delete everything after 02/13 11:32 AM

**Tab 11** **CS/SB 1690** by **CJ, Yarborough (CO-INTRODUCERS) Perry**; (Similar to CS/H 01379) Human Trafficking

297278 D S RCS ACJ, Yarborough Delete everything after 02/13 11:32 AM  
 606878 AA S RCS ACJ, Yarborough btw L.125 - 126: 02/13 11:32 AM

The Florida Senate  
**COMMITTEE MEETING EXPANDED AGENDA**  
**APPROPRIATIONS COMMITTEE ON CRIMINAL AND CIVIL JUSTICE**  
**Senator Bradley, Chair**  
**Senator Powell, Vice Chair**

**MEETING DATE:** Tuesday, February 13, 2024  
**TIME:** 8:30 a.m.—12:30 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Building

**MEMBERS:** Senator Bradley, Chair; Senator Powell, Vice Chair; Senators Baxley, Burgess, Hooper, Martin, Pizzo, Rouson, Torres, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 468</b> Bradley (Identical H 1393)	Court Interpreter Services; Authorizing the state courts system to use state revenues, if available, to provide court-appointed interpreting services to nonindigent individuals; repealing the cost recovery requirement for court-appointed interpreting services, etc.  JU     02/05/2024 Favorable ACJ    02/13/2024 Favorable FP	Favorable Yeas 9 Nays 0
2	<b>CS/SB 678</b> Criminal Justice / Bradley (Similar CS/H 453)	Forensic Investigative Genetic Genealogy Grant Program; Defining the term “investigative genetic genealogy”; requiring that certain methods be in accordance with Department of Law Enforcement rules and compatible with certain databases; specifying the intent for certain funding; creating the Forensic Investigative Genetic Genealogy Grant Program within the Department of Law Enforcement, etc.  CJ     01/16/2024 Fav/CS ACJ    02/13/2024 Favorable FP	Favorable Yeas 9 Nays 0
3	<b>CS/SB 718</b> Criminal Justice / Collins (Similar CS/CS/H 231)	Exposures of First Responders to Fentanyl and Fentanyl Analogs; Providing criminal penalties for adults who unlawfully possess specified controlled substances and who expose a first responder to such substances, and the exposure results in an overdose or serious bodily injury, etc.  CJ     01/23/2024 Fav/CS ACJ    02/13/2024 Fav/CS FP	Fav/CS Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Criminal and Civil Justice  
 Tuesday, February 13, 2024, 8:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 1036</b> Criminal Justice / Ingoglia (Similar H 1449)	Reclassification of Criminal Penalties; Requiring reclassification of the penalty for the commission of a new felony committed by a person who unlawfully reenters the United States, and while remaining unlawfully present, after having been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal was outstanding; defining the term “transnational crime organization”; authorizing reclassification of the penalty for any misdemeanor or felony offense if the commission of such offense was for specified purposes, etc.  CJ 01/30/2024 Fav/CS ACJ 02/13/2024 Favorable FP	Favorable Yeas 9 Nays 0
5	<b>CS/SB 1154</b> Criminal Justice / Simon (Identical CS/H 1241)	Probation and Community Control Violations; Revising the sentencing score sheet to reflect the absence of community sanction points assessed in certain circumstances; revising sanctions for probation violations; providing for hearings within a specified time period for low-risk probation or community control violations; providing for the release of offenders in certain circumstances if a hearing is not held, etc.  CJ 02/06/2024 Fav/CS ACJ 02/13/2024 Favorable FP	Favorable Yeas 9 Nays 0
6	<b>SB 1220</b> Martin (Similar CS/H 1171)	Schemes to Defraud; Providing for the reclassification of certain scheme-to-defraud offenses committed against persons 65 years of age or older or persons with certain disabilities; authorizing a person whose image or likeness is used without his or her consent in a scheme to defraud to file a civil action for damages, etc.  CJ 01/23/2024 Favorable ACJ 02/13/2024 Favorable FP	Favorable Yeas 9 Nays 0
7	<b>CS/SB 1222</b> Criminal Justice / Trumbull (Similar CS/H 549, Compare S 824)	Theft; Reducing the minimum threshold amount for grand theft of the third degree; creating the offense of grand theft of the third degree; providing criminal penalties; defining the term “social media platform”; providing criminal penalties for persons committing certain retail theft acts in concert with a certain number of other persons within one or more establishments for specified purposes, etc.  CJ 01/23/2024 Fav/CS ACJ 02/13/2024 Favorable FP	Favorable Yeas 8 Nays 1

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Criminal and Civil Justice  
 Tuesday, February 13, 2024, 8:30 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>SB 1284</b> Martin (Similar H 959)	Health Care for Inmates; Providing for individual dignity and treatment; substantially rewording provisions concerning involuntary examinations of inmates and providing requirements therefor; substantially rewording provisions relating to placement and treatment of an inmate in a mental health treatment facility and providing requirements therefor; specifying purposes for which an inmate's mental health treatment records may be provided to the Florida Commission on Offender Review and the Department of Children and Families, etc.  CJ 01/23/2024 Favorable ACJ 02/13/2024 Favorable FP	Favorable Yeas 9 Nays 0
9	<b>SB 1324</b> Ingoglia (Similar CS/H 1589)	Driving Without a Valid Driver License; Providing criminal penalties for the offense of driving without a valid driver license; requiring the court to sentence an offender to a specified minimum jail sentence upon a third or subsequent conviction for the offense, etc.  TR 01/23/2024 Favorable ACJ 02/13/2024 Favorable FP	Favorable Yeas 8 Nays 1
10	<b>SB 1656</b> Martin (Similar CS/H 1545)	Child Exploitation Offenses; Revising penalties for specified offenses involving children; ranking offenses and revising offense ranking levels for purposes of the offense severity ranking chart of the Criminal Punishment Code, etc.  CJ 01/30/2024 Favorable ACJ 02/13/2024 Fav/CS FP	Fav/CS Yeas 9 Nays 0
11	<b>CS/SB 1690</b> Criminal Justice / Yarborough (Similar CS/H 1379)	Human Trafficking; Prohibiting the employment of persons younger than 21 years of age in adult entertainment establishments; providing criminal penalties, etc.  CJ 01/30/2024 Fav/CS ACJ 02/13/2024 Fav/CS FP	Fav/CS Yeas 8 Nays 1

Other Related Meeting Documents

The Florida Senate

APPEARANCE RECORD

SB 468

2/13/24

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name Katie Cunningham, Deputy State Courts Administrator Phone 850-488-3733

Address Office of the State Courts Administrator, 500 S. Duval Street Email cunninghamk@flcourts.org

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Tallahassee

FL

32399

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

State Courts System

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

By Senator Bradley

6-00470-24

2024468\_\_

1 A bill to be entitled  
 2 An act relating to court interpreter services;  
 3 amending s. 29.0185, F.S.; authorizing the state  
 4 courts system to use state revenues, if available, to  
 5 provide court-appointed interpreting services to  
 6 nonindigent individuals; requiring such services to be  
 7 provided as prescribed by the Supreme Court; amending  
 8 s. 29.0195, F.S.; repealing the cost recovery  
 9 requirement for court-appointed interpreting services;  
 10 providing an exception for translation services;  
 11 providing an effective date.

12

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

14

15 Section 1. Section 29.0185, Florida Statutes, is amended to  
 16 read:

17 29.0185 Provision of state-funded due process services to  
 18 individuals.—

19 (1) Due process services may not be provided with state  
 20 revenues to an individual unless the individual on whose behalf  
 21 the due process services are being provided is eligible for  
 22 court-appointed counsel under s. 27.40, based upon a  
 23 determination of indigency under s. 27.52, regardless of whether  
 24 such counsel is appointed or the individual on whose behalf the  
 25 due process services are being provided is eligible for court-  
 26 appointed counsel under s. 27.40 and has been determined  
 27 indigent for costs pursuant to s. 27.52.

28 (2) Notwithstanding subsection (1), state revenues may be  
 29 used by the state courts system to provide court-appointed

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

6-00470-24

2024468\_\_

30 interpreting services to nonindigent individuals if funds are  
 31 available in the fiscal year appropriation for due process  
 32 services and if interpreting services are provided as prescribed  
 33 by the Supreme Court.

34 Section 2. Section 29.0195, Florida Statutes, is amended to  
 35 read:

36 29.0195 Recovery of expenditures for state-funded  
 37 services.—

38 (1) The trial court administrator of each circuit shall  
 39 recover expenditures for state-funded services when those  
 40 services have been furnished to a user of the state ~~courts court~~  
 41 system who possesses the present ability to pay. The rate of  
 42 compensation for such services is shall be the actual cost of  
 43 the services, including the cost of recovery. The trial court  
 44 administrator shall deposit moneys recovered under this section  
 45 in the Administrative Trust Fund within the state courts system.  
 46 The trial court administrator shall recover the costs of court  
 47 reporter services and transcription; translations court  
 48 ~~interpreter services, including translation;~~ and any other  
 49 service for which state funds were used to provide a product or  
 50 service within the circuit.

51 (2) This section does not authorize cost recovery for  
 52 court-appointed interpreting services, except translations, or  
 53 cost recovery from entities described in ss. 29.005-29.007.

54 Section 3. This act shall take effect upon becoming a law.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: SB 468

INTRODUCER: Senator Bradley

SUBJECT: Court Interpreter Services

DATE: February 12, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 468 creates an exception to the general rule that state revenues may not be provided to non-indigent people for due process services. Due process services include, but are not limited to, court reporting services, court interpreter and translation services, and expert witness services.

The bill authorizes the State Courts System to spend state revenues to provide court-appointed interpreting services to non-indigent people if:

- Funds are available in the fiscal year appropriation for due process services; and
- Interpreting services are provided as prescribed by the Supreme Court.

The bill also repeals the requirement that the trial court administrator recover the cost of court interpreter services.

The bill will not have a significant fiscal impact to the State Courts System. See Section V., Fiscal Impact Statement.

The bill takes effect upon becoming a law.

**II. Present Situation:**

**Current Requirements for Providing a Language Interpreter**

Florida courts are required to appoint a spoken language interpreter for non-English speaking and limited-English-proficient people in certain cases in order to comply with Title VI of the Civil Rights Act of 1964. Under current law, a spoken language interpreter is appointed in criminal and juvenile delinquency cases for non-English-speaking and limited-English-proficient

people.<sup>1</sup> In all other cases, the court appoints an interpreter for non-English-speaking and limited-English-proficient litigants only when the court determines that:

- The litigant's inability to comprehend English deprives the litigant of an understanding of the court proceedings;
- A fundamental interest is at stake (such as in a civil commitment, termination of parental rights, paternity, or dependency proceeding); and
- No alternative to the appointment of an interpreter exists.<sup>2</sup>

If a judge determines that a witness cannot hear or understand the English language, or cannot express himself or herself in English sufficiently to be understood, an interpreter will be appointed. This standard is not limited to people who speak a language other than English, but also applies to the language and descriptions of any person, including a child or person who is mentally or developmentally disabled, who cannot be reasonably understood, or who cannot understand questioning without the aid of an interpreter.<sup>3</sup>

Current law, however, provides that state-funded court interpreting services may not be provided to someone unless he or she is indigent.<sup>4</sup> Additionally, current law requires the trial court administrator to recover state-funded court interpreting services from litigants who have the present ability to pay. The rate of compensation for interpreting services is the actual cost of the interpreting services plus the cost of the recovery. The amounts recovered are deposited into the Administrative Trust Fund with the state courts system.<sup>5</sup>

### **U.S. Department of Justice**

In 2010, the U. S. Department of Justice, Civil Rights Division, (Department) issued a letter to state court chief justices and state court administrators providing clarity to state courts regarding their obligation to provide language access services to parties or witnesses with limited English proficiency. The Department noted that denying people with limited English proficiency meaningful access to the courts could place state courts in violation of civil rights requirements, particularly Title VI of the Civil Rights Act of 1964. Among the policies noted that impede compliance were:

- Limiting the types of proceedings for which qualified interpreter services are provided by the court.
- Charging interpreter costs to parties.
- Restricting language services to courtrooms.
- Failing to ensure effective communication with court-appointed or supervised personnel.<sup>6</sup>

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<sup>1</sup> Fla. R. Gen. Prac. & Jud. Admin. 2.560.

<sup>2</sup> *Id.*

<sup>3</sup> Section 90.606, F.S.

<sup>4</sup> Section 29.0185, F.S.

<sup>5</sup> Section 29.0195, F.S.

<sup>6</sup> *Department of Justice Guidance Letter Regarding the Obligation to Provide Language Access*, (Aug. 17, 2010)

<https://www.justice.gov/file/1250731/download> as provided in the Office of the State Courts Administrator Bill Analysis in note 7.



Representatives of the Department are monitoring Florida's activities for compliance and progress in this area.<sup>7</sup>

### **State Court Commission on Trial Court Performance and Accountability**

Additionally, the state Commission on Trial Court Performance and Accountability has been evaluating the state trial courts' ability to expand interpreting services without charging court participants and without regard to their financial status. The Commission recommended an initial expansion of court interpreter services, without cost and regardless of someone's indigency status in limited areas. The Florida Supreme Court approved the report.<sup>8</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 29.0185, F.S., to create an exception to the general prohibition against providing state-funded due process services to non-indigent persons. The bill authorizes the use of state revenues by the State Courts System to provide court-appointed interpreting services to non-indigent people if:

- Funds are available in the fiscal year appropriation for due process services; and
- Interpreting services are provided as prescribed by the Supreme Court.

The bill also amends s. 29.0195, F.S., to repeal the requirement that the trial court administrator recover the costs of court interpreter services, which are deposited into the Administrative Trust Fund.

These changes will help bring Florida law into compliance with the Department of Justice's guidance letter regarding the obligation of state courts to provide language access services under Title VI of the Civil Rights Act of 1964.

The bill takes effect upon becoming a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>7</sup> Office of the State Courts Administrator, *2024 Judicial Impact Statement for SB 468* (Jan. 17, 2024) <https://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=35461>.

<sup>8</sup> *Id.*

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill does not have a fiscal impact to the State Court System in excess of its annual appropriation. The Office of the State Courts Administrator (OSCA) estimates that there will be additional demand on full-time equivalent or contract interpreters in the judicial circuits to the extent that court interpreting services will be expanded.<sup>9</sup> However, the bill limits payment for these services to non-indigent individuals to the funds available in the fiscal year appropriation. In Fiscal Year 2022-2023, the trial courts were appropriated \$21,663,353 in due process costs. Of these funds, \$1,773,269 were reverted.

While the bill eliminates the cost-recovery provision for court interpreting services, the State Court System thus far has only collected \$3,820 for court interpreting-related costs in Fiscal Year 2023-24. The bill's impact on the Administrative Trust Fund would likely be insignificant.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 29.0185 and 29.0195.

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<sup>9</sup> Office of the State Courts Administrator, *2024 Judicial Impact Statement for SB 468* (Jan. 17, 2024) <https://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=35461>.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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The Florida Senate

APPEARANCE RECORD

CS/SB 678

2/13/2024

Meeting Date

Appropriations Committee on Criminal & Civil Justice

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name Leigh Clark (FDLE at the request of the bill sponsor) Phone (850) 410-7000

Address 2331 Phillips Rd Email LeighClark@fdle.state.fl.us

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: [ ] For [ ] Against [x] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2-13-24

678

Meeting Date

Bill Number or Topic

Justice Approps  
Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name David Mittleman

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City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

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This form is part of the public record for this meeting.

By the Committee on Criminal Justice; and Senator Bradley

591-02152-24

2024678c1

A bill to be entitled

An act relating to the Forensic Investigative Genetic Genealogy Grant Program; creating s. 943.327, F.S.; defining the term "investigative genetic genealogy"; requiring that certain methods be in accordance with Department of Law Enforcement rules and compatible with certain databases; specifying the intent for certain funding; creating the Forensic Investigative Genetic Genealogy Grant Program within the Department of Law Enforcement; specifying potential grant recipients; providing purposes for the grants under the program; requiring each grant recipient to provide a report to the executive director within a certain timeframe; specifying the required contents of the report; providing rulemaking authority; providing an effective date.

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

Section 1. Section 943.327, Florida Statutes, is created to read:

943.327 Forensic Investigative Genetic Genealogy Grant Program.—

(1) As used in this section, the term "forensic investigative genetic genealogy" means the combined application of laboratory testing, genetic genealogy, and law enforcement investigative methods to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains. Such methods must be in

Page 1 of 3

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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accordance with department rule and compatible with multiple genealogical databases that are available for law enforcement use for the purposes described in this section. For purposes of the grant program created in this section, funding is intended to be used for developing genealogy DNA profiles consisting of 100,000 or more markers.

(2) There is created within the department the Forensic Investigative Genetic Genealogy Grant Program to award grants to statewide and local law enforcement agencies and medical examiner's offices to support those agencies and offices in the processing of DNA samples as specified under subsection (4).

(3) The department shall annually award to statewide and local law enforcement agencies and medical examiner's offices any funds specially appropriated for the grant program to cover expenses related to using forensic investigative genetic genealogy methods to generate investigative leads for criminal investigations of violent crimes and to aid in the identification of unidentified human remains.

(4) Grants may be used in accordance with department rule for any of the following purposes:

(a) The analysis of DNA samples collected under applicable legal authority using forensic investigative genetic genealogy methods for solving violent crimes.

(b) The analysis of DNA samples of unidentified human remains.

(5) Each grant recipient shall provide to the executive director a report no later than 1 year after receipt of funding under the grant program. The report must include all of the following:

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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- 59       (a) The amount of funding received.
- 60       (b) The number and type of cases pursued using forensic  
61 investigative genetic genealogy methods.
- 62       (c) The type of forensic investigative genetic genealogy  
63 methods used, including the name of the laboratory to which such  
64 testing was outsourced, if any, and the identity of the entity  
65 conducting any genetic genealogical research.
- 66       (d) The result of the testing, such as decedent  
67 identification, perpetrator identification, or no  
68 identification.
- 69       (e) The amount of time it took to make an identification or  
70 to determine no identification could be made.
- 71       (6) The department may adopt rules pursuant to ss.  
72 120.536(1) and 120.54 to implement and administer this section  
73 and to establish the process for the allocation of grant funds.
- 74       Section 2. This act shall take effect July 1, 2024.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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**BILL:** CS/SB 678

**INTRODUCER:** Criminal Justice Committee and Senator Bradley

**SUBJECT:** Forensic Investigative Genetic Genealogy Grant Program

**DATE:** February 12, 2024      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	<b>Fav/CS</b>
2.	Kolich	Harkness	ACJ	<b>Favorable</b>
3.			FP	

**Please see Section IX. for Additional Information:**  
COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 678 creates the Forensic Investigative Genetic Genealogy Grant Program within the Florida Department of Law Enforcement (FDLE). The purpose of the program is to award grants to statewide and local law enforcement agencies or medical examiner’s offices to support local agencies in the processing of DNA samples.

The FDLE will annually award to law enforcement agencies or medical examiner’s offices funds specially appropriated for the grant program to cover expenses related to using forensic genetic genealogy methods to generate investigative leads for criminal investigations or identifying unidentified human remains.

The term “investigative genetic genealogy” means the combined application of laboratory testing, genetic genealogy, and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains. Such methods must be in accordance with department rule and compatible with multiple genealogical databases that are available for law enforcement use. Grant funding is intended for developing genealogy DNA profiles consisting of 100,000 or more markers.

Grants may be used in accordance with FDLE rule to:

- Analyze DNA samples collected under applicable legal authority using forensic genetic genealogy methods for solving violent crimes.
- Analyze unidentified human remains.



Grant recipients must provide a report to the FDLE executive director no later than one year after receiving the funding. The report must include:

- The amount of annual funding received;
- The number and type of cases pursued using forensic genetic genealogical DNA analysis;
- The type of forensic genetic genealogical methods used, including the name of the laboratory to which such testing is outsourced, if any, and the identity of the entity conducting any genetic genealogical research;
- The result of the testing, such as decedent identification, perpetrator identification, or no identification; and
- The amount of time it took to make an identification or to determine no identification could be made.

The FDLE may adopt rules to implement and administer the grant program, and to allocate funds.

The bill becomes effective July 1, 2024.

This bill does not have a fiscal impact on the FDLE. See Section V. Fiscal Impact Statement.

## II. Present Situation:

### Current Florida Law

Section 119.071(2)(r)2., F.S., makes investigative genetic genealogy information and materials held by an agency before, on, or after July 1, 2023, confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.<sup>1</sup>

As defined in s. 119.071(2)(r), F.S., “investigative genetic genealogy information and materials” means the information, records, and genetic profiles created or collected by or on behalf of a law enforcement agency conducting investigative genetic genealogy research.<sup>2</sup> It includes any names and personal identifying information or identifiers of individuals determined through the use of genealogy databases, traditional genealogical methods, or other investigative means.<sup>3</sup> The term does not include the name or personal identifying information of the donor of a biological sample attributable to a perpetrator; or a person identified through investigative genetic genealogy who is a witness to or has personal knowledge related to the crime under investigation.<sup>4</sup>

“Investigative genetic genealogy” means the application of genetic genealogy and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains and living unidentified missing persons.<sup>5</sup>

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<sup>1</sup> Chapter 2023-235, L.O.F.

<sup>2</sup> Section 119.071(2)(r)1.d., F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Section 119.071(2)(r)1.d. (I) and (II), F.S.

<sup>5</sup> Section 119.071(2)(r)1.c., F.S.

The term “genetic genealogy” means the use of DNA testing in combination with traditional genealogical methods to infer relationships between persons and determine ancestry.<sup>6</sup>

“Traditional genealogical methods” means the use of genealogical databases and historical records to trace the family lineage of a person.<sup>7</sup> “DNA record” means all information associated with the collection and analysis of a person's DNA sample, including the distinguishing characteristics collectively referred to as a DNA profile, and includes a single nucleotide polymorphism and a whole genome sequencing DNA profile.<sup>8</sup>

A law enforcement agency may disclose investigative genetic genealogy information and materials in furtherance of its official duties and responsibilities or to another governmental agency in the furtherance of its official duties and responsibilities.<sup>9</sup>

A law enforcement agency must disclose investigative genetic genealogy information and materials pursuant to a court order for furtherance of a criminal prosecution. If a court orders the disclosure of such information and materials, the recipient of the information and materials must maintain the confidential and exempt status of the information and materials and may only publicly disclose the information and materials as necessary for purposes of a criminal prosecution as determined by the court.<sup>10</sup>

### **Catching the Golden State Killer Using Consumer DNA Testing Database**

A Florida-based genealogy website called GEDmatch that allows users to voluntarily share their genetic profiles for free provided information that led investigators to the “Golden State Killer” who had eluded law enforcement since 1976.<sup>11</sup> The website revealed a distant relative and that information helped lead authorities to the man suspected of conducting a reign of terror up and down California, including 12 homicides, 45 rapes, and more than 100 residential burglaries between 1976 and 1986.<sup>12</sup> The man subsequently pleaded guilty to 13 counts of first-degree murder and special circumstances (including murder committed during burglaries and rapes), as well as 13 counts of kidnapping.<sup>13</sup>

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<sup>6</sup> Section 119.071(2)(r)1.b., F.S.

<sup>7</sup> Section 119.071(2)(r)1.e., F.S.

<sup>8</sup> Section 119.071(2)(r)1.a., F.S.

<sup>9</sup> Section 119.071(2)(r)3.a., F.S.

<sup>10</sup> Section 119.071(2)(r)3.b., F.S.

<sup>11</sup> Los Angeles Times, *The untold story of how the Golden State Killer was found: A covert operation and private DNA*, Paige St. John, December 8, 2020, available at <https://www.latimes.com/california/story/2020-12-08/man-in-the-window>, (last visited January 9, 2024).

<sup>12</sup> *Id.*

<sup>13</sup> CNN News, “*Hearing details ghastly crimes of Golden State Killer as he pleads guilty to killings*,” Elliott C. McLaughlin, Stella Chan, June 29, 2020, available at <https://www.cnn.com/2020/06/29/us/golden-state-killer-plea-expected/index.html#:~:text=DeAngelo%20pleaded%20guilty%20to%202013,as%2013%20counts%20of%20kidnapping>, (last visited January 9, 2024).

## **The Florida Department of Law Enforcement Forensic/Investigative Genetic Genealogy Program**

The FDLE Genetic Genealogy team currently provides investigative leads to investigators based on DNA matches to relatives found in public genealogy databases.<sup>14</sup> The team includes experts in genetic genealogy, analytical research, forensics, and investigations who work with local law enforcement agencies.<sup>15</sup> In its first year, the program helped identify four suspects, solving cases that were more than a decade old.<sup>16</sup>

### **III. Effect of Proposed Changes:**

The bill creates the Forensic Investigative Genetic Genealogy Grant Program within the FDLE. The purpose of the program is to award grants to law enforcement agencies or medical examiner's offices to support local agencies in the processing of DNA samples.

The FDLE will annually award to statewide and local law enforcement agencies and medical examiner's offices any funds specially appropriated for the grant program to cover expenses related to using forensic investigative genetic genealogy methods to generate investigative leads for criminal investigations of violent crimes and to aid in the identification of unidentified human remains.

The term "investigative genetic genealogy" means the combined application of laboratory testing, genetic genealogy, and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains. Such methods must be in accordance with department rule and compatible with multiple genealogical databases that are available for law enforcement use. Grant funding is intended for developing genealogy DNA profiles consisting of 100,000 or more markers.

Grants may be used, in accordance with FDLE rule, to:

- Analyze DNA samples collected under applicable legal authority using forensic genetic genealogy methods for solving violent crimes.
- Analyze DNA samples of unidentified human remains.

Grant recipients must provide a report to the FDLE executive director no later than one year after receiving the funding. The report must include:

- The amount of annual funding received;
- The number and type of cases pursued using investigative genetic genealogy methods;
- The type of forensic investigative genetic genealogical methods used, including the name of the laboratory to which such testing is outsourced, if any, and the identity of the entity conducting any genetic genealogical research;
- The result of the testing, such as decedent identification, perpetrator identification, or no identification; and

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<sup>14</sup> Florida Department of Law Enforcement, News, *FDLE Genetic Genealogy Investigations program solves cold cases in first year*, available at <https://www.fdle.state.fl.us/News/2019/October/FDLE-Genetic-Genealogy-Investigations-program-soly>, (last visited January 9, 2024).

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

- The amount of time it took to make an identification or to determine no identification could be made.

The FDLE may adopt rules pursuant to s. 120.536(1) and s. 120.54, F.S., to implement and administer the requirements in the bill, and to allocate funds.

The bill becomes effective July 1, 2024.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill does not have a fiscal impact on the FDLE. The FDLE suggests that county labs may experience increased requests for services as a result of the bill. If the county labs cannot meet additional demands, the FDLE may experience higher volumes of examination requests.<sup>17</sup> The FDLE can absorb these requests within current resources.

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<sup>17</sup> Florida Department of Law Enforcement, *2024 FDLE Legislative Bill Analysis*, December 5, 2023. (on file with the Senate Criminal Justice Committee).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 943.327 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on January 16, 2024:**

The committee substitute:

- Changes the name of the grant program to the Forensic Investigative Genetic Genealogy Grant Program.
- Defines the term investigative genetic genealogy and sets forth specified scientific requirements for participation in the grant program.
- Provides that any specially appropriated grant funds may be used by statewide and local law enforcement agencies and medical examiner's offices to cover expenses associated with DNA analysis used to generate investigative leads for criminal investigations of violent crimes and to aid in the identification of unidentified human remains.
- Requires that grant recipients report specified facts and program analysis to the FDLE executive director, including the type of forensic investigative genetic genealogical methods used, no later than 1 year after receiving funding.
- Conveys rulemaking authority to FDLE to implement and administer the program and to allocate funds.

- B. **Amendments:**

None.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice


**Subject:** Committee Agenda Request

**Date:** January 24, 2024

---

I respectfully request that **Senate Bill # 718**, relating to Exposures of First Responders to Fentanyl, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.



---

Senator Jay Collins  
Florida Senate, District 14

The Florida Senate

APPEARANCE RECORD

2/13/24

Meeting Date

SB 718

Bill Number or Topic

App. Cmte. Criminal & Civil Justice

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Corporal Robert Palmer

Collier County Sheriff's Office

Phone 931-561-1046

Address 730 Cane St. E

Street

Email

Lehigh Acres FL

City

State

33974

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Collier County Sheriff's Office

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

February 13, 2024

Meeting Date  
Criminal & Civil Justice Approps  
Committee

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 0718 Exposure First Responders Fentanyl

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jonathan Webber Phone 954-593-4449

Address 400 Washington Ave Email jonathan.webber@splcactionfund.org

Street

Montgomery AL 36104  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**SPLC Action Fund**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

2/13/24

Meeting Date

SB 718

Bill Number or Topic

CRIM & CIVIL JUSTICE APPROP

Committee

Amendment Barcode (if applicable)

Name LIBBY. GUZZO

Phone 856 245 0155

Address CAPITOL PL-01

Street

Email LIBBY.GUZZO@MYFLORIDALEGAL.COM

TLH

City

FL

State

32399

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [X] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:

OFFICE OF ATTORNEY GENERAL

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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The Florida Senate

APPEARANCE RECORD

2-13-24

Meeting Date

718

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

APPROP ON C+C Justice

Committee

Amendment Barcode (if applicable)

Name WAYNE "BERNIE" BERNOSKA

Phone 321-231-9116

Address 343 W. MADISON St.

Street

Email BERNIE@FPFP.ORG

Tallahassee

City

FL.

State

32301

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FLORIDA PROFESSIONAL FIREFIGHTERS

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

2/13/24

Meeting Date

SB 718

Bill Number or Topic

Appro on Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Steven Slade

Phone 850.322.5760

Address 300 E. Brevard St

Email stevenslade@flpba.org

Street

TALAHASSEE, FL

32311

City

State

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL PBA

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



720072

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

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The Appropriations Committee on Criminal and Civil Justice  
(Collins) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 35 - 45

and insert:

(e) "Recklessly" means a willful or wanton disregard for  
the safety of other persons.

(2) A person 18 years of age or older who, in the course of  
unlawfully possessing dangerous fentanyl or fentanyl analogs,  
recklessly exposes a first responder to dangerous fentanyl or  
fentanyl analogs and an overdose or serious bodily injury of the



720072

11 first responder results, commits a felony of the second degree,  
12 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

13 (3) It is a defense to a violation of this section that a  
14 first responder acted outside the scope of ordinary care  
15 generally exercised by a member of his or her profession, and in  
16 doing so, caused or substantially contributed to his or her  
17 exposure.

18 Section 2. Subsections (1) and (2) of section 893.21,  
19 Florida Statutes, are amended to read:

20 893.21 Alcohol-related or drug-related overdoses; medical  
21 assistance; immunity from arrest, charge, prosecution, and  
22 penalization.—

23 (1) A person acting in good faith who seeks medical  
24 assistance for an individual experiencing, or believed to be  
25 experiencing, an alcohol-related or a drug-related overdose may  
26 not be arrested, charged, prosecuted, or penalized for a  
27 violation of s. 893.132, s. 893.147(1) or s. 893.13(6),  
28 excluding paragraph (c), if the evidence for such offense was  
29 obtained as a result of the person's seeking medical assistance.

30 (2) A person who experiences, or has a good faith belief  
31 that he or she is experiencing, an alcohol-related or a drug-  
32 related overdose and is in need of medical assistance may not be  
33 arrested, charged, prosecuted, or penalized for a violation of  
34 s. 893.132, s. 893.147(1) or s. 893.13(6), excluding paragraph  
35 (c), if the evidence for such offense was obtained as a result  
36 of the person's seeking medical assistance.

37  
38  
39

===== T I T L E A M E N D M E N T =====



720072

40 And the title is amended as follows:

41 Delete lines 6 - 9

42 and insert:

43 controlled substances and who recklessly expose a  
44 first responder to such substances, and the exposure  
45 results in an overdose or serious bodily injury;  
46 providing a defense; amending s. 893.21; providing  
47 applicability; providing an effective date.

By the Committee on Criminal Justice; and Senators Collins and Hooper

591-02405-24

2024718c1

1 A bill to be entitled  
 2 An act relating to exposures of first responders to  
 3 fentanyl and fentanyl analogs; creating s. 893.132,  
 4 F.S.; providing definitions; providing criminal  
 5 penalties for adults who unlawfully possess specified  
 6 controlled substances and who expose a first responder  
 7 to such substances, and the exposure results in an  
 8 overdose or serious bodily injury; providing a  
 9 defense; providing an effective date.

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

11  
 12 Section 1. Section 893.132, Florida Statutes, is created to  
 13 read:  
 14 893.132 Dangerous fentanyl exposure of first responder  
 15 resulting in overdose or serious bodily injury.-  
 16 (1) For purposes of this section, the term:  
 17 (a) "Dangerous fentanyl or fentanyl analogs" means any  
 18 controlled substance described in s. 893.135(1)(c)4.a.(I)-(VII).  
 19 (b) "Expose" or "exposure" means to cause any of the  
 20 following, including, but not limited to, ingestion, inhalation,  
 21 needlestick injury, or absorption through skin or mucous  
 22 membranes.  
 23 (c) "First responder" means a law enforcement officer as  
 24 defined in s. 943.10(1), a correctional officer as defined in s.  
 25 943.10(2), a correctional probation officer as defined in s.  
 26 943.10(3), a firefighter as defined in s. 633.102, an emergency  
 27 medical technician as defined in s. 401.23, or a paramedic as  
 28 defined in s. 401.23, who is acting in his or her official  
 29

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-02405-24

2024718c1

30 capacity.  
 31 (d) "Overdose or serious bodily injury" means drug toxicity  
 32 or a physical condition that creates a substantial risk of death  
 33 or substantial loss or impairment of the function of any bodily  
 34 member or organ.  
 35 (2) A person 18 years of age or older who, in the course of  
 36 unlawfully possessing dangerous fentanyl or fentanyl analogs,  
 37 exposes a first responder to dangerous fentanyl or fentanyl  
 38 analog and an overdose or serious bodily injury of the first  
 39 responder results, commits a felony of the second degree,  
 40 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
 41 (3) It is a defense to a violation of this section that a  
 42 first responder acted outside the scope of ordinary care  
 43 generally exercised by a member of his or her profession, and in  
 44 doing so, caused or substantially contributed to his or her  
 45 exposure.  
 46 Section 2. This act shall take effect October 1, 2024.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: CS/CS/SB 718

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Collins and others

SUBJECT: Exposures of First Responders to Fentanyl and Fentanyl Analogs

DATE: February 15, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 718 creates s. 893.132, F.S., relating to fentanyl exposure for first responders causing overdose or serious bodily injury. First responders as outlined in the bill include emergency medical technicians and paramedics, firefighters, correctional officers, correctional probation officers, and state or local law enforcement officers.

The bill provides that it is a second degree felony for a person 18 years of age or older who, in the course of unlawfully possessing dangerous fentanyl or fentanyl analogs, recklessly exposes a first responder to a specified substance that results in an overdose or serious bodily injury of the first responder. The specified substances in the bill include fentanyl or fentanyl analogs.

Such substance or mixture must be proved to have caused or been a substantial factor in causing the overdose or serious bodily injury.

The bill provides that it is a defense to a violation of this section that a first responder acted outside the scope of ordinary care generally exercised by a member of his or her profession, and in doing so, caused or substantially contributed to his or her exposure.

The bill will have a positive insignificant prison bed impact. See Section V., Fiscal Impact Statement.



The bill takes effect October 1, 2024.

## II. Present Situation:

Fentanyl is a controlled substance as defined in s. 893.03, F.S., which classifies controlled substances into five categories or classifications, known as schedules. The schedules regulate the manufacture, distribution, preparation, and dispensing of substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the potential for abuse<sup>1</sup> of the substance and whether there is a currently accepted medical use for the substance. The controlled substance schedules are described as follows:

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and no currently accepted medical use in treatment in the United States. Use of these substances under medical supervision does not meet accepted safety standards.
- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and a currently accepted but severely restricted medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the Schedule I and Schedule II substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of anabolic steroids may lead to physical damage.
- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to Schedule III substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule III substances.
- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to Schedule IV substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

“Fentanyl is a powerful synthetic opioid that is similar to morphine but is 50 to 100 times more potent. It is a prescription drug that is also used and made illegally.”<sup>2</sup> Fentanyl is a Schedule (2)(b) controlled substance.<sup>3</sup> Drug offenses currently account for 23.6 percent of all new prison admissions in the Department of Corrections.<sup>4</sup>

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<sup>1</sup> Section 893.035(3)(a), F.S., defines potential for abuse as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: used in amounts that create a hazard to the user’s health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user’s own initiative rather than on the basis of professional medical advice.

<sup>2</sup> National Institute on Drug Abuse, *Fentanyl DrugFacts*, (footnotes omitted), available at <https://nida.nih.gov/publications/drugfacts/fentanyl> (last visited on December 21, 2023). As a medicine, fentanyl is “typically used to treat patients with severe pain, especially after surgery[,]” and “is also sometimes used to treat patients with chronic pain who are physically tolerant to other opioids.” *Id.*

<sup>3</sup> Section 893.03(2)(b)9., F.S.

<sup>4</sup> Florida Department of Corrections, *Florida’s Criminal Punishment Code: Assessment and Analysis*, available at, <https://fdc.myflorida.com/pub/scoresheet/criminal%20Punishment%20Code%202023.pdf> (last visited January 16, 2024).

## **Controlled Substance Analog**

A “controlled substance analog” is defined in s. 893.0356(2)(a), F.S., as a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

- The substance is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.; and
- The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.

## **Crimes Related to Fentanyl and Related Substances**

### ***Sale of a Controlled Substance***

Section 893.13(1), F.S., prohibits a person from selling, manufacturing,<sup>5</sup> or delivering,<sup>6</sup> or possessing with the intent to sell, manufacture, or deliver a controlled substance. The penalty for selling a controlled substance varies depending on several factors, including the type and amount of the substance sold, and the location where the sale takes place.

Under current law, selling, manufacturing, or delivering, or possessing with the intent to sell, manufacture, or deliver, fentanyl, alfentanil, carfentanil, sufentanil, a fentanyl derivative, a controlled substance analog is punishable as a second degree felony.<sup>7,8</sup>

### ***Sale of a Controlled Substance to a Minor***

Section 893.13(4), F.S., prohibits a person 18 years of age or older from:

- Delivering a controlled substance to a person younger than 18 years of age;
- Using or hiring a person younger than 18 years of age as an agent or employee in the sale or delivery of a controlled substance; or
- Using a person younger than 18 years of age to assist in avoiding detection or apprehension for a violation of ch. 893, F.S.

A violation is punishable as either a first, second, or third degree felony depending on the controlled substance that is sold or delivered.

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<sup>5</sup> “Manufacture” means the production, preparation, propagation, compounding, cultivating, growing, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance by: a practitioner or pharmacist as an incident to his or her administering or delivering of a controlled substance in the course of his or her professional practice; a practitioner, or his or her authorized agent under the practitioner’s supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis, and not for sale. Section 893.02(15)(a), F.S.

<sup>6</sup> “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship. Section 893.02(6), F.S.

<sup>7</sup> A second degree felony is punishable by a term of imprisonment not exceeding 30 years and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>8</sup> Section 893.13(1)(a)1., F.S.

Under current law, delivering fentanyl or fentanyl derivatives to a person younger than 18 years of age is punishable as a first degree felony.<sup>9</sup>

### ***Distribution Resulting in Overdose or Serious Bodily Injury***

Section 893.131, F.S., provides that a person 18 years of age or older who unlawfully distributes<sup>10</sup> the following substances and an overdose or serious bodily injury of the user results, commits a second degree felony:

- Heroin, as described in s. 893.03(1)(b)11., F.S.;
- Alfentanil, as described in s. 893.03(2)(b)1., F.S.;
- Carfentanil, as described in s. 893.03(2)(b)6., F.S.;
- Fentanyl, as described in s. 893.03(2)(b)9., F.S.;
- Sufentanil, as described in s. 893.03(2)(b)30., F.S.;
- Fentanyl derivatives, as described in s. 893.03(1)(a)62., F.S.;
- A controlled substance analog, as described in s. 893.0356, F.S., of any substance specified above; or
- A mixture containing any substance specified above.

The substance or mixture must be proved to have caused or been a substantial factor in causing the overdose or serious bodily injury.

A second or subsequent violation is a first degree felony.<sup>11</sup>

### ***Drug Trafficking***

Drug trafficking occurs when a person knowingly sells, purchases, manufactures, delivers, or brings into the state, or is in actual or constructive possession of, a specified quantity of a controlled substance.<sup>12</sup> Generally, a drug trafficking offense is punishable as a first degree felony.<sup>13,14</sup> Section 893.135, F.S., outlines threshold amounts of the applicable controlled substance for each trafficking offense. Drug trafficking offenses are subject to mandatory minimum sentences and heightened fines, which are determined by the threshold amounts.

Under s. 893.135(1)(c)4., F.S., a person commits the first degree felony offense of trafficking in dangerous fentanyl or fentanyl analogues if he or she knowingly sells, purchases, manufactures,

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<sup>9</sup> Section 893.13(4)(a), F.S.

<sup>10</sup> Sections 893.131(1)(a) and 893.02, F.S., defines distribute as to deliver, other than by administering or dispensing, a controlled substance.

<sup>11</sup> Section 893.131(2)(b), F.S.

<sup>12</sup> Florida law criminalizes trafficking in cannabis; cocaine; illegal drugs, which include morphine, opium, hydromorphone, or any salt derivative, isomer, or salt of an isomer thereof, including heroin; hydrocodone, oxycodone; fentanyl; phencyclidine; methaqualone; amphetamine; flunitrazepam; gamma-hydroxybutyric (GHB); gamma-butyrolactone (GBL); 1,4-Butanediol; phenethylamines; lysergic acid diethylamide (LSD); synthetic cannabinoids; and n-benzyl phenethylamines. Section 893.135, F.S.

<sup>13</sup>A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>14</sup> Trafficking in certain controlled substances can be a capital offense under specified circumstances. See, e.g., s. 893.135(1)(h)2., F.S. (Any person who knowingly manufactures or brings into this state 400 grams or more of amphetamine . . . who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of amphetamine, a capital felony).

delivers, or brings into this state, or is knowingly in actual or constructive possession of four grams or more of:

- Alfentanil, as described in s. 893.03(2)(b)1., F.S.;
- Carfentanil, as described in s. 893.03(2)(b)6., F.S.;
- Fentanyl, as described in s. 893.03(2)(b)9., F.S.;
- Sufentanil, as described as in s. 893.03(2)(b)30., F.S.;
- A fentanyl derivative, as described in s. 893.03(1)(a)62., F.S.;
- A controlled substance analog, as described in s. 893.0356, F.S., of any substance described in sub-sub-subparagraphs (I)-(V); or
- A mixture containing any substance described in sub-sub-subparagraphs (I)-(VI).

In regards to the weighing of a mixture containing a controlled substance, the weight of the controlled substance is the total weight of the mixture, including the controlled substance and any other substance in the mixture.<sup>15</sup>

### III. Effect of Proposed Changes:

The bill creates s. 893.132, F.S., relating to fentanyl exposure for first responders causing overdose or serious bodily injury.

The bill provides that it is a second degree felony for a person 18 years of age or older who, in the course of unlawfully possessing dangerous fentanyl or fentanyl analogs, recklessly exposes a first responder to a specified substance that results in an overdose or serious bodily injury of the first responder. The specified substances in the bill include fentanyl or fentanyl analogs as described in s. 893.135(1)(c)4.a.(I)-(VII), F.S.

Such substance or mixture must be proved to have caused or been a substantial factor in causing the overdose or serious bodily injury.

“Expose,” means to cause any of the following, including, but not limited to skin contact, inhalation, ingestion, contact with a needle stick that pricks the skin, or contact with a mucous membrane.

The bill defines first responder to include: emergency medical technicians and paramedics as defined in s. 401.23, F.S.,<sup>16,17</sup> firefighters as defined in s. 633.102, F.S.,<sup>18</sup> correctional officers as

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<sup>15</sup> Section 893.135(6), F.S.

<sup>16</sup> Section 401.23, F.S., defines emergency medical technician as a person who is certified by the department to perform basic life support pursuant to this part.

<sup>17</sup> Section 401.23, F.S., defines Paramedic as a person who is certified by the department to perform basic and advanced life support pursuant to this part.

<sup>18</sup> Section 633.102, F.S., defines Firefighter as an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance.

defined in s. 943.10(2), F.S.,<sup>19</sup> correctional probation officers as defined in s. 943.10(3), F.S.,<sup>20</sup> and state or local law enforcement officers as defined in s. 943.10, F.S.<sup>21</sup>

Additionally, the bill defines overdose or serious bodily injury as drug toxicity or a physical condition that creates a substantial risk of death or substantial loss or impairment of the function of any bodily member or organ.

The bill also defines recklessly as a willful or wanton disregard for safety of other persons.

The bill provides that it is a defense to a violation of this section that a first responder acted outside the scope of ordinary care generally exercised by a member of his or her profession, and in doing so, caused or substantially contributed to his or her exposure.

The bill establishes a criminal penalty of a second degree felony for individuals that recklessly expose first responders to fentanyl resulting in serious bodily injury.

The bill takes effect October 1, 2024.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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<sup>19</sup> Section 943.10(2), F.S., defines “Correctional officer” as any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.

<sup>20</sup> Section 943.10(3), F.S. defines “Correctional probation officer” as a person who is employed full time by the state whose primary responsibility is the supervised custody, surveillance, and control of assigned inmates, probationers, parolees, or community controllees within institutions of the Department of Corrections or within the community. The term includes supervisory personnel whose duties include, in whole or in part, the supervision, training, and guidance of correctional probation officers, but excludes management and administrative personnel above, but not including, the probation and parole regional administrator level.

<sup>21</sup> Section 943.10, F.S., defines Law enforcement Officers as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. The term also includes a special officer employed by a Class I, Class II, or Class III railroad pursuant to s. 354.01, F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined the bill may have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds).<sup>22</sup> The EDR provides the following information relevant to these felonies and its estimate:

It is not known how many incidents occur each year, but news reports on the matter and research by medical professionals indicate that exposure to fentanyl by first responders is a rare event. Therefore, this new language is not expected to have a significant impact on the prison population. In FY 2022-23, the incarceration rate for a Level 4, 2nd degree felony was 27.6%.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 893.132 of the Florida Statutes.

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<sup>22</sup>Office of Economic and Demographic Research, SB 718,  
<http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB718.pdf>

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Appropriations Committee on Criminal and Civil Justice on February 13, 2024:**

The committee substitute:

- Provides intent by adding “recklessly” to mean willful or wanton disregard for the safety of other persons in regards to the new 2<sup>nd</sup> degree felony offense created for exposing fentanyl to responders causing serious bodily injury.
- Provides a defense if the first responder acted outside the scope of ordinary care generally exercised by his or her profession and in doing so contributed to his or her exposure.
- Makes technical and conforming changes.

**CS by Criminal Justice on January 23, 2024:**

The committee substitute:

- Adds language to include correctional officers or correctional probation officers as first responders relating to fentanyl exposure.
- Reduces the penalty from a first degree felony to a second degree felony and includes language that protects the scope of ordinary care.
- Revises the crime to provide penalties for those persons who expose a first responder to fentanyl or fentanyl analogs be 18 years of age or older.

- B. **Amendments:**

None.



# THE FLORIDA SENATE

Tallahassee, Florida. 32399-1100

Senator Blaise Ingoglia  
11<sup>th</sup> District

**COMMITTEES:**  
Finance and Tax, *Chair*  
Appropriations  
Banking and Insurance  
Criminal Justice  
Ethics and Elections

**SELECT COMMITTEE:**  
Select Committee on Resiliency

**JOINT COMMITTEE:**  
Joint Administrative Procedures  
Committee, *Alternating Chair*

January 30, 2024

The Honorable Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice  
408 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399

## **Re: SB 1036 Reclassification of Criminal Penalties**

Chair Bradley,

SB 1036 has been referred to the Appropriations Committee on Criminal and Civil Justice as its second committee of reference. I respectfully request that it be placed on the agenda at your earliest convenience.

If I may answer questions or be of assistance, please do not hesitate to contact me. Thank you for your leadership and consideration.

Regards,

A handwritten signature in blue ink, appearing to read "Blaise Ingoglia", with a stylized flourish extending to the right.

Blaise Ingoglia  
State Senator, District 11

Cc: Marti Harkness, Staff Director, Rebecca Henderson, Committee Administration Assistant



February 13, 2024

Meeting Date

Criminal & Civil Justice Approps

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

SB 1036 Reclassification Criminal Penalties

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jonathan Webber

Phone 954-593-4449

Address 400 Washington Ave

Email jonathan.webber@splcactionfund.org

Street

Montgomery

AL

36104

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

SPLC Action Fund

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

By the Committee on Criminal Justice; and Senator Ingoglia

591-02642-24

20241036c1

A bill to be entitled

An act relating to reclassification of criminal penalties; creating s. 775.0848, F.S.; defining the term "removal"; requiring reclassification of the penalty for the commission of a new felony committed by a person who unlawfully reenters the United States, and while remaining unlawfully present, after having been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal was outstanding; creating s. 908.12, F.S.; defining the term "transnational crime organization"; authorizing reclassification of the penalty for any misdemeanor or felony offense if the commission of such offense was for specified purposes; providing an effective date.

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

Section 1. Section 775.0848, Florida Statutes, is created to read:

775.0848 Commission of a felony after unlawful reentry into the United States; reclassification.-

(1) As used in this section, the term "removal" includes any agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

(2) A person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or has departed the United States while

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

591-02642-24

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such an order of deportation or removal is outstanding, shall have the penalty for committing a new felony after unlawfully reentering the United States, and while remaining unlawfully present, reclassified in the following manner:

(a) A felony of the third degree is reclassified to a felony of the second degree.

(b) A felony of the second degree is reclassified to a felony of the first degree.

(c) A felony of the first degree is reclassified to a life felony.

Section 2. Section 908.12, Florida Statutes, is created to read:

908.12 Transnational crime organizations; reclassification.-

(1) As used in this section, the term "transnational crime organization" means an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

(2) The penalty for any misdemeanor or felony may be reclassified if the commission of such misdemeanor or felony was for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization. The reclassification is as follows:

(a) A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.

(b) A misdemeanor of the first degree is reclassified to a felony of the third degree.

(c) A felony of the third degree is reclassified to a felony of the second degree.

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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59       (d) A felony of the second degree is reclassified to a  
60 felony of the first degree.

61       (e) A felony of the first degree is reclassified to a life  
62 felony.

63       Section 3. This act shall take effect October 1, 2024.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: CS/SB 1036

INTRODUCER: Criminal Justice Committee and Senator Ingoglia

SUBJECT: Reclassification of Criminal Penalties

DATE: February 12, 2024

REVISED: 2/14/24

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Favorable</u>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1036 creates s. 775.0848, F.S., reclassifying felony offenses to the next higher level in cases:

- Where a person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal is outstanding; and
- That person has unlawfully reentered the United States and while remaining unlawfully present has committed a new felony.

The term “removal” includes any agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

The bill also creates s. 908.12, F.S., providing similar reclassifications of criminal offenses applicable to a defendant who is convicted of committing a crime for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization.

“Transnational crime organization” is defined as an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

The bill may have a positive insignificant prison bed impact. See Section V, Fiscal Impact Statement.

The bill becomes effective October 1, 2024.

## II. Present Situation:

Recently, the Statewide Grand Jury recommended increases in criminal sentences for:

- Aliens who have been removed from the State, unlawfully reentered, and subsequently committed a new criminal offense;<sup>1</sup> and
- Persons who are proven to be a member of a transnational crime organization and who have committed a related felony offense.<sup>2</sup>

### Federal Law-Unlawful Reentry

Reentry to the United States by aliens<sup>3</sup> who have been removed from the U.S. is addressed in 8 U.S.C.A. 1326 as follows:

- Any alien who has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter
  - Enters, attempts to enter, or is at any time found in, the United States...shall be fined under Title 18, or imprisoned not more than 2 years, or both.
- Any alien whose removal was subsequent to a conviction for the commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony<sup>4</sup>), such alien shall be fined under Title 18, imprisoned not more than 10 years, or both.
- Any alien whose removal was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

The term “removal” includes any agreement in which an alien stipulates to removal during (or not during) a criminal trial under either Federal or State law.<sup>5</sup> The U.S. Department of Homeland Security reports that in Fiscal Year 2022, 79,395 convicted criminals were removed from the United States.<sup>6</sup>

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<sup>1</sup> Generally, under federal law any alien who has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States, shall be fined or imprisoned, or both. 8 U.S.C.A. s. 1326.

<sup>2</sup> Case No. SC 22-796, Florida Supreme Court, Fifth Presentment of the Twenty-First Statewide Grand Jury, November 17, 2023.

<sup>3</sup> The term “alien” means any person not a citizen or national of the United States. 8 U.S.C.A. 1101(a)(3).

<sup>4</sup> “Aggravated felony” is defined in 8 U.S.C.A. 1101(a)(43)(A)-(U). The term applies to a felony offense, whether in violation of Federal or State law, and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years. 8 U.S.C.A.1101(a).

<sup>5</sup> 8 U.S.C.A. 1326(b).

<sup>6</sup> 2022 *Yearbook of Immigration Statistics*, U.S. Department of Homeland Security, Office of Homeland Security Statistics, 2023, available at [https://www.dhs.gov/sites/default/files/2023-11/2023\\_0818\\_pley\\_yearbook\\_immigration\\_statistics\\_fy2022.pdf](https://www.dhs.gov/sites/default/files/2023-11/2023_0818_pley_yearbook_immigration_statistics_fy2022.pdf) (last visited January 21, 2024).

## Transnational Crime Organization

A “transnational crime organization” has been defined as an organization that routinely facilitates the international trafficking of drugs, humans, or weapons, or the international smuggling of humans.<sup>7</sup>

These organizations make money by smuggling humans from place to place, often across the borders of other countries. It can be a lucrative business. For example, a 2010 report by the United Nations Office on Drug Crime estimated that the smuggling of persons from Latin America to the United States generated approximately \$6.6 billion annually in illicit proceeds for human smuggling networks.<sup>8</sup> A report by the Homeland Security Operational Analysis Center<sup>9</sup> estimates that the smuggling of unlawful migrants from Guatemala, Honduras, and El Salvador generated between \$200 million and \$2.3 billion for human smugglers in 2017, however a lack of reliable data contributes to substantial uncertainty in both estimates.<sup>10</sup>

The U.S. Department of Homeland Security (DHS) reports:

- U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations referred information in dozens of cases to Homeland Security Investigations (HSI), resulting in the arrest of human traffickers and identification of trafficking victims. HSI initiated 1,373 criminal investigations related to sex trafficking and forced labor, leading to 3,655 arrests and 638 convictions.<sup>11</sup>
- In December, 2023, following an investigation by HSI, the Department of the Treasury’s Office of Foreign Assets Control (OFAC) sanctioned the Malas Mañas transnational criminal organization, a human smuggling and narcotics trafficking organization based in Sonora, Mexico, along with two individuals in its support network.<sup>12</sup>
- In August, 2023, the DHS and its federal partners, including the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), announced the results of increased enforcement efforts to stem the trafficking of firearms from the United States into Mexico for use by

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<sup>7</sup> Although, as the Statewide Grand Jury presentment explains, these organizations may also be involved in financial crimes, firearm and weapon smuggling, and a diverse list of criminal activity. Case No. SC 22-796, Florida Supreme Court, Fifth Presentment of the Twenty-First Statewide Grand Jury, November 17, 2023. *See also* Another “Se Busca Información” criminal target arrested; U.S. Customs and Border Protection, *News Release*, January 2, 2024, available at <https://www.cbp.gov/newsroom/local-media-release/another-se-busca-informacion-criminal-target-arrested> (last visited January 17, 2024).

<sup>8</sup> The United Nations Office on Drugs and Crime, *The Globalization of Crime: A Transnational Organized Crime Threat Assessment* available at [https://www.unodc.org/documents/data-and-analysis/tocta/TOCTA\\_Report\\_2010\\_low\\_res.pdf](https://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf) (last visited January 13, 2024).

<sup>9</sup> Operated by the RAND Corporation on behalf of the U.S. Department of Homeland Security.

<sup>10</sup> RAND Corporation News Release, *Human Smuggling Via Central America Generates Hundreds of Millions of Dollars, but Transnational Criminal Groups May Not Be Main Culprits*, April 22, 2019, available at <https://www.rand.org/news/press/2019/04/22.html> (last visited January 17, 2024).

<sup>11</sup> U.S. Department of Homeland Security, *DHS Center for Countering Human Trafficking Releases FY 2022 Annual Report*, January 31, 2023, available at <https://www.dhs.gov/news/2023/01/31/dhs-center-countering-human-trafficking-releases-fy-2022-annual-report> (last visited January 19, 2024).

<sup>12</sup> U.S. Department of Homeland Security, *Following DHS Investigation, Treasury Sanctions Human Smuggling and Drug Trafficking Organization Operating on Southwest Border*, Press Release, December 14, 2023, available at <https://www.dhs.gov/news/2023/12/14/following-dhs-investigation-treasury-sanctions-human-smuggling-and-drug-trafficking> (last visited January 20, 2024).

transnational criminal organizations.<sup>13</sup> The DHS has seized over twice as many firearms in Fiscal Year 2023 than it did in Fiscal Year 2022.<sup>14</sup>

### Reclassification of Criminal Offenses and Enhancement of Penalties

Reclassification occurs when the Legislature *increases the degree of a conviction*. The reclassification attaches at the time the charges are filed.<sup>15</sup> Reclassification of a criminal conviction from one degree to a higher degree stems from an express and explicit grant of statutory authority.<sup>16</sup>

An example of a reclassification statute is s. 775.0863, F.S., Evidencing prejudice while committing offense against person with mental or physical disability; reclassification. The statute states in part:

- The penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if the commission of such felony or misdemeanor evidences prejudice based on a mental or physical disability of the victim:
  - A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.<sup>17</sup>
  - A misdemeanor of the first degree is reclassified to a felony of the third degree.<sup>18</sup>
  - A felony of the third degree is reclassified to a felony of the second degree.<sup>19</sup>
  - A felony of the second degree is reclassified to a felony of the first degree.<sup>20</sup>
  - A felony of the first degree is reclassified to a life felony.<sup>21</sup>

Penalty enhancements refer to the authority of a judge to impose a *more severe sentence* for a convicted offense when certain factual findings are made.<sup>22</sup>

<sup>13</sup> U.S. Department of Homeland Security, Press Release, September 1, 2023, *DHS Announces Results of Coordinated Enforcement to Interdict Southbound Firearms “Operation Without a Trace,”* available at <https://www.dhs.gov/news/2023/09/01/dhs-announces-results-coordinated-enforcement-interdict-southbound-firearms> (last visited January 20, 2024).

<sup>14</sup> *Id.*

<sup>15</sup> *Cooper v. State*, 455 So.2d 588 (Fla. 1st DCA 1984); *Jackson v. State*, 515 So.2d 394 (Fla. 1st DCA 1987).

<sup>16</sup> *Cf. Spicer v. State*, 615 So.2d 725, 726 (Fla. 2d DCA 1993) (reversing reclassification of robbery with a mask conviction because “[p]enal statutes must be construed in terms of their literal meaning .... [I]f the legislature had intended section 775.0845 [Florida Statutes (1989)] to reclassify offenses, it would have so stated ....”).

<sup>17</sup> A second degree misdemeanor is punishable by up to 60 days in the county jail and a \$500 fine. A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. (Sections 775.082 and 775.083, F.S.).

<sup>18</sup> A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. (Sections 775.082 and 775.083, F.S.).

<sup>19</sup> A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

<sup>20</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. A first degree felony is punishable by up to 30 years to life imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

<sup>21</sup> A first degree felony is punishable by up to 30 years or when specifically provided by statute, life imprisonment, and a \$10,000 fine. A life felony is punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment. (Sections 775.082 and 775.083, F.S.).

<sup>22</sup> *Cooper v. State*, 455 So.2d 588 (Fla. 1st DCA 1984); *Jackson v. State*, 515 So.2d 394 (Fla. 1st DCA 1987).

A good example of a penalty enhancement statute is the habitual felony offender law found in s. 775.084(1)(a), F.S. “Habitual felony offender” means a defendant for whom the court may impose an extended term of imprisonment if it finds that:

- The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses.
- The felony for which the defendant is to be sentenced was committed:
  - While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for a felony or other qualified offense; or
  - Within 5 years of the date of the conviction of the defendant’s last prior felony or other qualified offense, or within 5 years of the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later.
- The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13, F.S., relating to the purchase or the possession of a controlled substance.
- The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this law.
- A conviction of a felony or other qualified offense necessary to the operation of this law has not been set aside in any postconviction proceeding.

In a separate proceeding, if the court finds that the defendant meets the criteria for imposing such sanction, the court must sentence the defendant as a habitual felony offender unless the court finds that it is not necessary for the protection of the public. The court may sentence the habitual felony offender as follows:

- In the case of a life felony or a felony of the first degree, for life.
- In the case of a felony of the second degree, for a term of years not exceeding 30.
- In the case of a felony of the third degree, for a term of years not exceeding 10.<sup>23</sup>

### **III. Effect of Proposed Changes:**

The bill creates two new sections of law relating to the reclassification of criminal penalties under certain circumstances.

The bill creates s. 775.0848, F.S., which provides that a person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal is outstanding, and has unlawfully reentered the United States and while remaining unlawfully present has committed a new felony, must have the penalty for committing the new felony reclassified as follows:

---

<sup>23</sup> Sections 775.084(1)(a), (3)(a), and (4)(a), F.S.



- A felony of the third degree is reclassified to a felony of the second degree.<sup>24</sup>
- A felony of the second degree is reclassified to a felony of the first degree.<sup>25</sup>
- A felony of the first degree is reclassified to a life felony.<sup>26</sup>

The term “removal” includes any agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

The bill also creates s. 908.12, F.S., providing similar reclassifications of criminal penalties applicable to a defendant who is convicted of committing a crime for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization. The penalty for any misdemeanor or felony may be reclassified as follows:

- A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.<sup>27</sup>
- A misdemeanor of the first degree is reclassified to a felony of the third degree.<sup>28</sup>
- A felony of the third degree is reclassified to a felony of the second degree.<sup>29</sup>
- A felony of the second degree is reclassified to a felony of the first degree.<sup>30</sup>
- A felony of the first degree is reclassified to a life felony.<sup>31</sup>

“Transnational crime organization” is defined as an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

The bill becomes effective October 1, 2024.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

<sup>24</sup>A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

<sup>25</sup>A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. A first degree felony is punishable by up to 30 years to life imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

<sup>26</sup> A first degree felony is punishable by up to 30 years or when specifically provided by statute, life imprisonment, and a \$10,000 fine. A life felony is punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment. (Sections 775.082 and 775.083, F.S.).

<sup>27</sup> A second degree misdemeanor is punishable by up to 60 days in the county jail and a \$500 fine. A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. (Sections 775.082 and 775.083, F.S.).

<sup>28</sup> A first degree misdemeanor is punishable by up to 1 year in the county jail and a \$1,000 fine. A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. (Sections 775.082 and 775.083, F.S.).

<sup>29</sup> A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

<sup>30</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. A first degree felony is punishable by up to 30 years to life imprisonment and a \$10,000 fine. (Sections 775.082 and 775.083, F.S.).

<sup>31</sup> A first degree felony is punishable by up to 30 years or when specifically provided by statute, life imprisonment, and a \$10,000 fine. A life felony is punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment. (Sections 775.082 and 775.083, F.S.).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined the bill may have a positive insignificant prison bed impact (an increase of 10 or fewer prison beds).<sup>32</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 775.0848 and 908.12.

**IX. Additional Information:**

- A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on January 30, 2024:**

The committee substitute:

---

<sup>32</sup> Office of Economic and Demographic Research, SB 1036,  
<http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB1036.pdf>

- Expands the definition of the term “removal” by replacing “removal means” with “removal includes,” in order not to limit or eliminate other meanings of the term in federal immigration law.
- Removes language in order to clarify the intent of the bill to *reclassify* the penalty, rather than *enhance* it, for a crime committed for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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2/13/2024

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1154

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Frank Russo

Phone 678-708-6777

Address 1199 N Fairfax Street #500

Email frusso@conservative.org

Street

Alexandria

City

VA

State

22314

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1154

Bill Number or Topic

2/13/24

Meeting Date

SCJ Approps

Committee

Amendment Barcode (if applicable)

Name Michele Combs

Phone 202-549-6257

Address CHRISTIAN COALITION OF FLORIDA

Street

1333 Cassville Lane Winter Park, FL 32769

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

SB 1154

7/13/24  
Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

SC Approps  
Committee

Amendment Barcode (if applicable)

Name Katie Bonnett ("Bow-Net") Phone 850.339.9599

Address 2273 Seminole DR Email kbonnett@stateandjust.org

Tallah, FL 32302  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Alliance for Safety & Justice

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

By the Committee on Criminal Justice; and Senator Simon

591-02983-24

20241154c1

1 A bill to be entitled  
 2 An act relating to probation and community control  
 3 violations; amending s. 921.0024, F.S.; revising the  
 4 sentencing score sheet to reflect the absence of  
 5 community sanction points assessed in certain  
 6 circumstances; amending s. 948.06, F.S.; revising  
 7 sanctions for probation violations; providing for  
 8 hearings within a specified time period for low-risk  
 9 probation or community control violations; providing  
 10 for the release of offenders in certain circumstances  
 11 if a hearing is not held; providing for nonmonetary  
 12 conditions of release; making technical changes;  
 13 providing an effective date.  
 14  
 15 Be It Enacted by the Legislature of the State of Florida:  
 16  
 17 Section 1. Paragraph (b) of subsection (1) of section  
 18 921.0024, Florida Statutes, is amended to read:  
 19 921.0024 Criminal Punishment Code; worksheet computations;  
 20 scoresheets.—  
 21 (1)  
 22 (b) WORKSHEET KEY:  
 23 Legal status points are assessed when any form of legal status  
 24 existed at the time the offender committed an offense before the  
 25 court for sentencing. Four (4) sentence points are assessed for  
 26 an offender's legal status.  
 27  
 28 Community sanction violation points are assessed when a  
 29 community sanction violation is before the court for sentencing.

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30 Six (6) sentence points are assessed for each community sanction  
 31 violation and each successive community sanction violation,  
 32 unless any of the following apply:  
 33 1. If the community sanction violation includes a new  
 34 felony conviction before the sentencing court, twelve (12)  
 35 community sanction violation points are assessed for the  
 36 violation, and for each successive community sanction violation  
 37 involving a new felony conviction.  
 38 2. If the community sanction violation is committed by a  
 39 violent felony offender of special concern as defined in s.  
 40 948.06:  
 41 a. Twelve (12) community sanction violation points are  
 42 assessed for the violation and for each successive violation of  
 43 felony probation or community control where:  
 44 I. The violation does not include a new felony conviction;  
 45 and  
 46 II. The community sanction violation is not based solely on  
 47 the probationer or offender's failure to pay costs or fines or  
 48 make restitution payments.  
 49 b. Twenty-four (24) community sanction violation points are  
 50 assessed for the violation and for each successive violation of  
 51 felony probation or community control where the violation  
 52 includes a new felony conviction.  
 53  
 54 Multiple counts of community sanction violations before the  
 55 sentencing court shall not be a basis for multiplying the  
 56 assessment of community sanction violation points.  
 57  
 58 If the community sanction violation is resolved through the

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59 alternative sanctioning program under s. 948.06(9), no points  
 60 are assessed. If a community sanction violation not resolved  
 61 through the alternative sanctioning program is before the court,  
 62 no points are assessed for prior violations that were resolved  
 63 through the alternative sanctioning program.

64  
 65 Prior serious felony points: If the offender has a primary  
 66 offense or any additional offense ranked in level 8, level 9, or  
 67 level 10, and one or more prior serious felonies, a single  
 68 assessment of thirty (30) points shall be added. For purposes of  
 69 this section, a prior serious felony is an offense in the  
 70 offender's prior record that is ranked in level 8, level 9, or  
 71 level 10 under s. 921.0022 or s. 921.0023 and for which the  
 72 offender is serving a sentence of confinement, supervision, or  
 73 other sanction or for which the offender's date of release from  
 74 confinement, supervision, or other sanction, whichever is later,  
 75 is within 3 years before the date the primary offense or any  
 76 additional offense was committed.

77  
 78 Prior capital felony points: If the offender has one or more  
 79 prior capital felonies in the offender's criminal record, points  
 80 shall be added to the subtotal sentence points of the offender  
 81 equal to twice the number of points the offender receives for  
 82 the primary offense and any additional offense. A prior capital  
 83 felony in the offender's criminal record is a previous capital  
 84 felony offense for which the offender has entered a plea of nolo  
 85 contendere or guilty or has been found guilty; or a felony in  
 86 another jurisdiction which is a capital felony in that  
 87 jurisdiction, or would be a capital felony if the offense were

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88 committed in this state.

89  
 90 Possession of a firearm, semiautomatic firearm, or machine gun:  
 91 If the offender is convicted of committing or attempting to  
 92 commit any felony other than those enumerated in s. 775.087(2)  
 93 while having in his or her possession: a firearm as defined in  
 94 s. 790.001, an additional eighteen (18) sentence points are  
 95 assessed; or if the offender is convicted of committing or  
 96 attempting to commit any felony other than those enumerated in  
 97 s. 775.087(3) while having in his or her possession a  
 98 semiautomatic firearm as defined in s. 775.087(3) or a machine  
 99 gun as defined in s. 790.001, an additional twenty-five (25)  
 100 sentence points are assessed.

101 Sentencing multipliers:

102  
 103  
 104 Drug trafficking: If the primary offense is drug trafficking  
 105 under s. 893.135, the subtotal sentence points are multiplied,  
 106 at the discretion of the court, for a level 7 or level 8  
 107 offense, by 1.5. The state attorney may move the sentencing  
 108 court to reduce or suspend the sentence of a person convicted of  
 109 a level 7 or level 8 offense, if the offender provides  
 110 substantial assistance as described in s. 893.135(4).

111  
 112 Violent offenses committed against specified justice system  
 113 personnel: If the primary offense is a violation of s.  
 114 775.0823(2), (3), or (4), the subtotal sentence points are  
 115 multiplied by 2.5. If the primary offense is a violation of s.  
 116 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points

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117 are multiplied by 2.0. If the primary offense is a violation of  
 118 s. 784.07(3) or s. 775.0875(1), or s. 775.0823(10) or (11), the  
 119 subtotal sentence points are multiplied by 1.5.

121 Grand theft of a motor vehicle: If the primary offense is grand  
 122 theft of the third degree involving a motor vehicle and in the  
 123 offender's prior record, there are three or more grand thefts of  
 124 the third degree involving a motor vehicle, the subtotal  
 125 sentence points are multiplied by 1.5.

127 Offense related to a criminal gang: If the offender is convicted  
 128 of the primary offense and committed that offense for the  
 129 purpose of benefiting, promoting, or furthering the interests of  
 130 a criminal gang as defined in s. 874.03, the subtotal sentence  
 131 points are multiplied by 1.5. If applying the multiplier results  
 132 in the lowest permissible sentence exceeding the statutory  
 133 maximum sentence for the primary offense under chapter 775, the  
 134 court may not apply the multiplier and must sentence the  
 135 defendant to the statutory maximum sentence.

137 Domestic violence in the presence of a child: If the offender is  
 138 convicted of the primary offense and the primary offense is a  
 139 crime of domestic violence, as defined in s. 741.28, which was  
 140 committed in the presence of a child under 16 years of age who  
 141 is a family or household member as defined in s. 741.28(3) with  
 142 the victim or perpetrator, the subtotal sentence points are  
 143 multiplied by 1.5.

145 Adult-on-minor sex offense: If the offender was 18 years of age

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146 or older and the victim was younger than 18 years of age at the  
 147 time the offender committed the primary offense, and if the  
 148 primary offense was an offense committed on or after October 1,  
 149 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the  
 150 violation involved a victim who was a minor and, in the course  
 151 of committing that violation, the defendant committed a sexual  
 152 battery under chapter 794 or a lewd act under s. 800.04 or s.  
 153 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
 154 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
 155 800.04; or s. 847.0135(5), the subtotal sentence points are  
 156 multiplied by 2.0. If applying the multiplier results in the  
 157 lowest permissible sentence exceeding the statutory maximum  
 158 sentence for the primary offense under chapter 775, the court  
 159 may not apply the multiplier and must sentence the defendant to  
 160 the statutory maximum sentence.

161 Section 2. Paragraph (f) of subsection (2) and subsection  
 162 (4) of section 948.06, Florida Statutes, are amended to read:  
 163 948.06 Violation of probation or community control;  
 164 revocation; modification; continuance; failure to pay  
 165 restitution or cost of supervision.—

166 (2)  
 167 (f)1. Except as provided in subparagraph 3. or upon waiver  
 168 by the probationer, the court shall modify or continue a  
 169 probationary term upon finding a probationer in violation when  
 170 all of the following apply:

- 171 a. The term of supervision is probation.  
 172 b. The probationer does not qualify as a violent felony  
 173 offender of special concern, as defined in paragraph (8)(b).  
 174 c. The violation is a low-risk technical violation, as

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175 defined in paragraph (9) (b).

176 d. The court has not, on two or more separate occasions,  
 177 previously found the probationer in violation of his or her  
 178 probation pursuant to a filed violation of probation affidavit  
 179 during the current term of supervision. A probationer who has  
 180 successfully completed sanctions through the alternative  
 181 sanctioning program is eligible for mandatory modification or  
 182 continuation of his or her probation.

183 2. Upon modifying probation under subparagraph 1., the  
 184 court may include in the sentence a maximum of 90 days in county  
 185 jail as a special condition of probation. If the court has  
 186 previously found the probationer in violation of his or her  
 187 probation and modified probation with up to 90 days in county  
 188 jail as a special condition of probation, it may, upon  
 189 modification of probation under subparagraph 1., include in the  
 190 sentence a maximum of 120 days in county jail as a special  
 191 condition of probation.

192 3. Notwithstanding s. 921.0024, if a probationer meets the  
 193 criteria for mandatory modification in subparagraph 1. but has  
 194 less time on supervision remaining than the number of days in  
 195 jail authorized in subparagraph 2. than 90 days of supervision  
 196 remaining on his or her term of probation and meets the criteria  
 197 for mandatory modification or continuation in subparagraph 1.,  
 198 the court may revoke probation and sentence the probationer to a  
 199 maximum of 90 or 120 days in county jail as provided in  
 200 subparagraph 2.

201 4. For purposes of imposing a jail sentence under this  
 202 paragraph only, the court may grant credit only for time served  
 203 in the county jail since the probationer's most recent arrest

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204 for the violation. However, the court may not order the  
 205 probationer to a total term of incarceration greater than the  
 206 maximum provided by s. 775.082.

207 (4) Notwithstanding any other provision of this section, a  
 208 felony probationer or an offender in community control who is  
 209 arrested for violating his or her probation or community control  
 210 in a material respect may be taken before the court in the  
 211 county or circuit in which the probationer or offender was  
 212 arrested. That court shall advise him or her of the charge of a  
 213 violation and, if such charge is admitted, shall cause him or  
 214 her to be brought before the court that granted the probation or  
 215 community control. If the violation is not admitted by the  
 216 probationer or offender, the court may commit him or her or  
 217 release him or her with or without bail to await further  
 218 hearing. However, if the probationer or offender is under  
 219 supervision for any criminal offense proscribed in chapter 794,  
 220 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a  
 221 registered sexual predator or a registered sexual offender, or  
 222 is under supervision for a criminal offense for which he or she  
 223 would meet the registration criteria in s. 775.21, s. 943.0435,  
 224 or s. 944.607 but for the effective date of those sections, the  
 225 court must make a finding that the probationer or offender is  
 226 not a danger to the public prior to release with or without  
 227 bail. In determining the danger posed by the offender's or  
 228 probationer's release, the court may consider the nature and  
 229 circumstances of the violation and any new offenses charged; the  
 230 offender's or probationer's past and present conduct, including  
 231 convictions of crimes; any record of arrests without conviction  
 232 for crimes involving violence or sexual crimes; any other

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233 evidence of allegations of unlawful sexual conduct or the use of  
 234 violence by the offender or probationer; the offender's or  
 235 probationer's family ties, length of residence in the community,  
 236 employment history, and mental condition; his or her history and  
 237 conduct during the probation or community control supervision  
 238 from which the violation arises and any other previous  
 239 supervisions, including disciplinary records of previous  
 240 incarcerations; the likelihood that the offender or probationer  
 241 will engage again in a criminal course of conduct; the weight of  
 242 the evidence against the offender or probationer; and any other  
 243 facts the court considers relevant. The court, as soon as is  
 244 practicable, shall give the probationer or offender an  
 245 opportunity to be fully heard on his or her behalf in person or  
 246 by counsel. If the alleged violation is a low-risk violation, as  
 247 defined in paragraph (9)(b), the court shall, within 30 days  
 248 after the probationer's or offender's arrest, give the  
 249 probationer or offender an opportunity to be fully heard on his  
 250 or her behalf in person or by counsel. If a hearing is not held  
 251 within 30 days after such arrest, the court must release the  
 252 probationer or offender without bail unless the court finds that  
 253 a hearing was not held in the applicable timeframe due to  
 254 circumstances attributable to the probationer or offender. If  
 255 the probationer or offender is released, the court may impose  
 256 nonmonetary conditions of release. After the hearing, the court  
 257 shall make findings of fact and forward the findings to the  
 258 court that granted the probation or community control and to the  
 259 probationer or offender or his or her attorney. The findings of  
 260 fact by the hearing court are binding on the court that granted  
 261 the probation or community control. Upon the probationer or

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262 offender being brought before it, the court that granted the  
 263 probation or community control may revoke, modify, or continue  
 264 the probation or community control or may place the probationer  
 265 into community control as provided in this section. However, the  
 266 probationer or offender shall not be released and shall not be  
 267 admitted to bail, but shall be brought before the court that  
 268 granted the probation or community control if any violation of  
 269 felony probation or community control other than a failure to  
 270 pay costs or fines or make restitution payments is alleged to  
 271 have been committed by:

272 (a) A violent felony offender of special concern, as  
 273 defined in this section;

274 (b) A person who is on felony probation or community  
 275 control for any offense committed on or after March 12, 2007,  
 276 ~~the effective date of this act~~ and who is arrested for a  
 277 qualifying offense as defined in this section; or

278 (c) A person who is on felony probation or community  
 279 control and has previously been found by a court to be a  
 280 habitual violent felony offender as defined in s. 775.084(1)(b),  
 281 a three-time violent felony offender as defined in s.  
 282 775.084(1)(c), or a sexual predator under s. 775.21, and who is  
 283 arrested for committing a qualifying offense as defined in this  
 284 section on or after March 12, 2007 ~~the effective date of this~~  
 285 ~~act.~~

286 Section 3. This act shall take effect July 1, 2024.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

---

BILL: CS/SB 1154

INTRODUCER: Criminal Justice Committee and Senator Simon

SUBJECT: Probation and Community Control Violations

DATE: February 12, 2024      REVISED: 2/14/24

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1154 amends s. 948.06, F.S., to revise provisions related to probation and the Alternative Sanctioning Program (ASP). The bill requires a court to modify or continue, rather than revoke probation, if a probationer meets specified criteria. The bill includes as part of that criteria that the probationer has not been found in violation on two or more separate occasions. A court may modify probation and include up to 90 days jail for a first violation and up to 120 days for a second violation, as a condition of probation.

If the violation is a low risk violation, the court must hold a hearing on a violation of probation within 30 days after arrest or after counsel appears for the probationer or offender, whichever occurs later. If the hearing is not held within 30 days, the court must release the probationer or offender without bail unless the court determines that the hearing was not held in the applicable time frame due to circumstances attributable to the probationer or offender. The court may impose nonmonetary conditions of release.

The bill amends s. 921.0024, F.S., to provide that if a community sanction violation is committed by a felony offender and such community sanction violation is resolved through the alternative sanctioning program, no points are assessed. If a community sanction violation that has not been resolved through the alternative sanctioning program is before the court, no points are assessed for prior violations that were resolved through the alternative sanctioning program.

The bill may have a negative indeterminate prison bed impact (i.e., reduced demand on prison bed capacity). See Section V., Fiscal Impact Statement.

The bill provides an effective date of July 1, 2024.

## II. Present Situation:

### Probation and Community Control

Probation is a form of community supervision requiring specified contacts with a probation officer and other terms and conditions.<sup>1</sup> Community control is a more intensive form of supervision involving an individualized program that restricts the offender's movement within the community, home, or residential placement.<sup>2</sup>

Several standard conditions of probation or community control apply automatically, including requirements to report to a probation officer as directed and to live without violating any law.<sup>3</sup> The court may also impose special conditions, such as community service hours, regular drug or alcohol testing, no contact orders, and treatment programs.<sup>4</sup> Failure to meet any condition of supervision is a violation of probation or community control (VOP).

Generally, upon a finding that an offender violated probation or community control, the court may revoke, modify, or continue supervision.<sup>5</sup> If the court revokes supervision, it may impose any sentence that was permissible at the offender's initial sentencing.<sup>6</sup>

If a violent felony offender of special concern (VFOSC)<sup>7</sup> commits a VOP and the court finds the VFOSC poses a danger to the community, the court must revoke probation and sentence the offender up to the statutory maximum, or longer if permitted by law.<sup>8</sup>

When a person is arrested for committing a crime, he or she is generally entitled to pretrial release on reasonable conditions under the Florida Constitution.<sup>9</sup> However, a person taken into custody for a VOP does not have a constitutional right to release pending the disposition of the VOP.<sup>10</sup> If the offender qualifies as a VFOSC, the court is prohibited from granting pretrial release.<sup>11</sup>

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<sup>1</sup> Section 948.001(8), F.S.

<sup>2</sup> Section 948.001(3), F.S.

<sup>3</sup> Section 948.03(1), F.S.

<sup>4</sup> Section 948.03(2), F.S.

<sup>5</sup> Section 948.06(2)(a), F.S.

<sup>6</sup> Section 948.06(2)(b), F.S.

<sup>7</sup> A VFOSC is an offender who commits a specified qualifying offense or is in a special status like habitual violent felony offender and meets other specified criteria. Examples of qualified offenses include murder, kidnapping, and sexual battery. For a complete list of criteria, see s. 948.06(8), F.S.

<sup>8</sup> Section 948.06(8)(e)2.a., F.S.

<sup>9</sup> Art. I, s. 14, Fla. Const. Exceptions include when a person is charged with a capital offense or offense punishable by life and the proof of guilt is evident or the presumption is great, or if no conditions can reasonably protect the community from risk of physical harm.

<sup>10</sup> *Bernhardt v. State*, 288 So. 2d 490, 497 (Fla. 1974).

<sup>11</sup> Section 903.0351(1)(a), F.S.

## Alternative Sanctioning Program

Section 948.06(9), F.S., requires each judicial circuit to establish an alternative sanctioning program (ASP) as provided in that subsection. The chief judge of each judicial circuit may, by administrative order, define additional sanctions or eligibility criteria and specify the process for reporting technical violations through the alternative sanctioning program. Any sanctions recommended for imposition through an alternative sanctions program must be submitted to the court by the probation officer for approval before imposing the sanction.<sup>12</sup>

If a probationer or offender on community control commits a technical violation, the probation officer must determine whether the probationer or offender on community control is eligible for the ASP. If the probation officer determines that the probationer or offender on community control is eligible, the probation officer may proceed with the ASP in lieu of filing an affidavit of violation with the court. For purposes of s. 948.06, F.S., the term “technical violation” means an alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense.<sup>13</sup>

The ASP identifies eligible offenders, eligible violations, and permissible sanctions. Eligible violations are classified as either low-risk or moderate-risk.

Low-risk violations only apply to probationers, not offenders on community control, and include:

- A positive drug or alcohol test result;
- Failure to report to the probation office;
- Failure to report a change in address or other required information;
- Failure to attend a required class, treatment or counseling session, or meeting;
- Failure to submit to a drug or alcohol test;
- Violation of curfew;
- Failure to meet a monthly quota for any required probation condition, including making restitution payments, paying court costs, and completing community service hours;
- Leaving the county without permission;
- Failure to report a change in employment;
- Associating with people engaged in criminal activity; or
- Any other violation as determined by administrative order of the chief judge of the circuit.<sup>14</sup>

Moderate-risk violations include:

- Any violation classified as low-risk when committed by an offender on community control;
- Failure to remain at an approved residence by an offender on community control;
- A third low-risk violation by a probationer; or
- Any other violation as determined by administrative order of the chief judge of the circuit.<sup>15</sup>

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<sup>12</sup> Section 948.06(9)(a), F.S.

<sup>13</sup> Section 948.06(1)(c), F.S.

<sup>14</sup> Section 948.06(9)(b), F.S.

<sup>15</sup> Section 948.06(9)(c), F.S.

Participation in an ASP is voluntary.<sup>16</sup> However, in no circumstance does participation in an ASP convert a withhold of adjudication into an adjudication of guilt.<sup>17</sup>

If a probationer or offender on community control is eligible for the ASP, he or she may:

- Waive participation in the program, in which case the probation officer may submit a violation report, affidavit, and warrant to the court; or
- Elect to participate in the ASP after receiving written notice of an alleged technical violation and disclosure of the evidence against him or her, and admit the technical violation, agree to comply with the probation officer's recommended sanction if subsequently ordered by the court, and agree to waive the right to:
  - Be represented by legal counsel.
  - Require the state to prove his or her guilt before a neutral and detached hearing body.
  - Subpoena witnesses and present to a judge evidence in his or her defense.
  - Confront and cross-examine adverse witnesses.
  - Receive a written statement from a judge as to the evidence relied on and the reasons for the sanction imposed.<sup>18</sup>

If the probationer or offender on community control admits to committing the technical violation and agrees with the probation officer's recommended sanction, the probation officer must, before imposing the sanction, submit the recommended sanction to the court with documentation reflecting the probationer's admission to the technical violation and agreement with the recommended sanction.<sup>19</sup>

The court may impose the recommended sanction or direct the department to submit a violation report, affidavit, and warrant to the court.<sup>20</sup>

If a probationer or offender on community control waives or discontinues participation in the program or fails to successfully complete all alternative sanctions within 90 days after imposition or within the timeframe specified in the agreed-upon sanction, the probation officer may submit a violation report, affidavit, and warrant to the court. A prior admission by the probationer or offender on community control to a technical violation may not be used as evidence in subsequent proceedings.<sup>21</sup>

The permissible sanctions correspond to the violation risk level. For example, a probation officer may impose sanctions such as additional community service hours, counseling or treatment, drug testing, or curfew in response to a low-risk violation.<sup>22</sup> In response to a moderate-risk violation, examples of additional sanctions include residential treatment or electronic monitoring for up to 90 days or a maximum jail sentence of up to 21 days.<sup>23</sup> Such responses are designed to be

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<sup>16</sup> Section 948.06(9)(g), F.S.

<sup>17</sup> Section 948.06(9)(e)9.b. and (f)7.b., F.S.

<sup>18</sup> Section 948.06(9)(h)1., F.S.

<sup>19</sup> Section 948.06(9)(h)2., F.S.

<sup>20</sup> Section 948.06(9)(i), F.S.

<sup>21</sup> Section 948.06(9)(j), F.S.

<sup>22</sup> Section 948.06(9)(e), F.S.

<sup>23</sup> Section 948.06(9)(f), F.S.

proportional to the severity of the technical violation and to directly respond to the nature of the technical violation.

Offenders are disqualified from alternative sanctioning under any of the following circumstances:

- The offender is a VFOSC;
- The violation is a felony, misdemeanor, or criminal traffic offense;
- The violation is absconding;
- The violation is of a stay-away order or no-contact order;
- The violation is not identified as low-risk or moderate-risk by statute or administrative order;
- The offender has a prior moderate-risk level violation during the same term of supervision;
- The offender has three prior low-risk level violations during the same term of supervision;
- The term of probation is scheduled to terminate in less than 90 days; or
- The terms of the sentence prohibit alternative sanctioning.<sup>24</sup>

### **Court Modification of Probation Order and Jail Term for Low-Risk Violation**

Section 948.06(2)(f), F.S., requires a court to modify probation and imposes a 90-day jail cap for specified probationers appearing before a court for committing a low-risk technical violation. Unless waived by a defendant, a court is required to modify or continue a probationary term, when all of the following apply:

- The term of supervision is probation, rather than community control.
- The probationer does not qualify as a violent felony offender of special concern.
- The violation is a low-risk technical violation.
- The court has not previously found the probationer in violation of probation during the current term of supervision.

If a probationer has less than 90 days of supervision remaining on his or her term of probation and meets the criteria for mandatory modification of probation, a court may revoke probation and sentence the probationer to 90 days in county jail.<sup>25</sup>

### **Criminal Punishment Code and Community Sanction Violation Points**

The Criminal Punishment Code<sup>26</sup> (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10).<sup>27</sup> Points are assigned and accrue based upon the severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates and points may also be added or multiplied for other enumerated factors. The lowest permissible sentence is when the total sentence points are equal to or less than 44 points is any non-state prison sanction, unless the court determines that a prison sentence is appropriate. If the total sentence points exceed 44 points, the lowest permissible sentence in prison months is

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<sup>24</sup> Section 948.06(9)(d), F.S.

<sup>25</sup> Section 948.06(2)(f)3., F.S.

<sup>26</sup> Sections 921.002-921.0027, F.S. *See* chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>27</sup> Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.



calculated by a specified formula.<sup>28</sup> Absent mitigation,<sup>29</sup> the permissible sentencing range under the Code is generally the lowest permissible sentence up to and including the maximum penalty provided under s. 775.082, F.S.<sup>30</sup>

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six sentence points are assessed for each community sanction violation and each successive community sanction violation, unless any of the following apply:

- If the community sanction violation includes a new felony conviction before the sentencing court, 12 community sanction violation points are assessed for the violation, and for each successive community sanction violation involving a new felony conviction.
- If the community sanction violation is committed by a VFOSC:
  - Twelve community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where:
    - The violation does not include a new felony conviction; and
    - The community sanction violation is not based solely on the probationer or offender's failure to pay costs or fines or make restitution payments.
  - Twenty-four community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where the violation includes a new felony conviction.<sup>31</sup>

Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.<sup>32</sup>

### III. Effect of Proposed Changes:

The bill amends s. 948.06, F.S., to revise provisions related to probation and the Alternative Sanctioning Program (ASP). The bill requires a court to modify or continue, rather than revoke probation, if a probationer meets specified criteria. The bill includes as part of that criteria that the probationer has not been found in violation on two or more separate occasions. A court may modify probation and include up to 90 days jail for a first violation and up to 120 days for a second violation, as a condition of probation.

If the violation is a low risk violation, the court must hold a hearing on a violation of probation within 30 days after arrest or after counsel appears for the probationer or offender, whichever occurs later. If the hearing is not held within 30 days, the court must release the probationer or offender without bail unless the court determines that the hearing was not held in the applicable time frame due to circumstances attributable to the probationer or offender. The court may impose nonmonetary conditions of release.

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<sup>28</sup> Section 921.0024, F.S., provides the formula is the total sentence points minus 28 times 0.75.

<sup>29</sup> The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

<sup>30</sup> If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

<sup>31</sup> Section 921.0024(1)(b), F.S.

<sup>32</sup> *Id.*

The bill amends s. 921.0024, F.S., to provide that if a community sanction violation is committed by a felony offender and such community sanction violation is resolved through the alternative sanctioning program, no points are assessed. If a community sanction violation that has not been resolved through the alternative sanctioning program is before the court, no points are assessed for prior violations that were resolved through the alternative sanctioning program.

The bill provides an effective date of July 1, 2024.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined the bill has a negative indeterminate impact on prison beds (unquantifiable decrease in prison beds) due to the possible increased use of alternative sanctions programs and the subsequent decrease in the number of technical violators sent to prison.<sup>33</sup>

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<sup>33</sup> Office of Economic and Demographic Research *SB 1154*,  
<http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB1154.pdf>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 921.0024 and 948.06.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on February 6, 2024:**

The committee substitute:

- Restructures and clarifies the intent of the language. Under the amendment if any community sanction violation is resolved through the alternative sanctioning program, no points are assessed.

- B. **Amendments:**

None.

2/13/2024

Meeting Date

Appropriations Committee c

Committee

Name Nick Mayor

Name

The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1220

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850-524-9659

Phone

Address 215 S Monroe St Ste 603

Address

Email nmayor@aarp.org

Email

Street

Tallahassee

FL

32310

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AARP Florida

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

By Senator Martin

33-01197B-24

20241220\_\_

1 A bill to be entitled  
 2 An act relating to schemes to defraud; amending s.  
 3 817.034, F.S.; revising the definition of the term  
 4 "scheme to defraud"; providing for the  
 5 reclassification of certain scheme-to-defraud offenses  
 6 committed against persons 65 years of age or older or  
 7 persons with certain disabilities; authorizing a  
 8 person whose image or likeness is used without his or  
 9 her consent in a scheme to defraud to file a civil  
 10 action for damages; making technical changes;  
 11 providing an effective date.  
 12  
 13 Be It Enacted by the Legislature of the State of Florida:  
 14  
 15 Section 1. Paragraph (d) of subsection (3) and subsection  
 16 (4) of section 817.034, Florida Statutes, are amended to read:  
 17 817.034 Florida Communications Fraud Act.—  
 18 (3) DEFINITIONS.—As used in this section, the term:  
 19 (d) "Scheme to defraud" means a systematic, ongoing course  
 20 of conduct with intent to defraud one or more persons, or with  
 21 intent to obtain property from one or more persons by false or  
 22 fraudulent pretenses, representations, endorsements of  
 23 nonconsenting parties, or promises or willful misrepresentations  
 24 of a future act.  
 25 (4) OFFENSES.—  
 26 (a) Any person who engages in a scheme to defraud and  
 27 obtains property thereby commits ~~is guilty of~~ organized fraud,  
 28 punishable as follows:  
 29 1. If the amount of property obtained has an aggregate

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 value of \$50,000 or more, the person commits ~~violate~~ ~~is guilty~~  
 31 ~~of~~ a felony of the first degree, punishable as provided in s.  
 32 775.082, s. 775.083, or s. 775.084.  
 33 2. If the amount of property obtained has an aggregate  
 34 value of \$20,000 or more, but less than \$50,000, the person  
 35 commits ~~violate~~ ~~is guilty of~~ a felony of the second degree,  
 36 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
 37 3. If the amount of property obtained has an aggregate  
 38 value of less than \$20,000, the person commits ~~violate~~ ~~is~~  
 39 ~~guilty of~~ a felony of the third degree, punishable as provided  
 40 in s. 775.082, s. 775.083, or s. 775.084.  
 41 (b) Any person who engages in a scheme to defraud and, in  
 42 furtherance of that scheme, communicates with any person with  
 43 the intent to obtain property from that person commits ~~is~~  
 44 ~~guilty~~, for each such act of communication, ~~of~~ communications  
 45 fraud, punishable as follows:  
 46 1. If the value of property obtained or endeavored to be  
 47 obtained by the communication is valued at \$300 or more, the  
 48 person commits ~~violate~~ ~~is guilty of~~ a third degree felony,  
 49 punishable as set forth in s. 775.082, s. 775.083, or s.  
 50 775.084.  
 51 2. If the value of the property obtained or endeavored to  
 52 be obtained by the communication is valued at less than \$300,  
 53 the person commits ~~violate~~ ~~is guilty of~~ a misdemeanor of the  
 54 first degree, punishable as set forth in s. 775.082 or s.  
 55 775.083.  
 56 (c) The penalty for committing an offense specified in  
 57 paragraph (a) or paragraph (b) against a person 65 years of age  
 58 or older or against a person with a mental or physical

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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20241220\_\_

59 disability as defined in s. 775.0863 shall be reclassified as  
60 follows:

61 1. A misdemeanor of the first degree is reclassified to a  
62 felony of the third degree.

63 2. A felony of the third degree is reclassified to a felony  
64 of the second degree.

65 3. A felony of the second degree is reclassified to a  
66 felony of the first degree.

67 4. A felony of the first degree is reclassified to a life  
68 felony.

69 (d) A person whose image or likeness is used without his or  
70 her consent in a scheme to defraud may file a civil action in a  
71 court of competent jurisdiction to recover damages caused by the  
72 use of his or her image or likeness.

73 (e) Notwithstanding any contrary provisions of law,  
74 separate judgments and sentences for organized fraud under  
75 paragraph (a) and for each offense of communications fraud under  
76 paragraph (b) may be imposed when all such offenses involve the  
77 same scheme to defraud.

78 (f) ~~(d)~~ Notwithstanding any other ~~provision of~~ law, a  
79 criminal action or civil action or proceeding under this section  
80 may be commenced at any time within 5 years after the cause of  
81 action accrues; however, in a criminal proceeding under this  
82 section, the period of limitation does not run during any time  
83 when the defendant is continuously absent from this ~~the~~ state or  
84 is without a reasonably ascertainable place of abode or work  
85 within this ~~the~~ state, but in no case shall this extend the  
86 period of limitation otherwise applicable by more than 1 year.

87 Section 2. This act shall take effect October 1, 2024.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: SB 1220

INTRODUCER: Senator Martin

SUBJECT: Schemes to Defraud

DATE: February 12, 2024

REVISED: 2/14/24

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	

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**I. Summary:**

SB 1220 amends s. 817.034, F.S., to reclassify the penalty for committing specified offenses of schemes to defraud against a person 65 years of age or older, or against a person with mental or physical disabilities.

- A first degree misdemeanor is reclassified to a third degree felony;
- A third degree felony is reclassified to a second degree felony;
- A second degree felony is reclassified to a first degree felony; and
- A first degree felony is reclassified to a life felony.

The bill adds “endorsements of nonconsenting parties” to the definition of “scheme to defraud.”

The bill provides that a person whose image or likeness is used without his or her consent in a scheme to defraud may file a civil action in a court of competent jurisdiction to recover damages caused by the use of his or her image or likeness.

The bill may have a positive indeterminate prison bed impact. See Section V., Fiscal Impact Statement.

The bill provides an effective date of October 1, 2024.

**II. Present Situation:**

Section 817.034(3)(d), F.S., defines “scheme to defraud” as a systematic, ongoing course of conduct with intent to defraud one or more persons, or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, or promises or willful misrepresentations of a future act.<sup>1</sup>

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<sup>1</sup> Section 817.034(3)(d), F.S.

Any person who engages in a scheme to defraud and obtains property thereby is guilty of organized fraud, punishable as follows:<sup>2</sup>

- Property obtained that has an aggregate value of \$50,000 or more, the violator is guilty of a first degree felony.
- Property obtained that has an aggregate value of \$20,000 or more, but less than \$50,000, the violator is guilty of a second degree felony.<sup>3</sup>
- Property obtained that has an aggregate value of less than \$20,000, the violator is guilty of a third degree felony.<sup>4</sup>

Any person who engages in a scheme to defraud and, in furtherance of that scheme, communicates with any person with intent to obtain property from that person is guilty, for each such act of communication, of communications fraud, punishable as follows:<sup>5</sup>

- If the value of property obtained or endeavored to be obtained by the communication is valued at \$300 or more, the violator is guilty of a third degree felony.
- If the value of the property obtained or endeavored to be obtained by the communication is valued at less than \$300, the violator is guilty of a first degree misdemeanor.<sup>6</sup>

Currently, there is no reclassification for scheme to defraud if the offense is against a person 65 years of age or older or against a person with a mental or physical disability.

### **Reclassification and Ranking**

Florida currently has various statutes that reclassify criminal offenses under specified circumstances. Generally, criminal laws provide for reclassification to the next highest degree. Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.<sup>7</sup>

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<sup>2</sup> Section 817.034(4)(a), F.S.

<sup>3</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>4</sup> A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

<sup>5</sup> Section 817.034(4)(b), F.S.

<sup>6</sup> A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year. Sections 775.082 and 775.083, F.S.

<sup>7</sup> Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.083, F.S., provides the following maximum fines; \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.



## Criminal Punishment Code

The Florida Criminal Punishment Code is a set of guidelines that judges use to determine the appropriate sentence for a criminal offense in Florida.<sup>8</sup> The Criminal Punishment Code<sup>9</sup> is Florida's primary sentencing policy. If the offense is not listed in the chart, then by default the ranking is based on the felony degree of the offense as explained in s 921.0023, F.S.<sup>10</sup>

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).<sup>11</sup> Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses.

The lowest permissible sentence is any non-state prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.<sup>12</sup> Absent mitigation,<sup>13</sup> the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.<sup>14</sup>

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<sup>8</sup> Florida Department of Corrections, *Florida Criminal Punishment Code Scoresheet Preparation Manual*, <https://fdc.myflorida.com/pub/scoresheet/Scoresheet%20Preparation%20Manual%202021.pdf> (Last visited January 17, 2024).

<sup>9</sup> Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>10</sup> Section 921.0023.

<sup>11</sup> Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

<sup>12</sup> Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

<sup>13</sup> The court may "mitigate" or "depart downward" from the scored lowest permissible sentence, if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

<sup>14</sup> If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

### III. Effect of Proposed Changes:

The bill amends s. 817.034, F.S., to reclassify the penalty for committing specified offenses of schemes to defraud against a person 65 years of age or older, or against a person with mental or physical disabilities.

- A first degree misdemeanor<sup>15</sup> is reclassified to a third degree felony;<sup>16</sup>
- A third degree felony is reclassified to a second degree felony;<sup>17</sup>
- A second degree felony is reclassified to a first degree felony; and
- A first degree felony is reclassified to a life felony.

The bill adds “endorsements of nonconsenting parties” to the definition of “scheme to defraud.”

The bill provides that a person whose image or likeness is used without his or her consent in a scheme to defraud may file a civil action in a court of competent jurisdiction to recover damages caused by the use of his or her image or likeness.

Technical changes have been made throughout the bill to streamline language, but do not change the meaning.

The bill provides an effective date of October 1, 2024.

### IV. Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

#### E. Other Constitutional Issues:

None identified.

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<sup>15</sup> A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year. Sections 775.082 and 775.083, F.S.

<sup>16</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>17</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined the bill may have a positive indeterminate impact on prison beds (unquantifiable increase in prison beds) due to reclassifying certain scheme to defraud offenses committed against persons 65 years of age or older or persons with certain disabilities.<sup>18</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 817.034 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>18</sup> Office of Economic and Demographic Research *SB 1220*,  
<http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/SB1220.pdf>



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Commerce and Tourism, *Chair*  
Appropriations Committee on Transportation, Tourism,  
and Economic Development, *Vice Chair*  
Appropriations Committee on Agriculture, Environment,  
and General Government  
Banking and Insurance  
Fiscal Policy  
Judiciary  
Transportation

### SELECT COMMITTEE:

Select Committee on Resiliency

### SENATOR JAY TRUMBULL

2nd District

January 23, 2024

Re: SB 1222

Dear Chair Bradley,

I am respectfully requesting that Senate Bill 1222, related Theft, be placed on the agenda for your next meeting of the Appropriations Committee on Civil and Criminal Justice.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in black ink, appearing to read "Jay Trumbull".

Senator Jay Trumbull  
District 2

### REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore

February 13, 2024

Meeting Date

Criminal & Civil Justice Approps

Committee

Name Jonathan Webber

Address 400 Washington Ave

Street

Montgomery

City

AL

State

36104

Zip

The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1222 - Theft

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 954-593-4449

Email jonathan.webber@splcactionfund.org

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

SPLC Action Fund

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

2/13/2024

The Florida Senate  
**APPEARANCE RECORD**

1222

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Angela Bonds**

Phone **8503452277**

Address **227 S. Adams**

Email **Angela @frf.org**

Street

**Tallahassee**

**FL**

**32312**

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

**Florida Retail Federation**

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

The Florida Senate

APPEARANCE RECORD

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4/13/24

Meeting Date

SB 1222

Bill Number or Topic

APPROPS. JUSTICE

Committee

Amendment Barcode (if applicable)

Name LIBBY Guzzo

Phone 850 245 0155

Address CAPITAL PL-01

Street

Email LIBBY.Guzzo@myFLORIDALEGAL.com

Tallahassee

City

FL

State

32399

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

ATTORNEY GENERAL OFFICE

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

This form is part of the public record for this meeting.

2/13/24

Meeting Date

The Florida Senate

APPEARANCE RECORD

1222

Bill Number or Topic

Approps for Crimt Civ

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name NR Hines

Phone 786-363-1104

Address 4343 W Flagler St

Email nhines@aclufl.org

Street

City Coral Gables FL 33436

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

ACLU of Florida

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)



By the Committee on Criminal Justice; and Senators Trumbull and Perry

591-02400-24

20241222c1

1 A bill to be entitled  
 2 An act relating to theft; amending s. 812.014, F.S.;  
 3 reducing the minimum threshold amount for grand theft  
 4 of the third degree; creating the offense of grand  
 5 theft of the third degree; providing criminal  
 6 penalties; creating the offense of grand theft of the  
 7 second degree; providing criminal penalties; creating  
 8 the offense of petit theft of the first degree;  
 9 providing criminal penalties; providing enhanced  
 10 criminal penalties for committing petit theft of the  
 11 first degree and having certain previous convictions;  
 12 amending s. 812.015, F.S.; defining the term "social  
 13 media platform"; revising specified timeframes, from  
 14 30-day periods to 45-day periods, during which there  
 15 is a lookback period for the commission of specified  
 16 retail theft offenses; providing criminal penalties  
 17 for persons committing certain retail theft acts in  
 18 concert with a certain number of other persons within  
 19 one or more establishments for specified purposes;  
 20 providing criminal penalties for persons who commit  
 21 retail theft and have certain prior retail theft  
 22 convictions; providing criminal penalties for persons  
 23 who commit retail theft who possess a firearm during  
 24 the commission of such offense; making technical  
 25 changes; amending s. 921.0022, F.S.; ranking offenses  
 26 on the offense severity ranking chart of the Criminal  
 27 Punishment Code; conforming provisions to changes made  
 28 by the act; conforming a cross-reference; amending s.  
 29 784.07, F.S.; conforming a cross-reference; making a

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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20241222c1

30 correction; providing an effective date.  
 31  
 32 Be It Enacted by the Legislature of the State of Florida:  
 33  
 34 Section 1. Present paragraphs (e) and (f) of subsection (2)  
 35 of section 812.014, Florida Statutes, are redesignated as  
 36 paragraphs (f) and (g), respectively, a new paragraph (e) is  
 37 added to that subsection, and paragraphs (c) and (d) of that  
 38 subsection are amended, to read:  
 39 812.014 Theft.—  
 40 (2)  
 41 (c) It is grand theft of the third degree and a felony of  
 42 the third degree, punishable as provided in s. 775.082, s.  
 43 775.083, or s. 775.084, if the property stolen is:  
 44 1. Valued at \$750 or more, but less than \$5,000.  
 45 2. Valued at \$5,000 or more, but less than \$10,000.  
 46 3. Valued at \$10,000 or more, but less than \$20,000.  
 47 4. A will, codicil, or other testamentary instrument.  
 48 5. A firearm, except as provided in paragraph (g) ~~paragraph~~  
 49 ~~(f)~~.  
 50 6. A motor vehicle, except as provided in paragraph (a).  
 51 7. Any commercially farmed animal, including any animal of  
 52 the equine, avian, bovine, or swine class or other grazing  
 53 animal; a bee colony of a registered beekeeper; and aquaculture  
 54 species raised at a certified aquaculture facility. If the  
 55 property stolen is a commercially farmed animal, including an  
 56 animal of the equine, avian, bovine, or swine class or other  
 57 grazing animal; a bee colony of a registered beekeeper; or an  
 58 aquaculture species raised at a certified aquaculture facility,

Page 2 of 86

**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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20241222c1

59 a \$10,000 fine shall be imposed.

60 8. Any fire extinguisher that, at the time of the taking,  
61 was installed in any building for the purpose of fire prevention  
62 and control. This subparagraph does not apply to a fire  
63 extinguisher taken from the inventory at a point-of-sale  
64 business.

65 9. Any amount of citrus fruit consisting of 2,000 or more  
66 individual pieces of fruit.

67 10. Taken from a designated construction site identified by  
68 the posting of a sign as provided for in s. 810.09(2)(d).

69 11. Any stop sign.

70 12. Anhydrous ammonia.

71 13. Any amount of a controlled substance as defined in s.  
72 893.02. Notwithstanding any other law, separate judgments and  
73 sentences for theft of a controlled substance under this  
74 subparagraph and for any applicable possession of controlled  
75 substance offense under s. 893.13 or trafficking in controlled  
76 substance offense under s. 893.135 may be imposed when all such  
77 offenses involve the same amount or amounts of a controlled  
78 substance.

79  
80 However, if the property is stolen during a riot or an  
81 aggravated riot prohibited under s. 870.01 and the perpetration  
82 of the theft is facilitated by conditions arising from the riot;  
83 or within a county that is subject to a state of emergency  
84 declared by the Governor under chapter 252, the property is  
85 stolen after the declaration of emergency is made, and the  
86 perpetration of the theft is facilitated by conditions arising  
87 from the emergency, the offender commits a felony of the second

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88 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
89 775.084, if the property is valued at \$5,000 or more, but less  
90 than \$10,000, as provided under subparagraph 2., or if the  
91 property is valued at \$10,000 or more, but less than \$20,000, as  
92 provided under subparagraph 3. As used in this paragraph, the  
93 terms "conditions arising from a riot" and "conditions arising  
94 from the emergency" have the same meanings as provided in  
95 paragraph (b). A person arrested for committing a theft during a  
96 riot or an aggravated riot or within a county that is subject to  
97 a state of emergency may not be released until the person  
98 appears before a committing magistrate at a first appearance  
99 hearing. For purposes of sentencing under chapter 921, a felony  
100 offense that is reclassified under this paragraph is ranked one  
101 level above the ranking under s. 921.0022 or s. 921.0023 of the  
102 offense committed.

103 (d)1. It is grand theft of the third degree and a felony of  
104 the third degree, punishable as provided in s. 775.082, s.  
105 775.083, or s. 775.084, if the property stolen is valued at \$40  
106 ~~\$100~~ or more, but less than \$750, and is taken from a dwelling  
107 as defined in s. 810.011(2) or from the unenclosed curtilage of  
108 a dwelling pursuant to s. 810.09(1).

109 2. It is grand theft of the third degree and a felony of  
110 the third degree, punishable as provided in s. 775.082, s.  
111 775.083, or s. 775.084, if the property stolen is valued at \$750  
112 or more, and is taken from a dwelling as defined in s.  
113 810.011(2) or from the unenclosed curtilage of a dwelling  
114 pursuant to s. 810.09(1).

115 3. It is grand theft of the second degree and a felony of  
116 the second degree, punishable as provided in s. 775.082, s.

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117 775.083, or s. 775.084, if the property stolen is taken from  
 118 more than 20 dwellings as defined in s. 810.011(2) or from the  
 119 unenclosed curtilage of more than 20 dwellings pursuant to s.  
 120 810.09(1), or any combination thereof.

121 (e)1. It is petit theft of the first degree and a  
 122 misdemeanor of the first degree, punishable as provided in s.  
 123 775.082 or s. 775.083, if the property stolen is valued at less  
 124 than \$40 and is taken from a dwelling as defined in s.  
 125 810.011(2) or from the unenclosed curtilage of a dwelling  
 126 pursuant to s. 810.09(1).

127 2. A person who commits a violation of subparagraph 1. and  
 128 has previously been convicted of any theft commits a felony of  
 129 the third degree, punishable as provided in s. 775.082 or s.  
 130 775.083.

131 3. A person who commits a violation of subparagraph 1. and  
 132 has previously been convicted two or more times of any theft  
 133 commits a felony of the third degree, punishable as provided in  
 134 s. 775.082 or s. 775.083.

135 Section 2. Present subsection (11) of section 812.015,  
 136 Florida Statutes, is redesignated as subsection (12), a new  
 137 subsection (11) is added to that section, and subsections (1),  
 138 (8), (9), and (10) of that section are amended, to read:

139 812.015 Retail and farm theft; transit fare evasion;  
 140 mandatory fine; alternative punishment; detention and arrest;  
 141 exemption from liability for false arrest; resisting arrest;  
 142 penalties.-

143 (1) As used in this section:

144 (g)(a) "Merchandise" means any personal property, capable  
 145 of manual delivery, displayed, held, or offered for retail sale

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146 by a merchant.

147 (h)(b) "Merchant" means an owner or operator, or the agent,  
 148 consignee, employee, lessee, or officer of an owner or operator,  
 149 of any premises or apparatus used for retail purchase or sale of  
 150 any merchandise.

151 (n)(e) "Value of merchandise" means the retail sale price  
 152 of the merchandise at the time it was stolen or otherwise  
 153 removed, depriving the owner of her or his lawful right to  
 154 ownership and sale of said item.

155 (i)(d) "Retail theft" means the taking possession of or  
 156 carrying away of merchandise, property, money, or negotiable  
 157 documents; altering or removing a label, universal product code,  
 158 or price tag; transferring merchandise from one container to  
 159 another; or removing a shopping cart, with intent to deprive the  
 160 merchant of possession, use, benefit, or full retail value.

161 (c)(e) "Farm produce" means livestock or any item grown,  
 162 produced, or manufactured by a person owning, renting, or  
 163 leasing land for the purpose of growing, producing, or  
 164 manufacturing items for sale or personal use, either part time  
 165 or full time.

166 (e)(f) "Farmer" means a person who is engaging in the  
 167 growing or producing of farm produce, milk products, honey,  
 168 eggs, or meat, either part time or full time, for personal  
 169 consumption or for sale and who is the owner or lessee of the  
 170 land or a person designated in writing by the owner or lessee to  
 171 act as her or his agent. No person defined as a farm labor  
 172 contractor pursuant to s. 450.28 shall be designated to act as  
 173 an agent for purposes of this section.

174 (d)(g) "Farm theft" means the unlawful taking possession of

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175 any items that are grown or produced on land owned, rented, or  
 176 leased by another person. The term includes the unlawful taking  
 177 possession of equipment and associated materials used to grow or  
 178 produce farm products as defined in s. 823.14(3)(e).

179 ~~(a)(h)~~ "Antishoplifting or inventory control device" means  
 180 a mechanism or other device designed and operated for the  
 181 purpose of detecting the removal from a mercantile establishment  
 182 or similar enclosure, or from a protected area within such an  
 183 enclosure, of specially marked or tagged merchandise. The term  
 184 includes any electronic or digital imaging or any video  
 185 recording or other film used for security purposes and the cash  
 186 register tape or other record made of the register receipt.

187 ~~(b)(i)~~ "Antishoplifting or inventory control device  
 188 countermeasure" means any item or device which is designed,  
 189 manufactured, modified, or altered to defeat any antishoplifting  
 190 or inventory control device.

191 ~~(l)(j)~~ "Transit fare evasion" means the unlawful refusal to  
 192 pay the appropriate fare for transportation upon a mass transit  
 193 vehicle, or to evade the payment of such fare, or to enter any  
 194 mass transit vehicle or facility by any door, passageway, or  
 195 gate, except as provided for the entry of fare-paying  
 196 passengers, and shall constitute petit theft as proscribed by  
 197 this chapter.

198 ~~(f)(k)~~ "Mass transit vehicle" means buses, rail cars, or  
 199 fixed-guideway mover systems operated by, or under contract to,  
 200 state agencies, political subdivisions of the state, or  
 201 municipalities for the transportation of fare-paying passengers.

202 ~~(k)(l)~~ "Transit agency" means any state agency, political  
 203 subdivision of the state, or municipality which operates mass

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204 transit vehicles.

205 (m) "Trespass" means the violation as described in s.  
 206 810.08.

207 (j) "Social media platform" has the same meaning as in s.  
 208 501.2041(1).

209 (8) Except as provided in subsection (9) or subsection  
 210 (11), a person who commits retail theft commits a felony of the  
 211 third degree, punishable as provided in s. 775.082, s. 775.083,  
 212 or s. 775.084, if the person:

213 (a) Individually, or in concert with one or more other  
 214 persons, coordinates the activities of one or more individuals  
 215 in committing the offense, which may occur through multiple acts  
 216 of retail theft, in which the amount of each individual theft is  
 217 aggregated within a 45-day ~~30-day~~ period to determine the value  
 218 of the property stolen and such value is \$750 or more;

219 (b) Conspires with another person to commit retail theft  
 220 with the intent to sell the stolen property for monetary or  
 221 other gain, and subsequently takes or causes such property to be  
 222 placed in the control of another person in exchange for  
 223 consideration, in which the stolen property taken or placed  
 224 within a 45-day ~~30-day~~ period is aggregated to determine the  
 225 value of the stolen property and such value is \$750 or more;

226 (c) Individually, or in concert with one or more other  
 227 persons, commits theft from more than one location within a 45-  
 228 day ~~30-day~~ period, in which the amount of each individual theft  
 229 is aggregated to determine the value of the property stolen and  
 230 such value is \$750 or more;

231 (d) Acts in concert with one or more other individuals  
 232 within one or more establishments to distract the merchant,

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233 merchant's employee, or law enforcement officer in order to  
 234 carry out the offense, or acts in other ways to coordinate  
 235 efforts to carry out the offense and such value is \$750 or more;

236 (e) Commits the offense through the purchase of merchandise  
 237 in a package or box that contains merchandise other than, or in  
 238 addition to, the merchandise purported to be contained in the  
 239 package or box and such value is \$750 or more; ~~or~~

240 (f) Individually, or in concert with one ~~4~~ or more other  
 241 persons, commits five ~~5~~ or more retail thefts within a 45-day  
 242 ~~30-day~~ period and in committing such thefts obtains or uses 10  
 243 or more items of merchandise, and the number of items stolen  
 244 during each theft is aggregated within the 45-day ~~30-day~~ period  
 245 to determine the total number of items stolen, regardless of the  
 246 value of such merchandise, and two ~~2~~ or more of the thefts occur  
 247 at different physical merchant locations; or

248 (g) Acts in concert with five or more other persons within  
 249 one or more establishments for the purpose of overwhelming the  
 250 response of a merchant, a merchant's employee, or a law  
 251 enforcement officer in order to carry out the offense or avoid  
 252 detection or apprehension for the offense.

253 (9) Except as provided in subsection (11), a person commits  
 254 a felony of the second degree, punishable as provided in s.  
 255 775.082, s. 775.083, or s. 775.084, if the person:

256 (a) Violates subsection (8) and has previously been  
 257 convicted of a violation of subsection (8) or of this  
 258 subsection;

259 (b) Individually, or in concert with one or more other  
 260 persons, coordinates the activities of one or more persons in  
 261 committing the offense of retail theft, in which the amount of

591-02400-24 20241222c1

262 each individual theft within a 45-day ~~30-day~~ period is  
 263 aggregated to determine the value of the stolen property and  
 264 such value is in excess of \$3,000;

265 (c) Conspires with another person to commit retail theft  
 266 with the intent to sell the stolen property for monetary or  
 267 other gain, and subsequently takes or causes such property to be  
 268 placed in control of another person in exchange for  
 269 consideration, in which the stolen property taken or placed  
 270 within a 45-day ~~30-day~~ period is aggregated to have a value in  
 271 excess of \$3,000; ~~or~~

272 (d) Individually, or in concert with one ~~4~~ or more other  
 273 persons, commits five ~~5~~ or more retail thefts within a 45-day  
 274 ~~30-day~~ period and in committing such thefts obtains or uses 20  
 275 or more items of merchandise, and the number of items stolen  
 276 during each theft is aggregated within the 45-day ~~30-day~~ period  
 277 to determine the total number of items stolen, regardless of the  
 278 value of such merchandise, and two ~~2~~ or more of the thefts occur  
 279 at a different physical retail merchant location; or

280 (e) Acts in concert with five or more other persons within  
 281 one or more establishments for the purpose of overwhelming the  
 282 response of a merchant, a merchant's employee, or a law  
 283 enforcement officer in order to carry out the offense or avoid  
 284 detection or apprehension for the offense and, in the course of  
 285 organizing or committing the offense, solicits the participation  
 286 of another person in the offense through the use of a social  
 287 media platform.

288 (10) If a person commits retail theft in more than one  
 289 judicial circuit within a 45-day ~~30-day~~ period, the value of the  
 290 stolen property resulting from the thefts in each judicial

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291 circuit may be aggregated, and the person must be prosecuted by  
 292 the Office of the Statewide Prosecutor in accordance with s.  
 293 16.56.

294 (11) A person commits a felony of the first degree  
 295 punishable as provided in s. 775.082, s. 775.083, or s. 775.084  
 296 if he or she violates subsection (8) or subsection (9) and:

297 (a) Has two or more previous convictions of violations of  
 298 either or both of those subsections; or

299 (b) Possesses a firearm during the commission of such  
 300 offense.

301 Section 3. Paragraphs (b), (d), (e), (f), (g), and (h) of  
 302 subsection (3) of section 921.0022, Florida Statutes, are  
 303 amended to read:

304 921.0022 Criminal Punishment Code; offense severity ranking  
 305 chart.-

306 (3) OFFENSE SEVERITY RANKING CHART

307 (b) LEVEL 2

308

Florida Statute	Felony Degree	Description
379.2431 (1) (e) 3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.

310

379.2431 (1) (e) 4.	3rd	Possession of more than 11 marine turtle eggs in
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311 violation of the Marine Turtle Protection Act.

311 403.413(6) (c) 3rd Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.

312 517.07(2) 3rd Failure to furnish a prospectus meeting requirements.

313 590.28(1) 3rd Intentional burning of lands.

314 784.03(3) 3rd Battery during a riot or an aggravated riot.

315 784.05(3) 3rd Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.

316 787.04(1) 3rd In violation of court order, take, entice,

	591-02400-24		20241222c1	etc., minor beyond state limits.
317	806.13(1)(b)3.	3rd		Criminal mischief; damage \$1,000 or more to public communication or any other public service.
318	806.13(3)	3rd		Criminal mischief; damage of \$200 or more to a memorial or historic property.
319	810.061(2)	3rd		Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
320	810.09(2)(e)	3rd		Trespassing on posted commercial horticulture property.
321	812.014(2)(c)1.	3rd		Grand theft, 3rd degree; \$750 or more but less than \$5,000.
322	<u>812.014(2)(d)1.</u> <del>812.014(2)(d)</del>	3rd		Grand theft, 3rd degree; <u>\$40</u> <del>\$100</del> or more but

	591-02400-24		20241222c1	less than \$750, taken from <u>dwelling or its</u> unenclosed curtilage <del>of</del> <u>dwelling</u> .
323	<u>812.014(2)(e)2.</u>	<u>3rd</u>		<u>Petit theft, 1st degree; less than \$40 taken from dwelling or its unenclosed curtilage with one prior theft conviction.</u>
324	812.015(7)	3rd		Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
325	817.234(1)(a)2.	3rd		False statement in support of insurance claim.
326	817.481(3)(a)	3rd		Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
327	817.52(3)	3rd		Failure to redeliver

	591-02400-24		20241222c1	
			hired vehicle.	
328	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.	
329	817.60(5)	3rd	Dealing in credit cards of another.	
330	817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.	
331	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.	
332	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.	
333	831.01	3rd	Forgery.	
334	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.	
335				

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	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.	
336	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.	
337	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.	
338	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.	
339	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.	
340	843.01(2)	3rd	Resist police canine or police horse with violence; under certain circumstances.	
341	843.08	3rd	False personation.	
342	843.19(3)	3rd	Touch or strike police,	



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			fire, SAR canine or police horse.
343	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs other than cannabis.
344	893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
345	(d) LEVEL 4		
346	Florida Statute	Felony Degree	Description
347			
348	316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
349			

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	499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
350	499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
351	517.07(1)	3rd	Failure to register securities.
352	517.12(1)	3rd	Failure of dealer or associated person of a dealer of securities to register.
353	784.031	3rd	Battery by strangulation.
354	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
355	784.074(1)(c)	3rd	Battery of sexually violent predators

	591-02400-24		20241222c1	facility staff.
356	784.075	3rd		Battery on detention or commitment facility staff.
357	784.078	3rd		Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
358	784.08(2)(c)	3rd		Battery on a person 65 years of age or older.
359	784.081(3)	3rd		Battery on specified official or employee.
360	784.082(3)	3rd		Battery by detained person on visitor or other detainee.
361	784.083(3)	3rd		Battery on code inspector.
362	784.085	3rd		Battery of child by throwing, tossing, projecting, or expelling certain fluids or

	591-02400-24		20241222c1	materials.
363	787.03(1)	3rd		Interference with custody; wrongly takes minor from appointed guardian.
364	787.04(2)	3rd		Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
365	787.04(3)	3rd		Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
366	787.07	3rd		Human smuggling.
367	790.115(1)	3rd		Exhibiting firearm or weapon within 1,000 feet of a school.
368	790.115(2)(b)	3rd		Possessing electric weapon or device,

	591-02400-24		20241222c1	destructive device, or other weapon on school property.
369				
	790.115(2)(c)	3rd		Possessing firearm on school property.
370				
	794.051(1)	3rd		Indecent, lewd, or lascivious touching of certain minors.
371				
	800.04(7)(c)	3rd		Lewd or lascivious exhibition; offender less than 18 years.
372				
	806.135	2nd		Destroying or demolishing a memorial or historic property.
373				
	810.02(4)(a)	3rd		Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
374				
	810.02(4)(b)	3rd		Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or

	591-02400-24		20241222c1	battery.
375				
	810.06	3rd		Burglary; possession of tools.
376				
	810.08(2)(c)	3rd		Trespass on property, armed with firearm or dangerous weapon.
377				
	812.014(2)(c)3.	3rd		Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
378				
	812.014 (2)(c)4. & 6.-10.	3rd		Grand theft, 3rd degree; specified items.
379				
	<u>812.014(2)(d)2.</u>	<u>3rd</u>		<u>Grand theft, 3rd degree;</u> <u>\$750 or more taken from</u> <u>dwelling or its</u> <u>unenclosed curtilage.</u>
380				
	<u>812.014(2)(e)3.</u>	<u>3rd</u>		<u>Petit theft, 1st degree;</u> <u>less than \$40 taken from</u> <u>dwelling or its</u> <u>unenclosed curtilage</u> <u>with two or more prior</u> <u>theft convictions.</u>
381				

	591-02400-24		20241222c1
	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
382			
	817.505(4)(a)	3rd	Patient brokering.
383			
	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
384			
	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
385			
	817.5695(3)(c)	3rd	Exploitation of person 65 years of age or older, value less than \$10,000.
386			
	817.625(2)(a)	3rd	Fraudulent use of scanning device, skimming device, or reencoder.
387			
	817.625(2)(c)	3rd	Possess, sell, or deliver skimming device.

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388	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
389			
	836.14(2)	3rd	Person who commits theft of a sexually explicit image with intent to promote it.
390			
	836.14(3)	3rd	Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.
391			
	837.02(1)	3rd	Perjury in official proceedings.
392			
	837.021(1)	3rd	Make contradictory statements in official proceedings.
393			
	838.022	3rd	Official misconduct.
394			
	839.13(2)(a)	3rd	Falsifying records of an

	591-02400-24		20241222c1	individual in the care and custody of a state agency.
395				
	839.13(2)(c)	3rd		Falsifying records of the Department of Children and Families.
396				
	843.021	3rd		Possession of a concealed handcuff key by a person in custody.
397				
	843.025	3rd		Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
398				
	843.15(1)(a)	3rd		Failure to appear while on bail for felony (bond estreature or bond jumping).
399				
	843.19(2)	2nd		Injure, disable, or kill police, fire, or SAR canine or police horse.
400				
	847.0135(5)(c)	3rd		Lewd or lascivious

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	591-02400-24		20241222c1	exhibition using computer; offender less than 18 years.
401				
	870.01(3)	2nd		Aggravated rioting.
402				
	870.01(5)	2nd		Aggravated inciting a riot.
403				
	874.05(1)(a)	3rd		Encouraging or recruiting another to join a criminal gang.
404				
	893.13(2)(a)1.	2nd		Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).
405				
	914.14(2)	3rd		Witnesses accepting bribes.
406				
	914.22(1)	3rd		Force, threaten, etc., witness, victim, or informant.
407				
	914.23(2)	3rd		Retaliation against a witness, victim, or informant, no bodily

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	591-02400-24		20241222c1	
408				injury.
	916.1085	3rd		Introduction of
	(2) (c) 1.			specified contraband
				into certain DCF
409				facilities.
	918.12	3rd		Tampering with jurors.
410				
	934.215	3rd		Use of two-way
				communications device to
				facilitate commission of
				a crime.
411				
	944.47(1) (a) 6.	3rd		Introduction of
				contraband (cellular
				telephone or other
				portable communication
				device) into
				correctional
				institution.
412				
	951.22(1) (h),	3rd		Intoxicating drug,
	(j) & (k)			instrumentality or other
				device to aid escape, or
				cellular telephone or
				other portable
				communication device
				introduced into county

	591-02400-24		20241222c1	
				detention facility.
413				
414	(e) LEVEL 5			
415				
	Florida		Felony	
	Statute		Degree	Description
416				
	316.027(2) (a)	3rd		Accidents involving
				personal injuries other
				than serious bodily
				injury, failure to stop;
				leaving scene.
417				
	316.1935(4) (a)	2nd		Aggravated fleeing or
				eluding.
418				
	316.80(2)	2nd		Unlawful conveyance of
				fuel; obtaining fuel
				fraudulently.
419				
	322.34(6)	3rd		Careless operation of
				motor vehicle with
				suspended license,
				resulting in death or
				serious bodily injury.
420				
	327.30(5)	3rd		Vessel accidents
				involving personal
				injury; leaving scene.

421	591-02400-24	20241222c1	
	379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
422	379.367(4)	3rd	Willful molestation of a

	591-02400-24	20241222c1	commercial harvester's spiny lobster trap, line, or buoy.
423	379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
424	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
425	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
426	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
427	440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
428			

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	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
429	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
430	790.01(3)	3rd	Unlawful carrying of a concealed firearm.
431	790.162	2nd	Threat to throw or discharge destructive device.
432	790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
433	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
434	790.23	2nd	Felons in possession of

	591-02400-24		20241222c1
			firearms, ammunition, or electronic weapons or devices.
435	796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
436	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
437	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
438	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
439	<u>812.014(2)(d)3.</u>	<u>2nd</u>	<u>Grand theft, 2nd degree; theft from 20 or more dwellings or their unenclosed curtilage, or any combination.</u>
440	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less



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				than \$50,000.
441	812.015	3rd		Retail theft; property
	(8) (a) & (c)-(e)			stolen is valued at \$750
				or more and one or more
				specified acts.
442	812.015(8) (f)	3rd		Retail theft; multiple
				thefts within specified
				period.
443	<u>812.015(8) (g)</u>	<u>3rd</u>		<u>Retail theft; in concert</u>
				<u>with five or more other</u>
				<u>persons within one or</u>
				<u>more establishments.</u>
444	812.019(1)	2nd		Stolen property; dealing
				in or trafficking in.
445	812.081(3)	2nd		Trafficking in trade
				secrets.
446	812.131(2) (b)	3rd		Robbery by sudden
				snatching.
447	812.16(2)	3rd		Owning, operating, or
				conducting a chop shop.
448	817.034(4) (a)2.	2nd		Communications fraud,

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				value \$20,000 to
				\$50,000.
449	817.234(11) (b)	2nd		Insurance fraud;
				property value \$20,000
				or more but less than
				\$100,000.
450	817.2341(1),	3rd		Filing false financial
	(2) (a) & (3) (a)			statements, making false
				entries of material fact
				or false statements
				regarding property
				values relating to the
				solvency of an insuring
				entity.
451	817.568(2) (b)	2nd		Fraudulent use of
				personal identification
				information; value of
				benefit, services
				received, payment
				avoided, or amount of
				injury or fraud, \$5,000
				or more or use of
				personal identification
				information of 10 or
				more persons.
452				

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	817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
453			
	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
454			
	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
455			
	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
456			
	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child

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			pornography.
457			
	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
458			
	836.14(4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
459			
	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
460			
	843.01(1)	3rd	Resist officer with violence to person; resist arrest with violence.
461			
	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.

462	591-02400-24	20241222c1	
	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
463	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
464	874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
465	874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
466	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).
467			

468	591-02400-24	20241222c1	
	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
468	893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.
469	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2.,

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			(2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
470	893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.
471	893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
472	893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
473			
474	(f) LEVEL 6		
475			

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	Florida	Felony	
	Statute	Degree	Description
476	316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
477	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
478	400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
479	499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
480	499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
481	499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.

482	591-02400-24		20241222c1
	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
483	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
484	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
485	784.041	3rd	Felony battery; domestic battery by strangulation.
486	784.048 (3)	3rd	Aggravated stalking; credible threat.
487	784.048 (5)	3rd	Aggravated stalking of person under 16.
488	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
489	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
490			

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	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
491	784.081 (2)	2nd	Aggravated assault on specified official or employee.
492	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
493	784.083 (2)	2nd	Aggravated assault on code inspector.
494	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
495	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
496	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.

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497 790.164(1) 2nd False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.

498 790.19 2nd Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.

499 794.011(8)(a) 3rd Solicitation of minor to participate in sexual activity by custodial adult.

500 794.05(1) 2nd Unlawful sexual activity with specified minor.

501 800.04(5)(d) 3rd Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.

502

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800.04(6)(b) 2nd Lewd or lascivious conduct; offender 18 years of age or older.

503 806.031(2) 2nd Arson resulting in great bodily harm to firefighter or any other person.

504 810.02(3)(c) 2nd Burglary of occupied structure; unarmed; no assault or battery.

505 810.145(8)(b) 2nd Video voyeurism; certain minor victims; 2nd or subsequent offense.

506 812.014(2)(b)1. 2nd Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

507 812.014(2)(c)5. 3rd Grand theft; third degree; firearm.

508 812.014(6) 2nd Theft; property stolen \$3,000 or more; coordination of others.

509

	591-02400-24		20241222c1
	812.015(9)(a)	2nd	Retail theft; property stolen \$750 or more; second or subsequent conviction.
510			
	812.015(9)(b)	2nd	Retail theft; aggregated property stolen within <u>45</u> <del>30</del> days is \$3,000 or more; coordination of others.
511			
	812.015(9)(d)	2nd	Retail theft; multiple thefts within specified period.
512			
	<u>812.015(9)(e)</u>	<u>2nd</u>	<u>Retail theft; in concert with five or more other persons within one or more establishments and solicits participation.</u>
513			
	812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
514			
	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.

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	591-02400-24		20241222c1
515	817.49(2)(b)2.	2nd	Willful making of a false report of a crime resulting in death.
516			
	817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
517			
	817.5695(3)(b)	2nd	Exploitation of person 65 years of age or older, value \$10,000 or more, but less than \$50,000.
518			
	825.102(1)	3rd	Abuse of an elderly person or disabled adult.
519			
	825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
520			
	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
521			
	825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult

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	591-02400-24		20241222c1	and property is valued at less than \$10,000.
522				
	827.03(2)(c)	3rd		Abuse of a child.
523				
	827.03(2)(d)	3rd		Neglect of a child.
524				
	827.071(2) & (3)	2nd		Use or induce a child in a sexual performance, or promote or direct such performance.
525				
	828.126(3)	3rd		Sexual activities involving animals.
526				
	836.05	2nd		Threats; extortion.
527				
	836.10	2nd		Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
528				
	843.12	3rd		Aids or assists person to escape.
529				
	847.011	3rd		Distributing, offering to distribute, or possessing with intent

	591-02400-24		20241222c1	to distribute obscene materials depicting minors.
530				
	847.012	3rd		Knowingly using a minor in the production of materials harmful to minors.
531				
	847.0135(2)	3rd		Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
532				
	893.131	2nd		Distribution of controlled substances resulting in overdose or serious bodily injury.
533				
	914.23	2nd		Retaliation against a witness, victim, or informant, with bodily injury.
534				
	918.13(2)(b)	2nd		Tampering with or fabricating physical evidence relating to a capital felony.



	591-02400-24		20241222c1
535	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
536	944.40	2nd	Escapes.
537	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
538	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
539	951.22(1)(i)	3rd	Firearm or weapon introduced into county detention facility.
540			
541	(g) LEVEL 7		
542			

	591-02400-24		20241222c1
	Florida Statute	Felony Degree	Description
543	316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
544	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
545	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
546	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
547	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent

	591-02400-24		20241222c1	disability, or death.
548	409.920	3rd		Medicaid provider fraud;
	(2) (b) 1.a.			\$10,000 or less.
549	409.920	2nd		Medicaid provider fraud;
	(2) (b) 1.b.			more than \$10,000, but
				less than \$50,000.
550	456.065(2)	3rd		Practicing a health care
				profession without a
				license.
551	456.065(2)	2nd		Practicing a health care
				profession without a
				license which results in
				serious bodily injury.
552	458.327(1)	3rd		Practicing medicine
				without a license.
553	459.013(1)	3rd		Practicing osteopathic
				medicine without a
				license.
554	460.411(1)	3rd		Practicing chiropractic
				medicine without a
				license.
555				

	591-02400-24		20241222c1	
	461.012(1)	3rd		Practicing podiatric
				medicine without a
				license.
556	462.17	3rd		Practicing naturopathy
				without a license.
557	463.015(1)	3rd		Practicing optometry
				without a license.
558	464.016(1)	3rd		Practicing nursing without
				a license.
559	465.015(2)	3rd		Practicing pharmacy
				without a license.
560	466.026(1)	3rd		Practicing dentistry or
				dental hygiene without a
				license.
561	467.201	3rd		Practicing midwifery
				without a license.
562	468.366	3rd		Delivering respiratory
				care services without a
				license.
563	483.828(1)	3rd		Practicing as clinical
				laboratory personnel

	591-02400-24		20241222c1	without a license.
564	483.901(7)	3rd		Practicing medical physics without a license.
565	484.013(1)(c)	3rd		Preparing or dispensing optical devices without a prescription.
566	484.053	3rd		Dispensing hearing aids without a license.
567	494.0018(2)	1st		Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
568	560.123(8)(b)1.	3rd		Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
569	560.125(5)(a)	3rd		Money services business by unauthorized person, currency or payment

	591-02400-24		20241222c1	instruments exceeding \$300 but less than \$20,000.
570	655.50(10)(b)1.	3rd		Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
571	775.21(10)(a)	3rd		Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
572	775.21(10)(b)	3rd		Sexual predator working where children regularly congregate.
573	775.21(10)(g)	3rd		Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
574	782.051(3)	2nd		Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an

	591-02400-24		20241222c1	attempted felony.
575	782.07(1)	2nd		Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
576	782.071	2nd		Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
577	782.072	2nd		Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
578	784.045(1)(a)1.	2nd		Aggravated battery; intentionally causing great bodily harm or disfigurement.
579	784.045(1)(a)2.	2nd		Aggravated battery; using deadly weapon.
580	784.045(1)(b)	2nd		Aggravated battery; perpetrator aware victim

	591-02400-24		20241222c1	pregnant.
581	784.048(4)	3rd		Aggravated stalking; violation of injunction or court order.
582	784.048(7)	3rd		Aggravated stalking; violation of court order.
583	784.07(2)(d)	1st		Aggravated battery on law enforcement officer.
584	784.074(1)(a)	1st		Aggravated battery on sexually violent predators facility staff.
585	784.08(2)(a)	1st		Aggravated battery on a person 65 years of age or older.
586	784.081(1)	1st		Aggravated battery on specified official or employee.
587	784.082(1)	1st		Aggravated battery by detained person on visitor or other detainee.
588	784.083(1)	1st		Aggravated battery on code

	591-02400-24		20241222c1	
				inspector.
589	787.06(3)(a)2.	1st		Human trafficking using coercion for labor and services of an adult.
590	787.06(3)(e)2.	1st		Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
591	790.07(4)	1st		Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
592	790.16(1)	1st		Discharge of a machine gun under specified circumstances.
593	790.165(2)	2nd		Manufacture, sell, possess, or deliver hoax bomb.
594	790.165(3)	2nd		Possessing, displaying, or threatening to use any hoax bomb while committing

	591-02400-24		20241222c1	
				or attempting to commit a felony.
595	790.166(3)	2nd		Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
596	790.166(4)	2nd		Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
597	790.23	1st, PBL		Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
598	794.08(4)	3rd		Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
599	796.05(1)	1st		Live on earnings of a prostitute; 2nd offense.

600	591-02400-24		20241222c1
	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
601	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
602	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
603	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
604	806.01(2)	2nd	Maliciously damage structure by fire or explosive.

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605	591-02400-24		20241222c1
	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
606	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
607	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
608	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
609	812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
610	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.

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611	591-02400-24		20241222c1
	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
612	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
613	<u>812.014(2)(g)</u> <del>812.014(2)(f)</del>	2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014(2)(c)5.
614	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
615	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
616	812.131(2)(a)	2nd	Robbery by sudden snatching.
617	812.133(2)(b)	1st	Carjacking; no firearm,

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	591-02400-24		20241222c1
			deadly weapon, or other weapon.
618	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
619	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
620	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
621	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
622	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
623	817.418(2)(a)	3rd	Offering for sale or

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	591-02400-24		20241222c1	advertising personal protective equipment with intent to defraud.
624	817.504 (1) (a)	3rd		Offering or advertising a vaccine with intent to defraud.
625	817.535 (2) (a)	3rd		Filing false lien or other unauthorized document.
626	817.611 (2) (b)	2nd		Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
627	825.102 (3) (b)	2nd		Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
628	825.103 (3) (b)	2nd		Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
629	827.03 (2) (b)	2nd		Neglect of a child causing

	591-02400-24		20241222c1	great bodily harm, disability, or disfigurement.
630	827.04 (3)	3rd		Impregnation of a child under 16 years of age by person 21 years of age or older.
631	837.05 (2)	3rd		Giving false information about alleged capital felony to a law enforcement officer.
632	838.015	2nd		Bribery.
633	838.016	2nd		Unlawful compensation or reward for official behavior.
634	838.021 (3) (a)	2nd		Unlawful harm to a public servant.
635	838.22	2nd		Bid tampering.
636	843.0855 (2)	3rd		Impersonation of a public officer or employee.
637	843.0855 (3)	3rd		Unlawful simulation of



638	591-02400-24		20241222c1	legal process.
	843.0855(4)	3rd		Intimidation of a public officer or employee.
639	847.0135(3)	3rd		Solicitation of a child, via a computer service, to commit an unlawful sex act.
640	847.0135(4)	2nd		Traveling to meet a minor to commit an unlawful sex act.
641	872.06	2nd		Abuse of a dead human body.
642	874.05(2)(b)	1st		Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
643	874.10	1st,PBL		Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
644				

	591-02400-24		20241222c1	
	893.13(1)(c)1.	1st		Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
645	893.13(1)(e)1.	1st		Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
646	893.13(4)(a)	1st		Use or hire of minor; deliver to minor other controlled substance.
647	893.135(1)(a)1.	1st		Trafficking in cannabis,

	591-02400-24		20241222c1	
			more than 25 lbs., less than 2,000 lbs.	
648	893.135	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.	
	(1)(b)1.a.			
649	893.135	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.	
	(1)(c)1.a.			
650	893.135	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.	
	(1)(c)2.a.			
651	893.135	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.	
	(1)(c)2.b.			
652	893.135	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.	
	(1)(c)3.a.			
653	893.135	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.	
	(1)(c)3.b.			
654	893.135	1st	Trafficking in fentanyl, 4 grams or more, less than	
	(1)(c)4.b.(I)			

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	591-02400-24		20241222c1	
			14 grams.	
655	893.135	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.	
	(1)(d)1.a.			
656	893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.	
657	893.135(1)(f)1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.	
658	893.135	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.	
	(1)(g)1.a.			
659	893.135	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.	
	(1)(h)1.a.			
660	893.135	1st	Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5 kilograms.	
	(1)(j)1.a.			
661				

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	591-02400-24		20241222c1
	893.135	1st	Trafficking in
	(1) (k) 2.a.		Phenethylamines, 10 grams
			or more, less than 200
662			grams.
	893.135	1st	Trafficking in synthetic
	(1) (m) 2.a.		cannabinoids, 280 grams or
			more, less than 500 grams.
663			
	893.135	1st	Trafficking in synthetic
	(1) (m) 2.b.		cannabinoids, 500 grams or
			more, less than 1,000
			grams.
664			
	893.135	1st	Trafficking in n-benzyl
	(1) (n) 2.a.		phenethylamines, 14 grams
			or more, less than 100
			grams.
665			
	893.1351(2)	2nd	Possession of place for
			trafficking in or
			manufacturing of
			controlled substance.
666			
	896.101(5) (a)	3rd	Money laundering,
			financial transactions
			exceeding \$300 but less
			than \$20,000.
667			

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	591-02400-24		20241222c1
	896.104(4) (a) 1.	3rd	Structuring transactions
			to evade reporting or
			registration requirements,
			financial transactions
			exceeding \$300 but less
			than \$20,000.
668			
	943.0435(4) (c)	2nd	Sexual offender vacating
			permanent residence;
			failure to comply with
			reporting requirements.
669			
	943.0435(8)	2nd	Sexual offender; remains
			in state after indicating
			intent to leave; failure
			to comply with reporting
			requirements.
670			
	943.0435(9) (a)	3rd	Sexual offender; failure
			to comply with reporting
			requirements.
671			
	943.0435(13)	3rd	Failure to report or
			providing false
			information about a sexual
			offender; harbor or
			conceal a sexual offender.
672			
	943.0435(14)	3rd	Sexual offender; failure

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	591-02400-24		20241222c1	to report and reregister; failure to respond to address verification; providing false registration information.
673	944.607(9)	3rd		Sexual offender; failure to comply with reporting requirements.
674	944.607(10) (a)	3rd		Sexual offender; failure to submit to the taking of a digitized photograph.
675	944.607(12)	3rd		Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
676	944.607(13)	3rd		Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
677	985.4815(10)	3rd		Sexual offender; failure to submit to the taking of

	591-02400-24		20241222c1	a digitized photograph.
678	985.4815(12)	3rd		Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
679	985.4815(13)	3rd		Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
680				
681	(h) LEVEL 8			
682				
	Florida	Felony		
	Statute	Degree		Description
683	316.193	2nd		DUI manslaughter.
	(3) (c) 3.a.			
684	316.1935(4) (b)	1st		Aggravated fleeing or attempted eluding with serious bodily injury or death.
685	327.35(3) (c) 3.	2nd		Vessel BUI manslaughter.

686	591-02400-24		20241222c1
	499.0051 (6)	1st	Knowing trafficking in contraband prescription drugs.
687	499.0051 (7)	1st	Knowing forgery of prescription labels or prescription drug labels.
688	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
689	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
690	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial

691	591-02400-24		20241222c1
			institutions.
	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
692	782.04 (4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
693	782.051 (2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04 (3).
694	782.071 (1) (b)	1st	Committing vehicular homicide and failing to render aid or give information.
695			

	591-02400-24		20241222c1
	782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
696	787.06(3)(a)1.	1st	Human trafficking for labor and services of a child.
697	787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity of an adult.
698	787.06(3)(c)2.	1st	Human trafficking using coercion for labor and services of an unauthorized alien adult.
699	787.06(3)(e)1.	1st	Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.
700	787.06(3)(f)2.	1st	Human trafficking using coercion for commercial sexual activity by the

	591-02400-24		20241222c1
			transfer or transport of any adult from outside Florida to within the state.
701	790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
702	794.011(5)(a)	1st	Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.
703	794.011(5)(b)	2nd	Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.
704	794.011(5)(c)	2nd	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not

	591-02400-24		20241222c1	use physical force likely to cause injury.
705	794.011(5)(d)	1st		Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.
706	794.08(3)	2nd		Female genital mutilation, removal of a victim younger than 18 years of age from this state.
707	800.04(4)(b)	2nd		Lewd or lascivious battery.
708	800.04(4)(c)	1st		Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
709	806.01(1)	1st		Maliciously damage dwelling or structure by fire or explosive,

	591-02400-24		20241222c1	believing person in structure.
710	810.02(2)(a)	1st,PBL		Burglary with assault or battery.
711	810.02(2)(b)	1st,PBL		Burglary; armed with explosives or dangerous weapon.
712	810.02(2)(c)	1st		Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
713	812.014(2)(a)2.	1st		Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
714	<u>812.015(11)(b)</u>	<u>1st</u>		<u>Retail theft; possession of a firearm during commission of offense.</u>
715	812.13(2)(b)	1st		Robbery with a weapon.
716	812.135(2)(c)	1st		Home-invasion robbery, no firearm, deadly weapon,

	591-02400-24		20241222c1
			or other weapon.
717	817.418(2)(b)	2nd	Offering for sale or advertising personal protective equipment with intent to defraud; second or subsequent offense.
718	817.504(1)(b)	2nd	Offering or advertising a vaccine with intent to defraud; second or subsequent offense.
719	817.505(4)(c)	1st	Patient brokering; 20 or more patients.
720	817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
721	817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
722	817.535(4)(a)1.	2nd	Filing false lien or other unauthorized

	591-02400-24		20241222c1
			document; defendant is incarcerated or under supervision.
723	817.535(5)(a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
724	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
725	817.611(2)(c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
726	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
727	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.



728	591-02400-24	20241222c1	
	825.103(3)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.
729	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
730	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
731	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
732	860.16	1st	Aircraft piracy.
733	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

734	591-02400-24	20241222c1	
	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
735	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
736	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
737	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
738	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
739	893.135 (1)(c)2.c.	1st	Trafficking in hydrocodone, 100 grams or more, less than 300 grams.
740			

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	591-02400-24		20241222c1
	893.135	1st	Trafficking in oxycodone,
	(1) (c) 3.c.		25 grams or more, less
741			than 100 grams.
	893.135	1st	Trafficking in fentanyl,
	(1) (c) 4.b. (II)		14 grams or more, less
742			than 28 grams.
	893.135	1st	Trafficking in
	(1) (d) 1.b.		phencyclidine, 200 grams
			or more, less than 400
743			grams.
	893.135	1st	Trafficking in
	(1) (e) 1.b.		methaqualone, 5 kilograms
			or more, less than 25
744			kilograms.
	893.135	1st	Trafficking in
	(1) (f) 1.b.		amphetamine, 28 grams or
			more, less than 200
745			grams.
	893.135	1st	Trafficking in
	(1) (g) 1.b.		flunitrazepam, 14 grams
			or more, less than 28
746			grams.
	893.135	1st	Trafficking in gamma-

	591-02400-24		20241222c1
	(1) (h) 1.b.		hydroxybutyric acid
			(GHB), 5 kilograms or
			more, less than 10
			kilograms.
747	893.135	1st	Trafficking in 1,4-
	(1) (j) 1.b.		Butanediol, 5 kilograms
			or more, less than 10
748			kilograms.
	893.135	1st	Trafficking in
	(1) (k) 2.b.		Phenethylamines, 200
			grams or more, less than
749			400 grams.
	893.135	1st	Trafficking in synthetic
	(1) (m) 2.c.		cannabinoids, 1,000 grams
			or more, less than 30
750			kilograms.
	893.135	1st	Trafficking in n-benzyl
	(1) (n) 2.b.		phenethylamines, 100
			grams or more, less than
751			200 grams.
	893.1351(3)	1st	Possession of a place
			used to manufacture
			controlled substance when
			minor is present or

591-02400-24 20241222c1  
 resides there.

752 895.03(1) 1st Use or invest proceeds  
 derived from pattern of  
 racketeering activity.

753 895.03(2) 1st Acquire or maintain  
 through racketeering  
 activity any interest in  
 or control of any  
 enterprise or real  
 property.

754 895.03(3) 1st Conduct or participate in  
 any enterprise through  
 pattern of racketeering  
 activity.

755 896.101(5)(b) 2nd Money laundering,  
 financial transactions  
 totaling or exceeding  
 \$20,000, but less than  
 \$100,000.

756 896.104(4)(a)2. 2nd Structuring transactions  
 to evade reporting or  
 registration  
 requirements, financial  
 transactions totaling or

591-02400-24 20241222c1  
 exceeding \$20,000 but  
 less than \$100,000.

757  
 758 Section 4. Paragraph (f) of subsection (1) of section  
 759 784.07, Florida Statutes, is amended to read:  
 760 784.07 Assault or battery of law enforcement officers and  
 761 other specified personnel; reclassification of offenses; minimum  
 762 sentences.—  
 763 (1) As used in this section, the term:  
 764 (f) "Public transit employees or agents" means bus  
 765 operators, train operators, revenue collectors, security  
 766 personnel, equipment maintenance personnel, or field  
 767 supervisors, who are employees or agents of a transit agency as  
 768 defined described in s. 812.015(1) ~~s. 812.015(1)(1)~~.  
 769 Section 5. This act shall take effect October 1, 2024.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: CS/SB 1222

INTRODUCER: Criminal Justice Committee and Senator Trumbull and others

SUBJECT: Theft

DATE: February 12, 2024

REVISED: 2/14/24

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	<u></u>	<u></u>	<u>FP</u>	<u></u>

**Please see Section IX. for Additional Information:**

PLEASE MAKE SELECTION

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**I. Summary:**

CS/SB 1222 amends s. 812.04, F.S., to specify the threshold value for third degree felony theft from a dwelling or unenclosed curtilage of a dwelling from \$100 or more, but less than \$750, to \$40 or more, but less than \$750. This crime retains a level 2 in the offense severity ranking chart.

The bill creates new crimes relating to taking property from a person's home or porch. Specifically, if the property is taken from a dwelling or from the unenclosed curtilage of a dwelling, it is a:

- Third degree felony, if the property stolen is valued at \$750 or more. This crime is ranked as a level 4 in the offense severity ranking chart.
- Second degree felony, if the property stolen is taken from more than 20 dwellings or from the unenclosed curtilage of more than 20 dwellings, or any combination thereof. This crime is ranked as a level 5 in the offense severity ranking chart.
- First degree misdemeanor, if the property stolen is valued at less than \$40.
  - A person who commits the above misdemeanor offense and who has previously been convicted of any theft commits a third degree felony. This crime is ranked as a level 2 in the offense severity ranking chart.
  - A person who commits the above misdemeanor offense and has previously been convicted two or more times of any theft commits a third degree felony. This crime is ranked as a level 4 in the offense severity ranking chart.

The bill amends s. 812.015, F.S., to provide that it is a third degree felony for a person to commit retail theft if the person acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense. This crime is listed as a level 5 in the offense severity ranking chart.

Commission of the offense described above is a second degree felony if the person solicits the participation of another person in the offense through the use of a social media platform. This crime is listed as a level 6 in the offense severity ranking chart.

The bill provides it is a first degree felony, if a person commits retail theft under s. 812.015(8) or (9), F.S., and:

- Has two or more previous convictions of violations of either or both of those subsections; or
- Possesses a firearm during the commission of such offense. This crime is listed as a level 8 in the offense severity ranking chart.

Additionally, the bill amends the aggregation criteria for specified retail theft offenses. For retail theft offenses under ss. 812.015(8), 812.015(9), and 812.015(10), F.S., where a specified number of retail thefts, specified value of property stolen, or specified number of items stolen, is aggregated to determine the total number of retail thefts or value of property stolen, the bill increases the aggregation period from 30 days to 45 days.

The bill has a positive significant prison bed impact. See Section V., Fiscal Impact Statement.

The bill provides an effective date of October 1, 2024.

## II. Present Situation:

Retail merchants have experienced an increase in property theft referred to as “smash-and grab” theft. In this form of organized retail crime, a large group of offenders enter a retail store and steal thousands of dollars of products in minutes, typically overpowering the merchant's employees and preventing the merchant from stopping the theft. Law enforcement has reported such offenders utilizing social media to coordinate illegal group activity.

At the Nordstrom store in California, for example, thieves raided the store of over \$100,000 of merchandise in one minute and left the scene in 25 separate cars.<sup>1</sup> In December 2023, a smash and grab burglary at the Sawgrass Mills Mall in Sunrise, led to panic when suspects used an unknown device to break display glass generating a loud noise.<sup>2</sup>

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<sup>1</sup> The San Francisco Chronical Business Insider, Jessica Chastain, *Smash-and-Grab Robberies Organized on Social Media, Police Say*, available at, <https://www.businessinsider.com/smash-and-grab-robberies-organized-on-social-media-police-2021-12> (last visited on January 20, 2024).

<sup>2</sup> 7 News, Miami, Brandon Beyer, Ruben Rosario and Robbin Simmons, *Police: Shattered glass during “smash and grab” at Sawgrass Mills Mall leads to panic*, available at, <https://wsvn.com/news/local/broward/police-shattered-glass-during-smash-and-grab-at-sawgrass-mills-mall-leads-to-panic/> (Last visited January 20, 2024).

Porch Pirating is a theft crime that has also increased in recent years. “Porch pirate”<sup>3</sup> is a term that refers to a thief who takes packages left outside doors by couriers. As online shopping continues to be on the rise, so do incidences of porch piracy. Nearly eight in ten Americans have reported falling victim to such package theft in 2022, totaling an estimated 260 million packages worth \$19.5 billion.<sup>4</sup>

## **Theft**

Section 812.014, F.S., provides that a person commits a theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to use the property.<sup>5</sup>

Generally, a person commits a third degree felony<sup>6</sup> crime of grand theft if the property stolen is valued at \$750 or more, but less than \$20,000.<sup>7</sup> If the property stolen is \$20,000 or more, but less than \$100,000, the offender commits a second degree felony,<sup>8</sup> and if the property stolen is \$100,000 or more, the offender commits a first degree felony.<sup>9</sup> Other items listed under this section such as the theft of a firearm, a motor vehicle, or a stop sign, may also constitute grand theft.<sup>10</sup>

### ***Taking Property from a Dwelling or the Unenclosed Curtilage of a Dwelling***

Section 812.014, F.S., defines theft offenses and categorizes the offense level based on the value of the property stolen and the offender’s prior history of theft convictions, the circumstances under which the theft occurs, or the type of property stolen to determine the level of offense.

Specifically, s. 812.014(2)(d), F.S., prohibits a person from stealing property valued at \$100 or more, but less than \$750, when property is taken from a dwelling or the unenclosed curtilage of a dwelling. A violation of the prohibition is a third degree felony and ranked as a Level 2 offense on the offense severity ranking chart of the Criminal Punishment Code.

A dwelling is defined as a building or conveyance of any kind, including any attached porch, whether such building or conveyance is temporary or permanent, mobile or immobile, which has

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<sup>3</sup> Dictionary.com definition of porch pirate.

<sup>4</sup> Forbes, Ana Durrani, *The Worst states for Porch Pirates 2024*, [https://www.forbes.com/home-improvement/home-security/worst-states-for-porch-pirates/#:~:text=Nearly%20eight%20in%2010%20Americans%20have%20had%20packages,million%20packages%20estimated%20at%20\\$19.5%20billion%20in%202022](https://www.forbes.com/home-improvement/home-security/worst-states-for-porch-pirates/#:~:text=Nearly%20eight%20in%2010%20Americans%20have%20had%20packages,million%20packages%20estimated%20at%20$19.5%20billion%20in%202022) (last visited January 20, 2024).

<sup>5</sup> Section 812.014(1), F.S.

<sup>6</sup> A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

<sup>7</sup> Section 812.014(2)(c)1.-3., F.S.

<sup>8</sup> Section 812.014(2)(b), F.S.

<sup>9</sup> Section 812.014(2)(a)1., F.S.

<sup>10</sup> Section 812.014(2)(c), F.S.

a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof.<sup>11</sup>

Unenclosed curtilage of a dwelling is defined as the unenclosed land or grounds, and any outbuildings that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling.<sup>12</sup>

### ***Retail Theft***

Retail theft is the taking possession of or carrying away of merchandise, property, money, or negotiable documents; altering or removing a label, universal product code, or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant of possession, use, benefit, or full retail value.<sup>13</sup>

Under s. 812.015(8)(a)-(f), F.S., retail theft is a third degree felony, if a person:

- Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, which may occur through multiple acts of retail theft, in which the amount of each individual theft is aggregated within a 30-day period to determine the value of the property stolen and such value is \$750 or more.
- Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in the control of another person in exchange for consideration, in which the stolen property taken or placed within a 30-day period is aggregated to determine the value of the stolen property and such value is \$750 or more.
- Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense and such value is \$750 or more.
- Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purposed to be contained in the package or box and such value is \$750 or more.
- Individually, or in concert with 1 or more other persons, commits 5 or more retail thefts within a 30-day period and in committing such thefts obtains or uses 10 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 30-day period to determine the total number of items stolen, regardless of the value of the merchandise, and two or more of the thefts occur at different physical locations.

Under s. 812.015(9)(a)-(c), F.S., retail theft is a second degree felony if a person:

- Commits a second or subsequent felony retail theft offense.
- Individually, or in concert with one or more other persons, coordinates the activities of one or more persons in committing the offense of retail theft, in which the amount of each individual theft within a 30-day period is aggregated to determine the value of the stolen property and such value is in excess of \$3,000.

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<sup>11</sup> Section s. 810.011(2), F.S.

<sup>12</sup> Section 810.09, F.S.

<sup>13</sup> Section 812.015(1)(d), F.S.

- Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in control of another person in exchange for consideration, in which the stolen property taken or placed within a 30-day period is aggregated to have a value in excess of \$3,000.

Under s. 812.015(9)(d), F.S., retail theft is a second degree felony, regardless of the value of property stolen, if a person individually, or in concert with one or more other persons, commits five or more retail thefts within a 30-day period and in committing such thefts obtains or uses 20 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 30-day period to determine the total number of items stolen, regardless of the value of such merchandise, and two or more of the thefts occur at a different physical retail merchant location.

### **Criminal Punishment Code**

The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.<sup>14</sup>

The Criminal Punishment Code<sup>15</sup> (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).<sup>16</sup> Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses. The lowest permissible sentence is any non-state prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.<sup>17</sup> Absent mitigation,<sup>18</sup> the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.<sup>19</sup>

<sup>14</sup> Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense.

Section 775.083, F.S., provides the following maximum fines; \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

<sup>15</sup> Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>16</sup> Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

<sup>17</sup> Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

<sup>18</sup> The court may "mitigate" or "depart downward" from the scored lowest permissible sentence, if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

<sup>19</sup> If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.



### ***Offense Severity Ranking Chart***

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

### **III. Effect of Proposed Changes:**

The bill amends s. 812.014(2), F.S., to specify the threshold value for third degree felony theft from a dwelling or unenclosed curtilage of a dwelling from \$100 or more, but less than \$750, to \$40 or more, but less than \$750.

Additionally, the bill creates new offenses relating to theft from a dwelling or unenclosed curtilage of a dwelling, including:

- A third degree felony,<sup>20</sup> ranked as a Level 4 offense, if the property stolen is valued at \$750 or more.
- A second degree felony,<sup>21</sup> ranked as a Level 5 offense, if the property stolen is taken from more than 20 dwellings or from the unenclosed curtilage of more than 20 dwellings, or any combination thereof.
- Petit theft of the first degree and a first degree misdemeanor,<sup>22</sup> if the property stolen is valued at less than \$40.
  - A person who commits the above misdemeanor offense and who has previously been convicted of any theft commits a third degree felony. This crime is ranked as a level 2 in the offense severity ranking chart.
  - A person who commits the above misdemeanor offense and has previously been convicted two or more times of any theft commits a third degree felony. This crime is ranked as a level 4 in the offense severity ranking chart.

Social media platform means any information service, system, Internet search engine, or access software provider that:

<sup>20</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>21</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>22</sup> A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year. Sections 775.082 and 775.083, F.S.

- Provides or enables computer access by multiple users to a computer server, including an Internet platform or a social media site;
- Operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity;
- Does business in the state; and
- Satisfies at least one of the following thresholds:
  - Has annual gross revenues in excess of \$100 million, as adjusted in January of each odd-numbered year to reflect any increase in the Consumer Price Index.
  - Has at least 100 million monthly individual platform participants globally.<sup>23</sup>

The bill amends s. 812.015, F.S., relating to retail theft, to:

- Prohibit a person from acting in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense, punishable as a third degree felony. This crime is listed as a level 5 in the offense severity ranking chart.
- Prohibit a person from acting in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense and, in the course of organizing or committing the offense, soliciting the participation of another person in the offense through the use of a social media platform, as defined in s. 501.2041(1), F.S., punishable as a second degree felony. This crime is listed as a level 6 in the offense severity ranking chart.

The bill provides it is a first degree felony, if a person commits retail theft under s. 812.015(8) or (9), F.S., and:

- Has two or more previous convictions of violations of either or both of those subsections; or
- Possesses a firearm during the commission of such offense. This crime is listed as a level 8 in the offense severity ranking chart.

Additionally, the bill amends the aggregation criteria for specified retail theft offenses. For retail theft offenses under ss. 812.015(8), 812.015(9), and 812.015(10), F.S., where a specified number of retail thefts, specified value of property stolen, or specified number of items stolen, is aggregated to determine the total number of retail thefts or value of property stolen, the bill increases the aggregation period from 30 days to 45 days.

The bill provides an effective date of October 1, 2024.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>23</sup> Section 501.2041(1)(g), F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined the bill has a positive significant prison bed impact (increase of more than 25 prison beds).<sup>24</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 812.014, 812.015, 921.0022, and 784.07.

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<sup>24</sup> Office of Economic and Demographic Research *SB 1222*  
<http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB1222.pdf>

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on January 23, 2024:**

The committee substitute makes the following technical changes by:

- Adding necessary statute citations.
- Correcting the Offense Severity Ranking Chart regarding the punishment for retail theft, s. 812.015(9)(b) F.S., to reflect the increase to a 45 day period.
- Reordering the new offense added in the Offense Severity Ranking Chart.

**B. Amendments:**

None.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Criminal Justice, *Chair*  
Appropriations  
Appropriations Committee on Criminal and Civil Justice  
Appropriations Committee on Health and Human Services  
Community Affairs  
Environment and Natural Resources  
Ethics and Elections

**SELECT COMMITTEE:**

Select Committee on Resiliency

**SENATOR JONATHAN MARTIN**

33rd District

January 30, 2024

The Honorable Jenifer Bradley  
Senate Community Affairs Committee, Chair  
201 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399

**RE: SB 1284 – Department of Corrections**

Dear Chair Bradley:

Please allow this letter to serve as my respectful request to place SB 1284, relating to the Department of Corrections, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Martin".

Jonathan Martin  
Senate District 33

Cc: Marti Harkness, Staff Director  
Rebecca Henderson, Administrative Assistant

**REPLY TO:**

- 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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2/13/24

Meeting Date

SB 1284

Bill Number or Topic

CRIMINAL JUSTICE APPROP

Committee

Amendment Barcode (if applicable)

Name NATALIE KELLY

Phone (850) 570-5747

Address 122 SOUTH CALHOUN STREET

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TALLAHASSEE, FLORIDA

City

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32301

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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2/13/24

Meeting Date

ACCS

1284

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Jake Felder

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Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Dep. of Corrections

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/legistics/2020/2020-2022-Joint-Rules.pdf)

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The Florida Senate

APPEARANCE RECORD

2/13/24

Meeting Date

SB 1284

Bill Number or Topic

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Approp Criminal & Civil Justice

Committee

Amendment Barcode (if applicable)

Name Laurette Philipsen - Florida Cares Charity

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Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



By Senator Martin

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1 A bill to be entitled  
 2 An act relating to health care for inmates; amending  
 3 s. 945.41, F.S.; revising and providing legislative  
 4 intent; providing construction; providing for  
 5 individual dignity and treatment; providing for  
 6 express and informed consent and emergency medical  
 7 treatment; amending s. 945.42, F.S.; defining,  
 8 revising, and deleting terms; amending s. 945.43,  
 9 F.S.; substantially rewording provisions concerning  
 10 involuntary examinations of inmates and providing  
 11 requirements therefor; amending s. 945.44, F.S.;  
 12 substantially rewording provisions relating to  
 13 placement and treatment of an inmate in a mental  
 14 health treatment facility and providing requirements  
 15 therefor; repealing s. 945.45, F.S., relating to  
 16 continued placement of inmates in mental health  
 17 treatment facilities; amending s. 945.46, F.S.;  
 18 providing requirements for filing petitions for  
 19 involuntary inpatient placement for certain inmates;  
 20 authorizing the court to order alternative means and  
 21 venues for certain hearings; requiring, rather than  
 22 authorizing, inmates to be transported to the nearest  
 23 receiving facility in certain circumstances; amending  
 24 s. 945.47, F.S.; specifying purposes for which an  
 25 inmate's mental health treatment records may be  
 26 provided to the Florida Commission on Offender Review  
 27 and the Department of Children and Families;  
 28 authorizing such records to be provided to certain  
 29 facilities upon request; amending s. 945.48, F.S.;

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30 substantially rewording provisions relating to  
 31 emergency treatment orders and use of force and  
 32 providing requirements therefor; providing  
 33 requirements for emergency and psychotropic  
 34 medications and use of force; creating s. 945.485,  
 35 F.S.; providing legislative findings; providing  
 36 requirements for management and treatment for self-  
 37 injurious behaviors; requiring facility wardens to  
 38 consult with an inmate's treating physician in certain  
 39 circumstances and make certain determinations;  
 40 providing for petitions to compel an inmate to submit  
 41 to medical treatment in certain circumstances;  
 42 providing construction; amending s. 945.49, F.S.;  
 43 deleting a requirement that the Department of  
 44 Corrections adopt certain rules in cooperation with  
 45 the Mental Health Program Office of the Department of  
 46 Children and Families; creating s. 945.6042, F.S.;  
 47 providing definitions; providing legislative findings  
 48 and intent; providing requirements for inmate  
 49 capacity, health care advance directives, and proxies;  
 50 authorizing use of force on incapacitated inmates in  
 51 certain circumstances; providing immunity from  
 52 liability for certain persons in certain  
 53 circumstances; providing an effective date.

54  
 55 Be It Enacted by the Legislature of the State of Florida:

56  
 57 Section 1. Section 945.41, Florida Statutes, is amended to  
 58 read:

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59 945.41 Mental health treatment for inmates; legislative  
60 intent of ss. 945.40-945.49.—

61 (1) INTENT.—It is the intent of the Legislature that:

62 (a) ~~mentally ill~~ Inmates in the custody of the department  
63 who have a mental illness of Corrections receive an evaluation  
64 and appropriate treatment for their mental illness through a  
65 continuum of outpatient and inpatient mental health treatment  
66 and services.

67 (b) The department is authorized to purchase treatment  
68 materials and equipment to support inmate rehabilitation; to  
69 ameliorate disabling mental symptoms associated with impairment  
70 in behavioral functioning, sensory and motor skills, and impulse  
71 control; and to improve adaptive coping skills consistent with  
72 the department's jurisdiction as defined in s. 945.025.

73 (c) Sections 945.40-945.49 do not supplement, amend, or  
74 change the responsibilities of the Department of Children and  
75 Families pursuant to chapter 916, the Forensic Client Services  
76 Act, which governs forensic services for persons who are  
77 incompetent to proceed as defined in s. 916.106.

78 (2) INDIVIDUAL DIGNITY AND TREATMENT.—

79 (a) An inmate in the custody of the department shall be  
80 offered treatment that is suited to his or her needs as  
81 determined by health care staff and that is provided in a humane  
82 psychological environment. Such treatment shall be administered  
83 skillfully, safely, and humanely with respect for the inmate's  
84 dignity and personal integrity.

85 (b) The department shall provide mental health treatment  
86 and services to inmates and may contract with any entities,  
87 persons, or agencies qualified to provide such treatment and

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88 services.

89 (c) Inmates receiving mental health treatment and services  
90 shall be offered the opportunity to participate in the  
91 development of a written individualized treatment plan and  
92 provided a copy of such plan before its implementation. ~~It is~~  
93 ~~further the intent of the Legislature that:~~

94 (d) ~~(1)~~ Inmates in the custody of the department who have  
95 mental illnesses that require hospitalization and intensive  
96 mental health psychiatric inpatient treatment and services or  
97 care shall be offered receive appropriate treatment or care in  
98 an inpatient setting Department of Corrections mental health  
99 treatment facilities designated for that purpose. Inmates who  
100 have mental illnesses that require intensive hospitalization-  
101 level mental health inpatient treatment and services shall be  
102 transferred to a department mental health treatment facility  
103 designated for that purpose The Department of Corrections shall  
104 provide mental health services to inmates committed to it and  
105 may contract with any entities, persons, or agencies qualified  
106 to provide such services.

107 (e) ~~(2)~~ Mental health treatment facilities shall be secure  
108 and adequately equipped and staffed for the provision of mental  
109 health treatment and services. Inmates shall be offered the  
110 least restrictive appropriate available treatment and services  
111 based on their assessed needs and best interests and consistent  
112 with improvement of their condition for facilitation of  
113 appropriate adjustment within the correctional environment and  
114 that, to the extent possible, such services be provided in the  
115 least restrictive manner consistent with optimum improvement of  
116 the inmate's condition.

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117 (3) EXPRESS AND INFORMED CONSENT.—

118 (a) A mentally competent inmate offered mental health  
 119 treatment within the department shall give his or her express  
 120 and informed consent for such treatment. Before giving such  
 121 consent, the following information shall be provided and  
 122 explained in plain language to the inmate:

123 1. The proposed treatment.

124 2. The purpose of the treatment.

125 3. The common risks, benefits, and side effects of the  
 126 treatment and the specific dosage range for a medication, if  
 127 applicable.

128 4. Alternative treatment modalities.

129 5. The approximate length of treatment.

130 6. The potential effects of stopping treatment.

131 7. How treatment will be monitored.

132 8. That any consent given for treatment may be revoked  
 133 orally or in writing before or during the treatment period by  
 134 the inmate or by a person legally authorized to make health care  
 135 decisions on behalf of the inmate.

136 (b) Inmates who are determined to be incompetent to consent  
 137 to treatment shall receive treatment deemed to be necessary for  
 138 their appropriate care and for the safety of the inmate or  
 139 others in accordance with the procedures established in ss.  
 140 945.40-945.49.

141 (4)(3) PAROLE.—Inmates who are transferred to any facility  
 142 for the purpose of mental health treatment and services shall be  
 143 given consideration for parole and be eligible for release by  
 144 reason of gain-time allowances as provided in s. 944.291 and  
 145 release by expiration of sentence, consistent with guidelines

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146 established for that purpose by the department.

147 (5)(4) YOUTHFUL OFFENDERS.—Any inmate sentenced as a  
 148 youthful offender, or designated as a youthful offender by the  
 149 department under chapter 958, who is transferred pursuant to  
 150 this act to a mental health treatment facility shall be  
 151 separated from other inmates, if necessary, as determined by the  
 152 warden of the mental health treatment facility.

153 (6)(5) TREATMENT FACILITIES.—The department may designate  
 154 mental health treatment facilities for adult, youthful, and  
 155 female offenders or may contract with other appropriate  
 156 entities, persons, or agencies for such services.

157 (7) EMERGENCY MEDICAL TREATMENT.—Notwithstanding any other  
 158 provision of this section, when the express and informed consent  
 159 of an inmate placed in a mental health treatment facility in  
 160 accordance with s. 945.44 cannot be obtained or the inmate is  
 161 incompetent to consent to treatment, the warden of a mental  
 162 health treatment facility, or his or her designated  
 163 representative, under the direction of the inmate's attending  
 164 physician, may authorize nonpsychiatric, emergency surgical  
 165 treatment or other routine medical treatment if such treatment  
 166 is deemed lifesaving or there is a situation threatening serious  
 167 bodily harm to the inmate.

168 Section 2. Section 945.42, Florida Statutes, is amended to  
 169 read:

170 945.42 Definitions; ss. 945.40-945.49.—As used in ss.  
 171 945.40-945.49, the following terms shall have the meanings  
 172 ascribed to them, unless the context shall clearly indicate  
 173 otherwise:

174 (1) "Chief" means the Chief of Mental Health Services of

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175 the Department of Corrections or his or her designee.  
 176 (2)(1) "Court" means the circuit court.  
 177 (3)(2) "Crisis stabilization care" means an inpatient a  
 178 level of care that is less restrictive and intensive ~~intense~~  
 179 than care provided in a mental health treatment facility, that  
 180 includes a broad range of evaluation and treatment and services  
 181 provided within a secure and highly structured residential  
 182 ~~setting or locked residential setting~~, and that is intended for  
 183 inmates who are experiencing acute psychological ~~emotional~~  
 184 distress and who cannot be adequately evaluated and treated in a  
 185 transitional care unit or infirmary isolation management room.  
 186 Such treatment and services are ~~is also~~ more intense than  
 187 treatment and services provided in a transitional care unit and  
 188 ~~are is~~ devoted principally toward rapid stabilization of acute  
 189 symptoms and conditions.  
 190 (4)(3) "Department" means the Department of Corrections.  
 191 (5) "Express and informed consent" means consent  
 192 voluntarily given in writing, by a competent inmate, after  
 193 sufficient explanation and disclosure of the subject matter  
 194 involved, to enable the inmate to make a knowing and willful  
 195 decision without any element of force, fraud, deceit, duress, or  
 196 other form of constraint or coercion.  
 197 (6) "Gravely disabled" means a condition in which an  
 198 inmate, as a result of a diagnosed mental illness, is:  
 199 (a) In danger of serious physical harm resulting from the  
 200 inmate's failure to provide for his or her essential physical  
 201 needs of food, clothing, hygiene, health, or safety without the  
 202 assistance of others; or  
 203 (b) Experiencing a substantial deterioration in behavioral

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204 functioning evidenced by the inmate's unremitting decline in  
 205 volitional control over his or her actions.  
 206 (7) "Incompetent to consent to treatment" means a state in  
 207 which an inmate's judgment is so affected by mental illness that  
 208 he or she lacks the capacity to make a well-reasoned, willful,  
 209 and knowing decision concerning his or her medical or mental  
 210 health treatment and services. The term is distinguished from  
 211 the term "incompetent to proceed," as defined in s. 916.106, and  
 212 only refers to an inmate's inability to provide express and  
 213 informed consent for medical or mental health treatment and  
 214 services.  
 215 ~~(4)~~ "Director" means the Director for Mental Health  
 216 Services of the Department of Corrections or his or her  
 217 designee.  
 218 ~~(5)~~ "In immediate need of care and treatment" means that an  
 219 inmate is apparently mentally ill and is not able to be  
 220 appropriately cared for in the institution where he or she is  
 221 confined and that, but for being isolated in a more restrictive  
 222 and secure housing environment, because of the apparent mental  
 223 illness:  
 224 ~~(a)1.~~ The inmate is demonstrating a refusal to care for  
 225 himself or herself and without immediate treatment intervention  
 226 is likely to continue to refuse to care for himself or herself,  
 227 and such refusal poses an immediate, real, and present threat of  
 228 substantial harm to his or her well-being; or  
 229 ~~2.~~ There is an immediate, real, and present threat that the  
 230 inmate will inflict serious bodily harm on himself or herself or  
 231 another person, as evidenced by recent behavior involving  
 232 causing, attempting, or threatening such harm;

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233 ~~(b) The inmate is unable to determine for himself or~~  
 234 ~~herself whether placement is necessary; and~~  
 235 ~~(c) All available less restrictive treatment alternatives~~  
 236 ~~that would offer an opportunity for improvement of the inmate's~~  
 237 ~~condition have been clinically determined to be inappropriate.~~  
 238 (8)(6) "In need of care and treatment" means that an inmate  
 239 has a mental illness for which inpatient services in a mental  
 240 health treatment facility are necessary and ~~that, but for being~~  
 241 ~~isolated in a more restrictive and secure housing environment,~~  
 242 because of the mental illness:  
 243 (a) But for being isolated in a more restrictive and secure  
 244 housing environment:  
 245 1. The inmate is demonstrating a refusal to care for  
 246 himself or herself and without treatment is likely to continue  
 247 to refuse to care for himself or herself, and such refusal poses  
 248 a real and present threat of substantial harm to his or her  
 249 well-being. ~~or~~  
 250 2. There is a substantial likelihood that in the near  
 251 future, without treatment, the inmate will inflict serious  
 252 bodily harm on himself or herself or another person, as  
 253 evidenced by recent behavior causing, attempting, or threatening  
 254 such harm. ~~r~~  
 255 (b) The inmate is incompetent to consent to treatment and  
 256 is unable or is refusing to provide express and informed consent  
 257 to treatment.  
 258 ~~(c)(b)~~ The inmate is unable to determine for himself or  
 259 herself whether placement is necessary. ~~r~~ ~~and~~  
 260 ~~(d)(c)~~ All available less restrictive treatment  
 261 alternatives that would offer an opportunity for improvement of

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262 the inmate's condition have been clinically determined to be  
 263 inappropriate.  
 264 ~~(9)(7)~~ "Inmate" means any person committed to the custody  
 265 of the department of Corrections.  
 266 (10) "Involuntary examination" means a psychiatric  
 267 examination performed at a mental health treatment facility to  
 268 determine whether an inmate should be placed in the mental  
 269 health treatment facility for inpatient mental health treatment  
 270 and services.  
 271 (11) "Likelihood of serious harm" means:  
 272 (a) A substantial risk that the inmate will inflict serious  
 273 physical harm upon his or her own person, as evidenced by  
 274 threats or attempts to commit suicide or the actual infliction  
 275 of serious physical harm on self;  
 276 (b) A substantial risk that the inmate will inflict  
 277 physical harm upon another person, as evidenced by behavior  
 278 which has caused such harm or which places any person in  
 279 reasonable fear of sustaining such harm; or  
 280 (c) A reasonable degree of medical certainty that the  
 281 inmate will suffer serious physical or mental harm as evidenced  
 282 by the inmate's recent behavior demonstrating an inability to  
 283 refrain from engaging in self-harm behavior.  
 284 ~~(12)(8)~~ "Mental health treatment facility" means any  
 285 extended treatment or hospitalization-level unit within the  
 286 corrections system which the Assistant Secretary for Health  
 287 Services of the department specifically designates by rule to  
 288 provide acute mental health ~~psychiatric~~ care and which may  
 289 include involuntary treatment and therapeutic intervention in  
 290 contrast to less intensive levels of care such as outpatient

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291 mental health care, transitional mental health care, or crisis  
 292 stabilization care. The term does not include a forensic  
 293 facility as defined in s. 916.106.

294 ~~(13)-(9)~~ "Mental illness" or "mentally ill" means an  
 295 impairment of the mental or emotional processes that exercise  
 296 conscious control of one's actions or of the ability to perceive  
 297 or understand reality, which impairment substantially interferes  
 298 with the person's ability to meet the ordinary demands of  
 299 living. However, for the purposes of transferring an inmate to a  
 300 mental health treatment facility, the term does not include a  
 301 developmental disability as defined in s. 393.063, simple  
 302 intoxication, or conditions manifested only by antisocial  
 303 behavior or substance abuse addiction. However, an individual  
 304 who is developmentally disabled may also have a mental illness.

305 ~~(14)-(10)~~ "Psychiatrist" means a medical practitioner  
 306 licensed pursuant to chapter 458 or chapter 459 ~~who has~~  
 307 ~~primarily diagnosed and treated nervous and mental disorders~~ for  
 308 a period of not less than 3 years inclusive of psychiatric  
 309 residency.

310 ~~(15)-(11)~~ "Psychological professional" means a behavioral  
 311 practitioner who has an approved doctoral degree in psychology  
 312 as defined in s. 490.003(3)(b) ~~s. 490.003(3)~~ and is employed by  
 313 the department or who is licensed as a psychologist pursuant to  
 314 chapter 490.

315 ~~(16)-(12)~~ "Secretary" means the Secretary of Corrections.

316 ~~(17)-(13)~~ "Transitional mental health care" means a level of  
 317 care that is more intensive than outpatient care, but less  
 318 intensive than crisis stabilization care, and is characterized  
 319 by the provision of traditional mental health treatment and

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320 ~~services treatments~~ such as group and individual therapy,  
 321 activity therapy, recreational therapy, and psychotropic  
 322 medications in the context of a secure, structured residential  
 323 setting. Transitional mental health care is indicated for an  
 324 ~~inmate a person~~ with chronic or residual symptomatology who does  
 325 not require crisis stabilization care or acute mental health  
 326 ~~psychiatric~~ care, but whose impairment in functioning  
 327 nevertheless renders him or her incapable of adjusting  
 328 satisfactorily within the general inmate population.

329 ~~(18)~~ "Treatment" means psychotropic medications prescribed  
 330 by a medical practitioner licensed pursuant to chapter 458 or  
 331 chapter 459, including those laboratory tests and related  
 332 medical procedures that are essential for the safe and effective  
 333 administration of a psychotropic medication and psychological  
 334 interventions and services such as group and individual  
 335 psychotherapy, activity therapy, recreational therapy, and music  
 336 therapy. The term does not include forensic services for inmate  
 337 defendants who are incompetent to proceed as defined in s.  
 338 916.106.

339 ~~(19)-(14)~~ "Warden" means the warden of a state corrections  
 340 facility or his or her designee.

341 Section 3. Section 945.43, Florida Statutes, is amended to  
 342 read:

343 (Substantial rewording of section. See  
 344 s. 945.43, F.S., for present text.)  
 345 945.43 Involuntary examination.—

346 (1) If there is reason to believe that an inmate has a  
 347 mental illness and the inmate is in need of care and treatment,  
 348 the inmate's treating clinician may refer the inmate to a mental

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349 health treatment facility for an involuntary examination. Upon  
 350 referral, the warden of the facility where the inmate is housed  
 351 shall transfer the inmate to a mental health treatment facility.

352 (2) Upon arrival to the mental health treatment facility,  
 353 the inmate shall be examined by a psychiatrist and a second  
 354 psychiatrist or psychological professional to determine whether  
 355 the inmate is in need of care and treatment.

356 (3) If, after the examination, the inmate is determined to  
 357 be in need of care and treatment, the psychiatrist shall propose  
 358 a recommended course of treatment that is essential to the care  
 359 of the inmate and the warden shall initiate proceedings for  
 360 placement of the inmate in the mental health treatment facility  
 361 and for involuntary treatment of the inmate as specified in s.  
 362 945.44. If the inmate is not in need of care and treatment, he  
 363 or she shall be transferred out of the mental health treatment  
 364 facility and provided with appropriate mental health services.

365 (4) The involuntary examination and initiation of court  
 366 proceedings for the placement and applicable involuntary  
 367 treatment of the inmate in the mental health treatment facility  
 368 shall be completed within 10 calendar days after arrival.

369 (5) The inmate may remain in the mental health treatment  
 370 facility pending a hearing after the timely filing of a petition  
 371 as described in s. 945.44. Pending a hearing, necessary  
 372 emergency treatment may be provided in the mental health  
 373 treatment facility upon the written order of a physician as  
 374 provided in s. 945.48.

375 Section 4. Section 945.44, Florida Statutes, is amended to  
 376 read:

377 (Substantial rewording of section. See

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378 s. 945.44, F.S., for present text.)

379 945.44 Placement and treatment of an inmate in a mental  
 380 health treatment facility.-

381 (1) CRITERIA.-An inmate may be placed in a mental health  
 382 treatment facility if he or she is mentally ill and is in need  
 383 of care and treatment. Involuntary mental health treatment that  
 384 is deemed to be essential for the appropriate care of the inmate  
 385 and the safety of the inmate or others may be provided at the  
 386 mental health treatment facility if the inmate is either gravely  
 387 disabled or presents a likelihood of serious harm.

388 (2) HEARING PROCEDURES FOR PETITIONS FOR PLACEMENT AND  
 389 TREATMENT.-

390 (a) An inmate may be placed and involuntarily treated in a  
 391 mental health treatment facility after notice and hearing upon  
 392 the recommendation of the warden of the facility where the  
 393 inmate is confined. The warden of the institution where the  
 394 mental health treatment facility is located shall petition the  
 395 circuit court serving the county for an order authorizing the  
 396 placement and treatment of the inmate. The petition must be  
 397 supported by the expert opinion of at least one of the inmate's  
 398 treating psychiatrists.

399 (b) The inmate shall be provided with a copy of the  
 400 petition along with the proposed treatment, the basis for the  
 401 proposed treatment, the names of the examining experts, and the  
 402 date, time, and location of the hearing. After considering the  
 403 public safety and security concerns presented by transporting  
 404 the inmate or in conducting onsite hearings, the court may order  
 405 that the hearing be conducted by electronic means or in person  
 406 at the facility or at another location designated by the court.

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407 If the hearing is ordered by the court to be conducted at a  
 408 location other than the facility, the department is authorized  
 409 to transport the inmate to the location of the hearing.  
 410 (c) The inmate may have an attorney represent him or her at  
 411 the hearing, and, if the inmate is indigent, the court shall  
 412 appoint the office of the public defender or private counsel  
 413 pursuant to s. 27.40(1) to represent the inmate at the hearing.  
 414 An attorney representing the inmate shall have access to the  
 415 inmate and any records, including medical or mental health  
 416 records, which are relevant to the representation of the inmate.  
 417 (d) The hearing on the petition for involuntary placement  
 418 and treatment shall be held as expeditiously as possible after  
 419 the petition is filed, but no later than 14 calendar days after  
 420 filing. The court may appoint a general or special magistrate to  
 421 preside. The inmate may testify or not, as he or she chooses,  
 422 may cross-examine witnesses testifying on behalf of the  
 423 facility, and may present his or her own witnesses.  
 424 (e) The court may waive the presence of the inmate at the  
 425 hearing if the waiver is consistent with the best interests of  
 426 the inmate and the inmate's counsel does not object. One of the  
 427 inmate's physicians whose opinion supported the petition shall  
 428 appear as a witness at the hearing.  
 429 (f) If the court finds by clear and convincing evidence  
 430 that the inmate is mentally ill and in need of care and  
 431 treatment, the court shall order that he or she be placed in the  
 432 mental health treatment facility for a period not to exceed 6  
 433 months.  
 434 (g) On the issue of whether the court should authorize  
 435 treatment for which an inmate is unable or has refused to

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436 provide express and informed consent, the court shall determine  
 437 by clear and convincing evidence whether:  
 438 1. The inmate is mentally ill.  
 439 2. The treatment is essential to the care of the inmate.  
 440 3. The treatment is not experimental and does not present  
 441 an unreasonable risk of serious, hazardous, or irreversible side  
 442 effects.  
 443 4. The inmate is gravely disabled or poses a likelihood of  
 444 serious harm.  
 445 5. The inmate is incompetent to consent to treatment.  
 446 (h) The court must consider at least all of the following:  
 447 1. The inmate's expressed preference regarding treatment,  
 448 if the inmate is able to express a preference.  
 449 2. The probability of adverse side effects.  
 450 3. The prognosis for the inmate without treatment.  
 451 4. The prognosis for the inmate with treatment.  
 452 (3) ORDERS FOR TREATMENT.—If the court finds by clear and  
 453 convincing evidence that the inmate is mentally ill and that the  
 454 inmate meets the criteria in subsection (2), the court shall  
 455 order that the inmate be involuntarily treated for a period not  
 456 to exceed 6 months, concurrent with an order for placement in  
 457 the mental health treatment facility.  
 458 (4) STATUS HEARINGS AND CONTINUING JURISDICTION.—An order  
 459 authorizing involuntary placement and treatment shall allow such  
 460 placement and treatment for a period not to exceed 6 months  
 461 following the date of the order. Unless the court is notified in  
 462 writing that the inmate has been discharged from the mental  
 463 health treatment facility because he or she is no longer in need  
 464 of care and treatment, has been transferred to another

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465 institution of the department, or has been released from the  
 466 department's custody, the warden shall, before the expiration of  
 467 the initial order, file a notice with the court to set a status  
 468 hearing for an order authorizing the continuation of placement  
 469 and treatment for another period not to exceed 6 months. This  
 470 procedure shall be repeated until the inmate is no longer in  
 471 need of care and treatment. Placement and treatment may be  
 472 continued pending a hearing after the timely filing of any  
 473 petition.

474 (5) COPIES OF ORDERS.—The court shall provide a copy of its  
 475 order authorizing placement and treatment along with all  
 476 supporting documentation relating to the inmate's condition to  
 477 the warden of the mental health treatment facility.

478 (6) DISMISSAL OF PETITIONS.—If the court finds that  
 479 criteria for placement and treatment are not satisfied, it shall  
 480 dismiss the petition and the inmate shall be transferred out of  
 481 the mental health treatment facility and provided with  
 482 appropriate mental health services.

483 Section 5. Section 945.45, Florida Statutes, is repealed.

484 Section 6. Present subsection (3) of section 945.46,  
 485 Florida Statutes, is redesignated as subsection (5) and amended,  
 486 and a new subsection (3) and subsection (4) are added to that  
 487 section, to read:

488 945.46 Initiation of involuntary placement proceedings with  
 489 respect to a mentally ill inmate scheduled for release.—

490 (3) The warden shall file petitions for involuntary  
 491 inpatient placement for inmates scheduled to be released in the  
 492 court in the county where the inmate is located. Upon filing,  
 493 the clerk of the court shall provide copies to the Department of

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494 Children and Families, the inmate, and the state attorney and  
 495 public defender of the judicial circuit in which the inmate is  
 496 located. A fee may not be charged for the filing of a petition  
 497 under chapter 394. Within 1 court working day after the filing  
 498 of a petition for involuntary inpatient placement, the court  
 499 shall appoint the public defender to represent the inmate who is  
 500 the subject of the petition, unless the inmate is otherwise  
 501 represented by counsel. The clerk of the court shall immediately  
 502 notify the public defender of such appointment. Any attorney  
 503 representing the inmate shall have access to the inmate,  
 504 witnesses, and records relevant to the presentation of the  
 505 patient's case and shall represent the interests of the inmate,  
 506 regardless of the source of payment to the attorney. The state  
 507 attorney for the circuit in which the inmate is located shall  
 508 represent the state, rather than the petitioning warden, as the  
 509 real party in interest in the proceeding. The remainder of the  
 510 proceedings shall be governed by chapter 394.

511 (4) After considering the public safety and security  
 512 concerns presented by transporting a mentally ill inmate to  
 513 court, the court may order that the hearing be conducted by  
 514 electronic means, at the facility in person, or at another  
 515 location designated by the court. If the hearing is ordered by  
 516 the court to be conducted at a location other than the facility,  
 517 the department is authorized to transport the inmate to the  
 518 location of the hearing.

519 (5)~~(3)~~ The department may transport an individual who is  
 520 being released from its custody to a receiving or mental health  
 521 treatment facility for involuntary examination or placement.  
 522 Such transport shall be made to a facility that is specified by

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523 the Department of Children and Families as able to meet the  
 524 specific needs of the individual. If the Department of Children  
 525 and Families does not specify a facility, transport shall ~~may~~ be  
 526 made to the nearest receiving facility.

527 Section 7. Section 945.47, Florida Statutes, is amended to  
 528 read:

529 945.47 Discharge of inmate from mental health treatment.—  
 530 (1) An inmate who has been placed in a mental health  
 531 treatment facility ~~transferred~~ for the purpose of mental health  
 532 treatment shall be discharged from treatment by the warden under  
 533 the following conditions:

534 (a) If the inmate is no longer in need of care and  
 535 treatment, as defined in s. 945.42, he or she may be transferred  
 536 out of the mental health treatment facility and provided with  
 537 appropriate mental health services; or

538 (b) If the inmate's sentence expires during his or her  
 539 treatment, but he or she is no longer in need of care and  
 540 treatment as an inpatient, the inmate may be released with a  
 541 recommendation for outpatient treatment, pursuant to ~~the~~  
 542 ~~provisions of~~ ss. 945.40-945.49.

543 (2) At any time that an inmate who has received mental  
 544 health treatment while in the custody of the department becomes  
 545 eligible for release under supervision or upon end of sentence,  
 546 a record of the inmate's mental health treatment may be provided  
 547 to the Florida Commission on Offender Review and ~~to~~ the  
 548 Department of Children and Families to arrange postrelease  
 549 aftercare placement and to prospective recipient inpatient  
 550 health care or residential facilities upon request. The record  
 551 shall include, at a minimum, a summary of the inmate's

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552 diagnosis, length of stay in treatment, clinical history,  
 553 prognosis, prescribed medication, treatment plan, and  
 554 recommendations for aftercare services.

555 Section 8. Section 945.48, Florida Statutes, is amended to  
 556 read:

557 (Substantial rewording of section. See  
 558 s. 945.48, F.S., for present text.)

559 945.48 Emergency treatment orders and use of force.—  
 560 (1) EMERGENCY MEDICATION.—The department is authorized to  
 561 involuntarily administer psychotropic medication to an inmate on  
 562 an emergency basis without following the procedure outlined in  
 563 s. 945.43 only as specified in this section. An emergency  
 564 treatment order for psychotropic medication may be provided to  
 565 the inmate upon the written order of a physician licensed  
 566 pursuant to chapter 458 or chapter 459 in an emergency not  
 567 exceeding 72 hours, excluding weekends and legal holidays. An  
 568 emergency exists when an inmate with a mental illness presents  
 569 an immediate threat of:

570 (a) Bodily harm to self or others; or  
 571 (b) Extreme deterioration in behavioral functioning  
 572 secondary to the mental illness.

573 (2) PSYCHOTROPIC MEDICATION.—Psychotropic medication may be  
 574 administered only when the medication constitutes an appropriate  
 575 treatment for a mental illness and its symptoms and alternative  
 576 treatments are not available or indicated, or would not be  
 577 effective. If after the 72-hour period the inmate has not given  
 578 express and informed consent to the medication initially  
 579 refused, the inmate's treating physician shall refer the inmate  
 580 to a mental health treatment facility for an involuntary

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581 examination in accordance with the procedures described in s.  
 582 945.43. Upon such referral, the warden shall, within 48 hours,  
 583 excluding weekends and legal holidays, transfer the inmate to a  
 584 mental health treatment facility. Upon transfer of the inmate  
 585 for an involuntary examination, the emergency treatment order  
 586 may be continued upon the written order of a physician as long  
 587 as the physician has determined that the emergency continues to  
 588 present a danger to the safety of the inmate or others and the  
 589 criteria described in this subsection are satisfied. If  
 590 psychotropic medication is still recommended after the  
 591 emergency, it may only be administered after following the  
 592 procedures outlined in s. 945.44.

593 (3) USE OF FORCE.—An employee or agent of the department is  
 594 authorized to apply physical force upon an inmate when and to  
 595 the extent that it reasonably appears necessary to effectuate  
 596 the treatment of an inmate as described in this section, for the  
 597 application of psychiatric restraint, to effectuate clinically  
 598 necessary hygiene, or pursuant to a valid court order issued  
 599 under s. 945.44 or s. 945.485. The requirements of s. 944.35  
 600 shall be followed when using force to effectuate such treatment,  
 601 apply such restraint, or effectuate such hygiene.

602 Section 9. Section 945.485, Florida Statutes, is created to  
 603 read:

604 945.485 Management and treatment for self-injurious  
 605 behaviors.—

606 (1) The Legislature finds that nonsuicidal self-injurious  
 607 behaviors in correctional institutions, or acts intended to  
 608 cause bodily harm but not death, have increased in the  
 609 correctional environment. Self-injurious behavior may include

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610 nonsuicidal self-injury or self-mutilation, such as cutting,  
 611 reopening wounds, and ingesting or inserting foreign objects or  
 612 dangerous instruments into the body. These behaviors pose a  
 613 significant threat to inmates, staff, and, in many cases, the  
 614 safe and secure operation of the correctional institution. In  
 615 addition, self-injurious behaviors, coupled with repeated  
 616 refusals to provide express and informed consent for medical  
 617 treatment and care, are a significant challenge for correctional  
 618 medical and mental health professionals, resulting in higher  
 619 costs for medical services, and may result in inadvertent  
 620 mortality in the incarcerated population.

621 (2) In accordance with s. 945.6042, the Legislature finds  
 622 that an inmate retains the fundamental right of self-  
 623 determination regarding decisions pertaining to his or her own  
 624 health, including the right to choose or refuse medical  
 625 treatment or life-saving medical procedures. However, the  
 626 inmate's right to privacy and decisionmaking regarding medical  
 627 treatment may be outweighed by compelling state interests.

628 (3) When an inmate is engaging in active or ongoing self-  
 629 injurious behavior and has refused to provide express and  
 630 informed consent for treatment related to the self-injurious  
 631 behavior, the warden of the facility where the inmate is housed  
 632 shall consult with the inmate's treating physician regarding the  
 633 inmate's medical and mental health status, current medical and  
 634 mental health treatment needs, and competency to provide express  
 635 and informed consent for treatment. The warden shall also  
 636 determine whether the inmate's self-injurious behavior presents  
 637 a danger to the safety of department staff or other inmates or  
 638 the security, internal order, or discipline of the institution.

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639 (a) If the inmate's treating physician determines that the  
 640 inmate has a mental illness and is incompetent to consent to  
 641 treatment, the physician shall proceed in accordance with s.  
 642 945.6042 for any necessary surgical or medical services. If the  
 643 inmate is in need of care and treatment as defined in s. 945.42,  
 644 the inmate shall be referred to a mental health treatment  
 645 facility for an involuntary examination in accordance with s.  
 646 945.44.

647 (b) If the inmate is competent, refusing necessary surgical  
 648 or medical treatment, and engaging in active or ongoing self-  
 649 injurious behavior that presents a threat to the safety of  
 650 department staff or other inmates or the security, internal  
 651 order, or discipline of the institution, the warden shall follow  
 652 the procedure set forth in subsection (4).

653 (4) (a) The warden, or his or her designated representative,  
 654 shall, on behalf of the state, petition the circuit court of the  
 655 county in which the inmate is residing or the county in which  
 656 the inmate is hospitalized for an order compelling the inmate to  
 657 submit to emergency surgical intervention or other medical  
 658 services to the extent necessary to remedy the threat to the  
 659 safety of staff or other inmates or the security, internal  
 660 order, or discipline of the institution. The petition must be  
 661 supported by the expert opinion of at least one of the inmate's  
 662 treating physicians and may be supported by other staff as  
 663 necessary.

664 (b) The inmate shall be provided with a copy of the  
 665 petition along with the proposed intervention, the basis for the  
 666 proposed intervention, the names of the testifying experts and  
 667 witnesses, and the date, time, and location of the hearing.

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668 After considering the medical status of the inmate, public  
 669 safety, and security concerns presented by transporting the  
 670 inmate, the court may order that the hearing be conducted by  
 671 electronic means or in person at the institution or at another  
 672 location designated by the court. If the hearing is ordered by  
 673 the court to be conducted at a location other than the  
 674 institution, the department is authorized to transport the  
 675 inmate to the location of the hearing.

676 (c) The inmate may have an attorney represent him or her at  
 677 the hearing, and, if the inmate is indigent, the court shall  
 678 appoint the office of the public defender or private counsel  
 679 pursuant to s. 27.40(1) to represent the inmate at the hearing.  
 680 An attorney representing the inmate shall have access to the  
 681 inmate and any records, including medical or mental health  
 682 records, which are relevant to the representation of the inmate.

683 (d) The hearing on the petition shall be held as  
 684 expeditiously as possible after the petition is filed, but no  
 685 later than 5 calendar days after filing. The court may appoint a  
 686 general or special magistrate to preside. The inmate may testify  
 687 or not, as he or she chooses, may cross-examine witnesses  
 688 testifying on behalf of the institution, and may present his or  
 689 her own witnesses.

690 (e) The court may waive the presence of the inmate at the  
 691 hearing if the waiver is consistent with the best interests of  
 692 the inmate and the inmate's counsel does not object.

693 (f) The court shall determine whether the warden has  
 694 established, by clear and convincing evidence, a compelling  
 695 state interest sufficient to outweigh the inmate's right to  
 696 refuse treatment. The court shall consider all of the following:

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697 1. Preservation of the life of the inmate.  
 698 2. Prevention of suicide.  
 699 3. Protection of innocent third parties.  
 700 4. Maintenance of the ethical integrity of the medical  
 701 profession.  
 702 5. Preservation of the security, internal order, or  
 703 discipline of the institution.  
 704 6. Rehabilitation of the inmate.  
 705 7. Any other compelling state interest.  
 706 (g) If the court determines that there are compelling state  
 707 interests sufficient to override the inmate's right to refuse  
 708 treatment, the court shall enter an order authorizing emergency  
 709 surgical intervention or other medical services, narrowly  
 710 tailored and in the least intrusive manner possible, only as  
 711 necessary to remedy the threat to the safety of third parties or  
 712 the security, internal order, or discipline of the institution.  
 713 Emergency surgical intervention or other medical services  
 714 authorized by the court may be carried out at the institution or  
 715 at a licensed hospital, as applicable.  
 716 (5) This section does not repeal by implication any  
 717 provision of s. 766.103, the Florida Medical Consent Law, or s.  
 718 768.13, the Good Samaritan Act. For all purposes, the Florida  
 719 Medical Consent Law and the Good Samaritan Act shall be  
 720 considered an alternative to this section.  
 721 Section 10. Subsection (2) of section 945.49, Florida  
 722 Statutes, is amended to read:  
 723 945.49 Operation and administration.—  
 724 (2) RULES.—The department, ~~in cooperation with the Mental~~  
 725 ~~Health Program Office of the Department of Children and~~

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726 ~~Families,~~ shall adopt rules necessary for administration of ss.  
 727 945.40-945.49 in accordance with chapter 120.  
 728 Section 11. Section 945.6042, Florida Statutes, is created  
 729 to read:  
 730 945.6042 Inmate health care advance directives.—  
 731 (1) DEFINITIONS.—The terms used in this section have the  
 732 same meanings as in s. 765.101 unless otherwise specified in  
 733 this section. For purposes of this section, the term:  
 734 (a) "Health care facility" has the same meaning as in s.  
 735 765.101 and includes any correctional institution or facility  
 736 where health care is provided.  
 737 (b) "Incapacity" or "incompetent" means an inmate is  
 738 physically or mentally unable to communicate a willful and  
 739 knowing health care decision.  
 740 (c) "Informed consent" means consent voluntarily given by  
 741 an inmate after a sufficient explanation and disclosure of the  
 742 subject matter involved to enable the inmate to have a general  
 743 understanding of the treatment or procedure and the medically  
 744 acceptable alternatives, including the substantial risks and  
 745 hazards inherent in the proposed treatment or procedures, and to  
 746 make a knowing health care decision without coercion or undue  
 747 influence.  
 748 (d) "Inmate" means any person committed to the custody of  
 749 the department.  
 750 (e) "Ombudsman" means an individual designated and  
 751 specifically trained by the department to identify conditions  
 752 that may pose a threat to the rights, health, safety, and  
 753 welfare of inmates in a health care facility and who may be  
 754 appointed to serve as a proxy for an inmate who is physically or

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755 mentally unable to communicate a willful and knowing health care  
756 decision.

757 (f) "Proxy" means a competent adult who has not been  
758 expressly designated to make health care decisions for a  
759 particular incapacitated inmate, but who, nevertheless, is  
760 authorized pursuant to s. 765.401 and as specified in this  
761 section to make health care decisions for such inmate.

762 (g) "Proxy review team" means a team of at least five  
763 members, appointed by the Assistant Secretary for Health  
764 Services. The team shall be composed of, at a minimum, one  
765 physician licensed pursuant to chapter 458 or chapter 459, one  
766 psychologist licensed pursuant to chapter 490, one nurse  
767 licensed pursuant to chapter 464, and one department chaplain.

768 (2) LEGISLATIVE FINDINGS AND INTENT.-

769 (a) In accordance with chapter 765, the Legislature finds  
770 that an inmate retains the fundamental right of self-  
771 determination regarding decisions pertaining to his or her own  
772 health, including the right to choose or refuse medical  
773 treatment. In accordance with chapter 765, this right is subject  
774 to certain institutional interests including the protection of  
775 human life, the preservation of ethical standards in the medical  
776 profession, and, for inmates committed to the custody of the  
777 department, the security and good order of the institutional  
778 setting.

779 (b) To ensure that such right is not lost or diminished by  
780 virtue of later physical or mental incapacity, the Legislature  
781 intends that the procedures specified in chapter 765, and as  
782 modified in this section for the institutional health care  
783 setting, apply to incarcerated inmates. These procedures should

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784 be less expensive and less restrictive than guardianship and  
785 allow an inmate to plan for incapacity by executing a document  
786 or orally designating another person to direct the course of his  
787 or her health care or receive his or her health information, or  
788 both, upon his or her incapacity. These procedures permit a  
789 previously incapacitated inmate to exercise his or her full  
790 right to make health care decisions as soon as the capacity to  
791 make such decisions has been regained.

792 (c) In order to ensure that the rights and intentions of an  
793 inmate are respected when the inmate is not able to participate  
794 actively in decisions concerning himself or herself, and to  
795 encourage communication among such inmate, his or her family,  
796 and his or her treating physicians, the Legislature declares  
797 that the laws of this state recognize the right of a competent  
798 incarcerated adult to make an advance directive instructing his  
799 or her physicians to provide, withhold, or withdraw life-  
800 prolonging procedures or to designate another person to make the  
801 health care decision for him or her in the event that such  
802 incarcerated person should become incapacitated and unable to  
803 personally direct his or her health care. It is further the  
804 intent of the Legislature that the department provide the  
805 opportunity for inmates to make advance directives as specified  
806 in this section.

807 (d) The Legislature further recognizes that incarcerated  
808 inmates may not avail themselves of the opportunity to make an  
809 advance directive or, because of incarceration, may not have a  
810 surrogate, as defined in s. 765.101, willing, able, or  
811 reasonably available to make health care decisions on his or her  
812 behalf. Additionally, because of incarceration, the individuals

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813 designated in s. 765.401 who are eligible to serve as an  
 814 appointed proxy may not be reasonably available, willing, or  
 815 competent to make health care decisions for the inmate in the  
 816 event of incapacity. Thus, it is the intent of the Legislature  
 817 that the department have an efficient process that is less  
 818 expensive and less restrictive than guardianship for the  
 819 appointment of a proxy to allow for the expedient delivery of  
 820 necessary health care to an incarcerated inmate.

821 (e) This section does not supersede the process for inmate  
 822 involuntary mental health treatment in ss. 945.40-945.49.

823 (3) CAPACITY OF INMATE; PROCEDURE.—

824 (a) An inmate is presumed to be capable of making health  
 825 care decisions for himself or herself unless he or she is  
 826 determined to be incapacitated. When an inmate has  
 827 decisionmaking capacity, the inmate's wishes are controlling.  
 828 Each physician or health care provider must clearly communicate  
 829 the treatment plan and any change to the treatment plan before  
 830 implementation of the plan or any change to the plan. Incapacity  
 831 may not be inferred from an inmate's involuntary hospitalization  
 832 for mental illness or from his or her intellectual disability.

833 (b) If an inmate's capacity to make health care decisions  
 834 for himself or herself or provide informed consent is in  
 835 question, the inmate's treating physician at the health care  
 836 facility where the inmate is located shall evaluate the inmate's  
 837 capacity and, if the evaluating physician concludes that the  
 838 inmate lacks capacity, enter that evaluation in the inmate's  
 839 medical record. If the evaluating physician has a question as to  
 840 whether the inmate lacks capacity, another physician shall also  
 841 evaluate the inmate's capacity, and if the second physician

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842 finds that the inmate lacks the capacity to make health care  
 843 decisions for himself or herself or provide informed consent,  
 844 both physicians' evaluations shall be entered in the inmate's  
 845 medical record.

846 (c) If the inmate is found to be incapacitated and has  
 847 designated a health care surrogate in accordance with chapter  
 848 765, the institution's or facility's health care staff shall  
 849 notify the surrogate and proceed as specified in chapter 765. If  
 850 the incapacitated inmate has not designated a health care  
 851 surrogate, the health care facility shall appoint a proxy to  
 852 make health care decisions for the inmate as specified in this  
 853 section.

854 (d) A determination made pursuant to this section that an  
 855 inmate lacks the capacity to make health care decisions for  
 856 himself or herself may not be construed as a finding that an  
 857 inmate lacks capacity for any other purpose.

858 (4) HEALTH CARE ADVANCE DIRECTIVE; PROCEDURE.—

859 (a) In accordance with chapter 765, the department shall  
 860 offer inmates the opportunity to execute an advance directive as  
 861 defined in s. 765.101.

862 (b) The department shall provide to each inmate written  
 863 information concerning advance directives and necessary forms to  
 864 allow inmates to execute an advance directive. The department  
 865 and its health care providers shall document in the inmate's  
 866 medical records whether the inmate has executed an advance  
 867 directive. Neither the department nor its health care providers  
 868 may require an inmate to execute an advance directive using the  
 869 department's forms. The inmate's advance directive shall travel  
 870 with the inmate within the department as part of the inmate's

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871 medical record.872 (c) An advance directive may be amended or revoked at any  
873 time by a competent inmate by means of:874 1. A signed, dated writing of intent to amend or revoke;875 2. The physical cancellation or destruction of the advance  
876 directive by the inmate or by another person in the inmate's  
877 presence and at the inmate's direction;878 3. An oral expression of intent to amend or revoke; or879 4. A subsequently executed advance directive that is  
880 materially different from a previously executed advance  
881 directive.882 (5) PROXY.—883 (a) If an incapacitated inmate has not executed an advance  
884 directive, or designated a health care surrogate in accordance  
885 with the procedures specified in chapter 765 or the designated  
886 health care surrogate is no longer available to make health care  
887 decisions, health care decisions may be made for the inmate by  
888 any of the individuals specified in the priority order provided  
889 in s. 765.401(1)(a)-(g) as proxy. Documentation of the efforts  
890 to locate a proxy from the classes specified in s.  
891 765.401(1)(a)-(g) shall be recorded in the inmate's medical  
892 file.893 (b) If there are no individuals as specified in s.  
894 765.401(1)(a)-(g) available, willing, or competent to act on  
895 behalf of the inmate, and the inmate is housed in a correctional  
896 institution or facility where health care is provided in a  
897 nonhospital setting, the warden of the institution where the  
898 inmate is housed, or the warden's designee, shall consult with  
899 the Assistant Secretary for Health Services or his or her

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900 designee who shall appoint a department ombudsman to serve as  
901 the proxy. This appointment terminates when the inmate regains  
902 capacity or is no longer incarcerated in the custody of the  
903 department. In accordance with chapter 765 and as provided in  
904 this section, decisions to withhold or withdraw life-prolonging  
905 procedures will be reviewed by the department's proxy review  
906 team for compliance with chapter 765 and the requirements of  
907 this section.908 (c) The ombudsman appointed to serve as the proxy is  
909 authorized to request the assistance of the treating physician  
910 and, upon request, a second physician not involved in the  
911 inmate's care to assist the proxy in evaluating the inmate's  
912 treatment.913 (d) In accordance with chapter 765, any health care  
914 decision made by any appointed proxy under this section must be  
915 based on the proxy's informed consent and on the decision that  
916 the proxy reasonably believes the inmate would have made under  
917 the circumstances. If there is no indication of what decision  
918 the inmate would have made, the proxy may consider the inmate's  
919 best interest in deciding that proposed treatments are to be  
920 withheld or that treatments currently in effect are to be  
921 withdrawn.922 (e) Before exercising the incapacitated inmate's rights to  
923 select or decline health care, the proxy must comply with ss.  
924 765.205 and 765.305, except that any proxy's decision to  
925 withhold or withdraw life-prolonging procedures must be  
926 supported by clear and convincing evidence that the decision  
927 would have been the one the inmate would have made had he or she  
928 been competent or, if there is no indication of what decision



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929 the inmate would have made, that the decision is in the inmate's  
930 best interest.

931 (f) Notwithstanding s. 456.057 and pursuant to s. 945.10  
932 and 45 C.F.R. part 164, subpart E, relevant protected health  
933 information and mental health and medical records of an  
934 incapacitated inmate may be disclosed to a proxy appointed to  
935 make health care decisions for an inmate.

936 (6) USE OF FORCE.—In addition to s. 944.35(1), an employee  
937 of the department may apply reasonable physical force upon an  
938 incapacitated inmate to administer medical treatment only by or  
939 under the clinical supervision of a physician or his or her  
940 designee and only to carry out a health care decision made in  
941 accordance with this section and chapter 765.

942 (7) IMMUNITY FROM LIABILITY.—A department health care  
943 provider, ombudsman, or other employee who acts under the  
944 direction of a health care provider as authorized in this  
945 section or chapter 765 is not subject to criminal prosecution or  
946 civil liability and may not be deemed to have engaged in  
947 unprofessional conduct as a result of carrying out a health care  
948 decision made in accordance with this section or chapter 765 on  
949 an inmate's behalf.

950 Section 12. This act shall take effect July 1, 2024.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: SB 1284

INTRODUCER: Senator Martin

SUBJECT: Health Care for Inmates

DATE: February 12, 2024

REVISED: 2/14/24

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wyant</u>	<u>Stokes</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

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**I. Summary:**

SB 1284 revises ss. 945.40-945.49, F.S., the Corrections Mental Health Act to provide updated, clarifying, or technical language, as well as, provide substantial changes to the procedure for placement and treatment of inmates.

The bill amends s. 945.41, F.S., to revise legislative intent by clarifying technical language in regards to inmates *who have a mental illness* and provide that services received by those inmates are offered as outpatient and inpatient mental health treatment and services. The Department of Corrections (DOC) is authorized to purchase treatment materials and equipment for specified purposes and to contract with entities, persons, or agencies qualified to provide mental health treatment and services. The bill requires inmates in the custody of the DOC to be offered the opportunity to participate in the development of a written individualized treatment plan.

A mentally competent inmate must give his or her express and informed consent for mental health treatment, and any consent given for treatment may be revoked orally or in writing before or during the treatment by the inmate or a person legally authorized to make such decisions. Inmates who are incompetent to consent must receive treatment deemed necessary for their appropriate care and for the safety of the inmate or others.

The bill authorizes nonpsychiatric, emergency surgical treatment, and routine medical treatment for an inmate placed in a mental health treatment facility under certain circumstances.

The bill amends s. 945.42, F.S., to define the terms “chief,” “express and informed consent,” “gravely disabled,” “incompetent to consent to treatment,” “involuntary examination,” “likelihood of serious harm,” and “treatment,” and revises current terms.

The bill substantially rewords s. 945.43, F.S., to provide a process for involuntary examination.

The bill substantially rewords s. 945.44, F.S., to provide the criteria, hearing procedures for petitions, orders for treatment, status hearings, copies of orders, and dismissal of petitions relating to the placement and treatment of an inmate in a mental health treatment facility.

The bill repeals s. 945.45, F.S., relating to the continued placement of inmates in mental health facilities. Language related to continued placement is described in s. 945.44, F.S, under the bill.

The bill amends s. 945.46, F.S., to provide the process for involuntary placement court proceedings when an inmate continues to be mentally ill and in need of care and treatment but is scheduled for release from custody. The bill adds language to ensure a fee may not be charged for the filing of the petition.

The bill amends s. 945.47, F.S., to specify that any time that an inmate who has received mental health treatment while in the custody of the DOC becomes eligible for release, a record of the treatment may be provided to the Florida Commission on Offender Review and the Department of Children and Families for the purpose of *arranging post release aftercare placement and to prospective recipient inpatient health care or residential facilities* upon request.

The bill substantially rewords s. 945.48, F.S., to authorize the DOC to involuntarily administer psychotropic medication to an inmate on an emergency basis without following the procedure outlined in s. 945.43, F.S. The use of force is permitted when and to the extent that it reasonably appears necessary to effectuate the treatment of an inmate, to effectuate clinically necessary hygiene of an inmate, for the application of physical restraint, or pursuant to a valid court order. Such force must be in accordance with requirements described in s. 944.35, F.S.

The bill creates s. 945.485, F.S., to provide procedures for when an inmate is engaging in active or ongoing self-injurious behavior and has refused to provide express and informed consent. If an inmate is incompetent to consent, the inmate's treating physician must proceed as set forth in s. 945.6042, F.S. The bill provides proceedings for when an inmate is competent, refusing necessary surgical or medical treatment, and engaging in active or ongoing self-injurious behavior that presents a threat to the safety of the DOC staff or other inmates or the security, internal order, or discipline of the institution.

The bill amends s. 945.49, F.S., to remove the requirement for the DOC to work in cooperation with the Mental Health Program Office of the Department of Children and Families to adopt rules necessary to administer sections under the Corrections Mental Health Act.

The bill creates s. 945.6042, F.S., to provide the DOC must offer inmates the opportunity to execute an advance directive as defined in s. 765.101, F.S. The bill provides definitions for "health care facility", "incapacity," "informed consent," "inmate," "ombudsman," "proxy," and "proxy review team." The bill provides procedure relating to the capacity of an inmate. The bill creates a process for a DOC ombudsman to serve as a proxy for an inmate that has not executed an advance directive. The bill authorizes the use of force and provides immunity from liability.

The bill does not have a fiscal impact on the DOC. See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2024.

## II. Present Situation:

Under the Corrections Mental Health Act, ss. 945.40-945.49, F.S., it is the intent of the Legislature for mentally ill inmates in the custody of the DOC to receive an evaluation and appropriate treatment for their mental illness through a continuum of services. The DOC must provide mental health services to inmates committed to the DOC and may contract with entities, persons, or agencies qualified to provide such services.<sup>1</sup> Mental health treatment facilities are required to be secure, adequately equipped and staffed, and provide services in the least restrictive manner consistent with optimum improvement of the inmate's condition.<sup>2</sup>

The Corrections Mental Health Act provides key terminology necessary in determining criteria is met for crisis stabilization care<sup>3</sup> such as: defining mentally ill,<sup>4</sup> an inmate in immediate need of care and treatment,<sup>5</sup> in need of care and treatment,<sup>6</sup> and transitional mental health care.<sup>7</sup>

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<sup>1</sup> Section 945.41(1), F.S.

<sup>2</sup> Section 945.41(2), F.S.

<sup>3</sup> "Crisis Stabilization Care" means a level of care that is less restrictive and intense than care provided in a mental health treatment facility, that includes a broad range of evaluation and treatment services provided within a highly structured setting or locked residential setting, and that is intended for inmates who are experiencing acute emotional distress and who cannot be adequately evaluated and treated in a transitional care unit and is devoted principally toward rapid stabilization of acute symptoms and conditions. Section 945.42(2), F.S.

<sup>4</sup> "Mentally ill" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. However, for the purposes of transferring an inmate to a mental health treatment facility, the term does not include a developmental disability as defined in s. 393.063, F.S., simple intoxication, or conditions manifested only by antisocial behavior or substance abuse addiction. However, an individual who is developmentally disabled may also have a mental illness. Section 945.42(9), F.S.

<sup>5</sup> "In immediate need of care and treatment" means that an inmate is apparently mentally ill and is not able to be appropriately cared for in the institution where he or she is confined and that, but for being isolated in a more restrictive and secure housing environment, because of the apparent mental illness: the inmate is demonstrating a refusal to care for himself or herself and without immediate treatment intervention is likely to continue to refuse to care for himself or herself, and such refusal poses an immediate, real, and present threat of substantial harm to his or her well-being; or there is an immediate, real, and present threat that the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior involving causing, attempting, or threatening such harm; the inmate is unable to determine for himself or herself whether placement is necessary; and all available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate. Section 945.42(5), F.S.

<sup>6</sup> "In need of care and treatment" means that an inmate has a mental illness for which inpatient services in a mental health treatment facility are necessary and that, but for being isolated in a more restrictive and secure housing environment, because of the mental illness: the inmate is demonstrating a refusal to care for himself or herself and without treatment is likely to continue to refuse to care for himself or herself, and such refusal poses a real and present threat of substantial harm to his or her well-being; or there is a substantial likelihood that in the near future the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm; The inmate is unable to determine for himself or herself whether placement is necessary; and all available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate. Section 945.42(6), F.S.

<sup>7</sup> "Transitional mental health care" means a level of care that is more intensive than outpatient care, but less intensive than crisis stabilization care, and is characterized by the provision of traditional mental health treatments such as group and individual therapy, activity therapy, recreational therapy, and psychotropic medications in the context of a structured residential setting. Transitional mental health care is indicated for a person with chronic or residual symptomatology who does not require crisis stabilization care or acute psychiatric care, but whose impairment in functioning nevertheless renders him or her incapable of adjusting satisfactorily within the general inmate population. Section 945.42(13), F.S.

The DOC is authorized to contract with appropriate entities to provide health services. The DOC is required to work in cooperation with the Mental Health Program Office of the Department of Children and Families to adopt rules necessary for administration of ss. 945.40-945.49, F.S.

Correctional officers employed by a mental health treatment facility must receive specialized training above and beyond basic certification.

An inmate receiving mental health treatment shall be subject to the same standards applied to other inmates in the department, including, but not limited to, consideration for parole, release by reason of gain-time allowances, and release by expiration of sentence.<sup>8</sup>

### **Procedure for Placement**

If an inmate is deemed mentally ill and in need of care and treatment, he or she may be placed in a mental health treatment facility after notice and hearing, and upon recommendation of the warden. The procedure for placement in a mental health treatment facility is as follows:<sup>9</sup>

- The warden files a petition with the court in the county where the inmate is housed. The petition must include the warden's recommendation supported by the expert opinion of a psychiatrist and the second opinion of a psychiatrist or psychological professional.
- A copy of the petition must be served to the inmate, accompanied by a written notice that an inmate may apply to have an attorney appointed if the inmate cannot afford one. The attorney must have access to the inmate and any records that are relevant to the representation of the inmate.
- The hearing must be held in the same county and one of the inmate's physicians at the facility must appear as a witness at the hearing.
- If the inmate is found mentally ill and in need of care, the court must order the inmate be placed in a mental health treatment facility or, if the inmate is at a mental health treatment facility, that he or she be retained there. The court must authorize the facility to retain the inmate for up to six months. If continued placement is necessary, the warden shall apply to the Division of Administrative Hearings, for an order authorizing continued placement.

The current procedure for a hearing on the placement of an inmate in a mental health treatment facility provides:<sup>10</sup>

- The court must serve notice on the warden of the facility where the inmate is confined and serve the allegedly mentally ill inmate. The notice must specify the date, time, and place of the hearing; the basis for the allegation of mental illness; and the names of the examining experts. The hearing shall be held within 5 days, and the court may appoint a general or special magistrate to preside. One of the experts whose opinion supported the petition for placement must be present at the hearing.
- If, at the hearing, the court finds that the inmate is mentally ill and in need of care and treatment, the court must order that he or she be placed in a mental health treatment facility. The court must provide a copy of the order and all supporting documentation relating to the

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<sup>8</sup> Section 945.49, F.S.

<sup>9</sup> Section 945.43(2), F.S.

<sup>10</sup> Section 945.43(3), F.S.

inmate's condition to the warden of the treatment facility. If the court finds that the inmate is not mentally ill, the petition for placement is dismissed.

The court may waive the presence of the inmate at the hearing if it is in the best interests of the inmate and the inmate's counsel does not object. The department may transport the inmate to the location of the hearing if it is not conducted at the facility or electronically.<sup>11</sup> The warden of an institution in which a mental health treatment facility is located may refuse to place any inmate in that treatment facility who is not accompanied by adequate court orders and documentation, as required in these sections.<sup>12</sup>

#### ***Procedure for Emergency Placement***

An inmate may be placed in a mental health treatment facility on an emergency basis if he or she is mentally ill and in immediate need of care and treatment. If such care and treatment cannot be provided at the institution where the inmate is confined, he or she may be placed immediately in a mental health treatment facility accompanied by the recommendation of the warden of the institution where the inmate is confined. The recommendation must state the need for the emergency placement and include a written opinion of a physician verifying the need. Upon placement, the inmate shall be evaluated, if the inmate is determined to be in need of treatment or care, the warden initiates proceedings for placement.<sup>13</sup>

#### ***Procedure for Continued Placement***

An inmate may be retained in a mental health treatment facility if he or she is mentally ill and continues to be in need of care and treatment. The procedure for continued placement is as follows:

- Prior to expiration of the period in which the inmate is being housed in a mental health treatment facility, the warden must file a petition with the Division of Administrative Hearings accompanied by a statement from the inmate's physician justifying the petition and providing a summary of the inmate's treatment and the individualized plan for the inmate.<sup>14</sup>
- Notification is mailed to the inmate, along with a waiver-of-hearing form and the completed petition, requesting the inmate's signature. The waiver-of-hearing form shall require express and informed consent and shall state the inmate is entitled to be represented by an attorney.<sup>15</sup>
- The hearing is an administrative hearing and conducted in accordance with ch. 120, F.S.,<sup>16</sup> except that an order entered by the administrative law judge is final and subject to judicial review. An administrative law judge shall be assigned by the Division of Administrative Hearings.<sup>17</sup>

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<sup>11</sup> Section 945.43(3)(a), F.S.

<sup>12</sup> Section 945.43(4), F.S.

<sup>13</sup> Section 945.44, F.S.

<sup>14</sup> Section 945.45(2)(a), F.S.

<sup>15</sup> If the inmate does not sign the petition, or if the inmate does not sign a waiver within 15 days, the administrative law judge must notice a hearing with regard to the inmate involved in accordance with ss. 120.569 and 120.57(1), F.S.

Section 945.45(2)(b), F.S.

<sup>16</sup> Chapter 120, F.S., provides procedure for all administrative hearings.

<sup>17</sup> Section 945.45(3)(a), F.S.

- If the administrative law judge finds the inmate no longer meets the criteria for placement, the inmate will be transferred out of the mental health treatment facility.<sup>18</sup>
- If the inmate waives the hearing or if the administrative law judge finds the inmate is in need of continued placement, the administrative law judge will order continued placement for a period not to exceed one year. This procedure shall be repeated prior to the expiration of each additional one year period.<sup>19</sup>

The administrative law judge may appoint a private pro bono attorney in the circuit in which the treatment facility is located to represent the inmate.<sup>20</sup> The presence of the inmate at the hearing may be waived if such waiver is consistent with the best interest of the inmate and the inmate's counsel does not object.<sup>21</sup>

### **Involuntary Placement with Respect to Scheduled Release**

If an inmate who is receiving mental health treatment is scheduled for release through expiration of sentence or any other means, but continues to be mentally ill and in need of care and treatment, the warden is authorized to initiate procedures for involuntary placement 60 days prior to release.<sup>22</sup> Additionally, the warden may initiate procedures for involuntary examination for any inmate who has a mental illness and meets the criteria under s. 394.463(1), F.S.<sup>23,24</sup>

The department may transport an individual who is being released from its custody to a receiving or treatment facility for involuntary examination or placement. Transport must be made to a facility specified by the Department of Children and Families, or the nearest receiving facility if not specified.<sup>25</sup>

### **Discharge of an Inmate from Mental Health Treatment**

An inmate must be discharged from mental health treatment under the following conditions:<sup>26</sup>

- The inmate is no longer in need of care and treatment, he or she may be transferred out of the mental health treatment facility and provided with appropriate mental health services; or
- If the inmate's sentence expires during his or her treatment, but he or she is no longer in need of care as an inpatient, the inmate may be released with a recommendation for outpatient treatment.

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<sup>18</sup> Section 945.45(3)(d), F.S.

<sup>19</sup> Section 945.45(3)(e), F.S.

<sup>20</sup> Section 945.45(3)(b), F.S.

<sup>21</sup> Section 945.45(3)(c), F.S.

<sup>22</sup> Section 945.46(1), F.S.

<sup>23</sup> The Florida Mental Health Act finds a person may be ordered for involuntary inpatient placement for treatment if he or she has a mental illness and because of that illness has either refused voluntary placement or is unable to determine whether inpatient placement is necessary and is incapable for surviving alone or with the help of willing friends or family and is likely to suffer from neglect, refuse to take care of themselves, or there is substantial likelihood that in the near future he or she will inflict serious bodily harm on self or others.

<sup>24</sup> Section 945.46(2), F.S.

<sup>25</sup> Section 945.46(3), F.S.

<sup>26</sup> Section 945.47(1), F.S.

At any time that an inmate who has received mental health treatment becomes eligible for release under supervision or upon end of sentence, a record of the inmate's mental health treatment may be provided to the Florida Commission on Offender Review and to the Department of Children and Families upon request.<sup>27</sup>

### **Involuntary Treatment**

An inmate in a mental health treatment facility has the right to receive treatment that is suited to his or her needs and that is provided in a humane psychological environment. Such treatment must be administered skillfully, safely, and humanely with respect for the inmate's dignity and personal integrity. An inmate must be asked to give his or her express and informed written consent for such treatment.<sup>28</sup>

If an inmate has refused to give express and informed consent for treatment, the warden of the mental health treatment facility must petition the circuit court serving the county in which the facility is located for an order authorizing the treatment of the inmate. The inmate must be provided a copy of the petition along with the proposed treatment, basis for treatment, names of examining experts, and the date, time, and location of the hearing.<sup>29</sup>

The hearing on the petition for involuntary treatment must be held within five days after the petition is filed. The inmate may have an attorney represent him or her, or if indigent, the court must appoint the office of the public defender. The inmate may testify or not, may cross-examine witnesses testifying on behalf of the facility, and may present his or her own witnesses. The inmate's presence may be waived. One of the inmate's physicians whose opinion supported the petition shall appear as a witness.<sup>30</sup>

The court must determine by *clear and convincing evidence* whether the inmate is mentally ill, whether such treatment is essential to the care of the inmate, and whether the treatment is experimental or presents an unreasonable risk of serious, hazardous, or irreversible side effects. The court must consider at least the following:<sup>31</sup>

- The inmate's expressed preference regarding treatment;
- The probability of adverse side effects;
- The prognosis for the inmate without treatment; and
- The prognosis for the inmate with treatment.

An order authorizing involuntary treatment authorizes treatment for a period not to exceed 90 days following the date of the order. If the inmate is still in need of treatment, the warden must petition the court for an order authorizing the continuation of treatment for another 90-day

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<sup>27</sup> Section 945.47(2), F.S.

<sup>28</sup> The "right to express and informed consent" as listed in s. 945.48, F.S., means to consent voluntarily given in writing after conscientious and sufficient explanation and disclosure of the purpose of the proposed treatment; common side effects of the treatment, if any; the expected duration of the treatment; and the alternative treatment available. The explanation shall enable the inmate to make a knowing and willful decision without any element of fraud, deceit, or duress or any other form of constraint or coercion. Section 945.48(2), F.S.

<sup>29</sup> Section 945.48(3), F.S.

<sup>30</sup> Section 945.48(4)(a), F.S.

<sup>31</sup> Section 945.48(4)(b), F.S.



period. This process is repeated until the inmate provides express and informed consent or is no longer in need of treatment.<sup>32</sup>

### ***Emergency Treatment***

In an emergency situation in which there is immediate danger to the health and safety of an inmate or other inmates, emergency treatment may be provided at a mental health treatment facility upon the written order of a physician for a period not to exceed 48 hours.

If, after the 48-hour period, the inmate has not given express and informed consent to the treatment initially refused, the warden must petition the circuit court within 48 hours, excluding weekends and legal holidays, for an order authorizing the continued treatment of the inmate.

In the interim, treatment may be continued upon the written order of a physician who has determined that the emergency situation continues to present a danger to the safety of the inmate or others. If an inmate must be isolated for mental health purposes, that decision must be reviewed within 72 hours by a different psychological professional or a physician other than the one making the original placement.<sup>33</sup>

Additionally, when the consent of an inmate cannot be obtained, the warden of a mental health treatment facility, or his or her designated representative, with the concurrence of the inmate's attending physician, may authorize emergency surgical or nonpsychiatric medical treatment if deemed lifesaving or there is a situation threatening serious bodily harm to the inmate.<sup>34</sup>

### ***Health Care Advance Directives***

Health care advance directives as defined in ch. 765, F.S., do not directly address inmates in custody of the DOC.

## **III. Effect of Proposed Changes:**

The bill revises ss. 945.40-945.49, F.S., the Corrections Mental Health Act to provide updated, clarifying, or technical language, as well as, provide substantial changes to the procedure for placement and treatment of inmates.

The bill amends s. 945.41, F.S., to revise legislative intent by clarifying technical language in regards to inmates *who have a mental illness* and provide that services received by those inmates are offered as outpatient and inpatient mental health treatment and services. The DOC is authorized to purchase treatment materials and equipment, and contract with entities, persons, or agencies qualified to provide mental health treatment and services to support inmate rehabilitation.

Inmates in the custody of the DOC must be offered the opportunity to participate in the development of a written individualized treatment plan. The bill requires that inmates who have mental illnesses that require intensive mental health inpatient treatment or services be offered an

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<sup>32</sup> Section 945.48(4)(c), F.S.

<sup>33</sup> Section 945.48(5), F.S.

<sup>34</sup> Section 945.48(6), F.S.

inpatient setting designated for that purpose, and inmates who require intensive hospitalization to be transferred to a DOC mental health treatment facility. Inmates must be offered the least restrictive appropriate available treatment and services based on their assessed needs and best interests.

A mentally competent inmate must give his or her express and informed consent<sup>35</sup> for mental health treatment. The bill requires that before such consent is given, details of treatment must be explained in plain language to the inmate and that any consent given for treatment may be revoked orally or in writing before or during the treatment by the inmate or a person legally authorized to make those health care decisions. Inmates who are incompetent to consent must receive treatment deemed necessary for their appropriate care and for the safety of the inmate or others. The bill authorizes nonpsychiatric, emergency surgical treatment or routine medical treatment for an inmate placed in a mental health treatment facility when the express and informed consent cannot be obtained or the inmate is incompetent to consent to treatment if such treatment is deemed lifesaving or there is a situation threatening serious bodily harm to the inmate.

The bill amends s. 945.42, F.S., to define the terms “chief,”<sup>36</sup> “express and informed consent,”<sup>37</sup> “gravely disabled,”<sup>38</sup> “incompetent to consent to treatment,”<sup>39</sup> “involuntary examination,”<sup>40</sup> “likelihood of serious harm,”<sup>41</sup> and treatment,<sup>42</sup> and removes the definition and procedure for inmates that are “in immediate need of care and treatment.”

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<sup>35</sup> The following is required to be explained in plain language: the proposed treatment, purpose of the treatment, the common risks, benefits, and side effects of treatment and specific dosage of medication if applicable, alternative treatment modalities, the approximate length of treatment, the potential effects of stopping treatment, and how treatment will be monitored.

<sup>36</sup> “Chief” means the Chief of Mental Health Services of the Department of Corrections or his or her designee.

<sup>37</sup> “Express and informed consent” means consent voluntarily given in writing, by a competent inmate, after sufficient explanation and disclosure of the subject matter involved, to enable the inmate to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

<sup>38</sup> “Gravely disabled” means a condition in which an inmate, as a result of a diagnosed mental illness is either in danger of serious physical harm resulting from the inmates failure to provide for his or her essential physical needs of food, clothing, hygiene, health, or safety without the assistance of others, or experiencing a substantial deterioration in behavioral functioning evidenced by the inmate’s unremitting decline in volitional control over his or her actions.

<sup>39</sup> “Incompetent to consent to treatment” means a state in which an inmate’s judgement is so affected by mental illness that he or she lacks the capacity to make a well-reasoned, willful, and knowing decision concerning his or her medical or mental health treatment and services. The term only refers to an inmate’s inability to provide express and informed consent for medical and mental health treatment and services.

<sup>40</sup> “Involuntary examination” means a psychiatric examination performed at a mental health treatment facility to determine whether an inmate should be placed in the mental health treatment facility for inpatient mental health treatment and services.

<sup>41</sup> “Likelihood of serious harm” means the following: a substantial risk that the inmate will inflict serious physical harm upon his or her own person, as evidenced by threats or attempts to commit suicide or the actual infliction of serious physical harm on self; a substantial risk that the inmate will inflict physical harm upon another person, as evidenced by behavior which has caused such harm or which places any person in reasonable fear of sustaining such harm; or a reasonable degree of medical certainty that the inmate will suffer serious physical or mental harm as evidenced by the inmate’s recent behavior demonstrating an inability to refrain from engaging in self-harm behavior.

<sup>42</sup> “Treatment” means psychotropic medication prescribed by a medical practitioner licensed pursuant to ch. 458 or 459, F.S., including those laboratory tests and related medical procedures that are essential for the safe and effective administration of psychotropic medication and psychological interventions and services such as group and individual psychotherapy, activity therapy, recreational therapy, and music therapy.

***Involuntary Examination***

The bill substantially rewords s. 945.43, F.S., to provide a process for involuntary examination. An inmate's treating clinician may refer the inmate to a mental health facility for an involuntary examination if there is reason to believe the inmate has a mental illness and is in need of care and treatment. Upon arrival, the inmate must be examined by a psychiatrist and a second psychiatrist or psychological professional to determine whether the inmate is in need of care and treatment. If there is a need for treatment, the psychiatrist will propose a recommended course of treatment and the warden will initiate proceedings for placement and for involuntary treatment as specified in s. 945.44, F.S.

If the inmate is not in need of care and treatment, the inmate must be transferred out of the mental health treatment facility and provided with appropriate mental health services.

The involuntary exam and initiation of court proceedings must be completed within 10 calendar days after arrival.

The inmate may remain in the mental health treatment facility pending a hearing after the timely filing of a petition as described in s. 945.44, F.S. Pending such, necessary treatment may be provided as described in s. 945.44, F.S.

***Placement and Treatment of an Inmate in a Mental Health Treatment Facility***

The bill substantially rewords s. 945.44, F.S., to provide the criteria, hearing procedures for petitions, orders for treatment, status hearings, copies of orders, and dismissal of petitions relating to the placement and treatment of an inmate in a mental health treatment facility.

This bill authorizes the DOC to place an inmate in a mental health treatment facility if he or she is mentally ill and is in need of care and treatment. An inmate may receive involuntary mental health treatment that is deemed to be essential for the appropriate care and safety of the inmate or others if the inmate is either gravely disabled or presents a likelihood of serious harm.

An inmate may be placed and involuntarily treated in a mental health treatment facility after notice and hearing. The procedure for petitions for placement and treatment is as follows:

- The warden must petition the court for an order authorizing the placement and treatment. Such petition must be supported by the expert opinion of at least one of the inmate's treating psychiatrists.
- The inmate must be provided with a copy of the petition, and other specified information.
- A hearing may be conducted electronically, in person at the facility, or at another location designated by the court after considering public safety and security concerns. Such hearing must be held as expeditiously as possible after the petition is filed, but no later than 14 calendar days after filing.
- The inmate is entitled to have an attorney and the court may appointment the public defender or private counsel to represent an indigent inmate.

The bill provides that the court must find by clear and convincing evidence that the inmate is mentally ill and in need of care and treatment in order to place the inmate in a mental health

treatment facility. The bill provides the court must make additional specified findings to administer treatment.

The bill authorizes status hearings and the continuation of placement until an inmate is no longer in need of care and treatment. The bill authorizes the court to dismiss the petition and transfer the inmate out of the mental health treatment facility if the criteria for placement and treatment are not satisfied.

The bill repeals s. 945.45, F.S., relating to the continued placement of inmates in mental health facilities. Language pertaining to continued placement is described in s. 945.44, F.S., under the bill.

### ***Initiation of Involuntary Placement Proceedings with Inmates Scheduled for Release***

The bill amends s. 945.46, F.S., to provide the process for involuntary placement when an inmate continues to be mentally ill and in need of care and treatment but is scheduled for release.

The warden must file a petition for involuntary inpatient placement for inmates scheduled to be released in the court in the county where the inmate is located. Upon filing, the clerk must provide copies of the petition to the Department of Children and Families, the inmate, the state attorney and the public defender. The bill adds language to ensure a fee may not be charged for the filing of the petition.

The bill requires within one court working day after the filing of the petition for a public defender to be appointed, unless the inmate is otherwise represented. The state attorney for the circuit in which the inmate is located will represent the state in these proceedings rather than the warden. The bill provides the proceedings are governed by ch. 394, F.S.

The court may order that the hearing be conducted by electronic means, at the facility in person, or at another location.

### ***Discharge of an Inmate from Mental Health Treatment***

The bill substantially rewords s. 945.47, F.S., to specify that at any time an inmate who has received mental health treatment while in the custody of the DOC becomes eligible for release, a record of the treatment may be provided to the Florida Commission on Offender Review and the Department of Children and Families *for the purpose of arranging post release aftercare placement and to prospective recipient inpatient health care or residential facilities* upon request.

### ***Emergency Treatment Orders and Use of Force***

The bill amends s. 945.48, F.S., to authorize the DOC to involuntarily administer psychotropic medication to an inmate on an emergency basis without following the procedure outlined in s. 945.43, F.S. Psychotropic medication may be administered only when the medication constitutes an appropriate treatment for a mental illness and its symptoms and alternative treatments are not available or indicated, or would not be effective.

An emergency exists when the inmate with a mental illness presents an immediate threat of:

- Bodily harm to self or others; or
- Extreme deterioration in behavior functioning secondary to the mental illness.

The bill authorizes the administration of psychotropic medication not to exceed 72 hours, after which the treating physician must refer the inmate for an involuntary examination in accordance with s. 945.43 and s. 945.44, F.S. The warden must transfer the inmate to a mental health treatment facility within 48 hours, excluding weekends and legal holidays.

The DOC may use force when and to the extent that it reasonably appears necessary to effectuate the treatment, effectuate clinically necessary hygiene of an inmate, for the application of physical restraint, or pursuant to a valid court order.

### ***Management and Treatment of Self-Injurious Behaviors***

The bill creates s. 945.485, F.S., to provide procedures for when an inmate is engaging in active or ongoing self-injurious behavior and has refused to provide express and informed consent.

If an inmate is determined incompetent to consent to treatment, the inmate's treating physician is required to proceed as set forth in s. 945.6042, F.S. The bill provides proceedings for when an inmate is competent, refusing necessary surgical or medical treatment, and engaging in active or ongoing self-injurious behavior that presents a threat to the safety of the DOC staff or other inmates or the security, internal order, or discipline of the institution.

The warden must petition the court for an order compelling the inmate to submit to intervention to the extent necessary to remedy the threat. An inmate must be provided with a copy of the petition and other specified information. The inmate is entitled to representation and the court may appoint the public defender or private counsel to represent the inmate. The hearing must be held as expeditiously as possible, but no later than five calendar days after filing.

The bill provides considerations for the court and requires the court to determine whether the warden has established by clear and convincing evidence that the state interest is sufficient to outweigh the inmate's right to refuse treatment.

### ***Inmate Health Care Advance Directives***

The bill creates s. 945.6042, F.S., to provide the DOC must offer inmates an opportunity to sign an advance health care directive. The bill provides definitions for "health care facility,"<sup>43</sup>

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<sup>43</sup> "Health care facility" has the same meaning as in s. 765.101, F.S., and includes any correctional institution or facility where health care is provided.

“incapacity,”<sup>44</sup> “informed consent,”<sup>45</sup> “inmate,”<sup>46</sup> ombudsman<sup>47</sup>, proxy<sup>48</sup>, and proxy review team.<sup>49</sup>

The bill provides procedure relating to the capacity of an inmate. An inmate’s treating physician must evaluate the inmate’s capacity and enter the evaluation in the inmate’s medical record if the inmate lacks capacity. A second opinion is required if the evaluating physician has a question as to whether the inmate lacks capacity and both evaluations must be entered in the medical record. Incapacity cannot be inferred from an inmate’s involuntary hospitalization for mental illness or from his or her intellectual disability.

If the inmate is found to be incapacitated and has a designated health care surrogate in accordance with ch. 765, F.S., the surrogate must be notified. If the inmate has not designated a health care surrogate, the facility must appoint a proxy to make health care decisions.

The bill requires the DOC to provide each inmate written information concerning advance directives and necessary forms to execute an advance directive, and document such in the inmate’s medical records. An advance directive may be amended or revoked at any time by a competent inmate through various means such as written and spoken communication.

If the inmate has not designated a health care surrogate, health care decisions may be made for the inmate by any individuals specified in the priority order provided in s. 765.401(1)(a)-(g), F.S.,<sup>50</sup> as a proxy. If there are no individuals available, willing, or competent, the warden must notify the Assistant Secretary for Health Services or designee to appoint a DOC ombudsman to serve as a proxy until the inmate regains capacity or is no longer incarcerated in the custody of the DOC. The proxy must make any health care decision based on informed consent and that the proxy reasonable believes the inmate would have made that decision. If there is no indication of what decision the inmate would make, the proxy may consider the inmate’s best interests.

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<sup>44</sup> “Incapacity” or “Incompetent” means an inmate is physically or mentally unable to communicate a willful and knowing health care decision.

<sup>45</sup> “Informed consent” means consent voluntarily given by an inmate after a sufficient explanation and disclosure of the subject matter involved to enable the inmate to have a general understanding of the treatment or procedure and the medically acceptable alternatives, including the substantial risks and hazards inherent in the proposed treatment or procedures, and to make a knowing health care decision without coercion or undue influence.

<sup>46</sup> “Inmate” means any person committed to the custody of the DOC.

<sup>47</sup> “Ombudsman” means an individual designated and specifically trained by the department to identify conditions that may pose a threat to the rights, health, safety, and welfare of inmates in a health care facility and who may be appointed to serve as a proxy for an inmate who is physically or mentally unable to communicate a willful and knowing health care decision.

<sup>48</sup> “Proxy” means a competent adult who has not been expressly designated to make health care decisions for a particular incapacitated inmate, but who, nevertheless, is authorized pursuant to s. 765.401, F.S., to make health care decisions for such inmate.

<sup>49</sup> “Proxy review team” means a team of at least five members, appointed by the Assistant Secretary for Health Services. The team is composed of, at a minimum, one physician licensed pursuant to ch. 458 or ch. 459, F.S., one psychologist licensed pursuant to ch. 490, F.S., one nurse licensed pursuant to ch. 464, F.S., and one department chaplain.

<sup>50</sup> A judicially appointed guardian; spouse; adult child of the patient or a majority of adult children; a parent; the adult sibling or a majority of the adult siblings; an adult relative who has exhibited special care and concern and has maintained regular contact and is familiar with the patients activities, health, and religious or moral beliefs; or a close friend is authorized under this section to make health care decisions.

The bill authorizes the use of force to administer medical treatment only by or under the clinical supervision of a physician or his or her designee and provides immunity from liability for a DOC health care provider, ombudsman, or other employees who act under the direction of a health care provider.

The bill amends s. 945.49, F.S., to remove the requirement for the DOC to work in cooperation with the Mental Health Program Office of the Department of Children and Families to adopt rules necessary to administer sections under the Corrections Mental Health Act.

The bill is effective July 1, 2024.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

While this bill may have a workload impact on the Department of Corrections due to an increase in mental health services and treatment as well as transporting inmates to

facilities to meet those needs, the department reports that it will not have a fiscal impact to the agency.<sup>51</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 945.41, 945.42, 945.43, 945.44, 945.46, 945.47, 945.48, and 945.49.

This bill creates the following sections of the Florida Statutes: 945.485 and 945.6042.

This bill repeals section 945.45 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>51</sup> Department of Corrections, *2024 Agency Legislative Bill Analysis, SB 1284*, January 19, 2024.





# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Criminal Justice, *Chair*  
Appropriations  
Appropriations Committee on Criminal and Civil Justice  
Appropriations Committee on Health and Human Services  
Community Affairs  
Environment and Natural Resources  
Ethics and Elections

## SELECT COMMITTEE:

Select Committee on Resiliency

## SENATOR JONATHAN MARTIN

33rd District

January 30, 2024

The Honorable Jenifer Bradley  
Senate Community Affairs Committee, Chair  
201 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399

### RE: SB 1284 – Department of Corrections

Dear Chair Bradley:

Please allow this letter to serve as my respectful request to place SB 1284, relating to the Department of Corrections, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Martin".

Jonathan Martin  
Senate District 33

Cc: Marti Harkness, Staff Director  
Rebecca Henderson, Administrative Assistant

#### REPLY TO:

- 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore

February 13, 2024

Meeting Date

Criminal & Civil Justice Approps

Committee

Name Jonathan Webber

Phone 954-593-4449

Address 400 Washington Ave

Email jonathan.webber@splcactionfund.org

Street

Montgomery

AL

36104

City

State

Zip

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

SB 1324 Driving W/O Valid Driver License

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

SPLC Action Fund

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

# APPEARANCE RECORD

2/13

Meeting Date

13224 (1324)

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Approps from Crim/Inv

Committee

Amendment Barcode (if applicable)

Name

NR Hines

Phone

786-363-1104

Address

4343 W Flagler St

Email

nhines@aclufi.org

Street

Coral Gables FL 33436

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

ACLU of FL

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

2/13/24

Meeting Date

1324

Bill Number or Topic

Approps for Civ + Crim

Committee

Amendment Barcode (if applicable)

Name NR Hines

Phone 786-863-1104

Address 4343 W Flagler St

Email nhines@aclufi.org

City Coral Gables FL 33436

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing: **ACLU of Florida**
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.



386322

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2024	.	
	.	
	.	
	.	

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The Appropriations Committee on Criminal and Civil Justice  
(Rouson) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 169 and 170

insert:

Section 4. Section 775.093, Florida Statutes, is created to  
read:

775.093 Retroactive application of specified changes in  
criminal offenses; legislative intent; resentencing procedures.-

(1) (a) It is the intent of the Legislature to retroactively  
apply chapter 2019-167, Laws of Florida, only as provided in



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11 this subsection, to persons who committed a third or subsequent  
12 violation of driving while their driver license or driving  
13 privilege had been canceled, suspended, or revoked before  
14 October 1, 2019, the effective date of the changes to s. 322.34  
15 in chapter 2019-167, Laws of Florida, which amended s. 322.34(2)  
16 to modify the punishment for persons who commit certain third or  
17 subsequent violations of driving while their driver license or  
18 driving privilege had been canceled, suspended, or revoked.

19 (b) A person who committed a violation of s. 322.34(2)  
20 before October 1, 2019 when chapter 2019-167, Laws of Florida  
21 amended 322.34:

22 1. Who was sentenced before July 1, 2024, must be  
23 resentenced in accordance with subsection (2). The new sentence  
24 must be as provided in s. 322.34(2).

25 2. Who was not sentenced before July 1, 2024, must be  
26 sentenced in accordance with s. 322.34(2).

27 (2) Resentencing under this section must occur in the  
28 following manner:

29 (a) The Department of Corrections shall notify a person  
30 described in this section of his or her eligibility to request a  
31 sentence review hearing.

32 (b) A person seeking sentence review under this section may  
33 submit an application to the court of original jurisdiction  
34 requesting that a sentence review hearing be held. The  
35 sentencing court retains original jurisdiction for the duration  
36 of the sentence for this purpose.

37 (c) A person eligible for a sentence review hearing under  
38 this section is entitled to be represented by counsel, and the  
39 court must appoint a public defender to represent the person if



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40 he or she cannot afford an attorney.

41 (d) Upon receiving an application from an eligible person,  
42 the court of original sentencing jurisdiction shall hold a  
43 sentence review hearing. If the court determines at the sentence  
44 review hearing that the eligible person meets the criteria in  
45 this section for resentencing, the court must resentence the  
46 person as provided in this section; however, the new sentence  
47 may not exceed the person's original sentence with credit for  
48 time served. If the court determines that such person does not  
49 meet the criteria for resentencing under this section, the court  
50 must provide written reasons why the person does not meet such  
51 criteria.

52  
53 ===== T I T L E A M E N D M E N T =====

54 And the title is amended as follows:

55 Delete line 10

56 and insert:

57 cross-references; creating s. 775.093, F.S.; providing  
58 legislative intent; providing for the retroactive  
59 applicability of s. 322.34, F.S.; requiring certain  
60 resentencing or sentencing of persons who committed  
61 certain third or subsequent violations relating to  
62 driving while their driver license or driving  
63 privilege had been canceled, suspended, or revoked;  
64 authorizing a person to apply to a specified court for  
65 a sentence review hearing; providing that the person  
66 is entitled to be represented by counsel; specifying  
67 requirements for the court in holding the hearing and  
68 resentencing the person; providing an effective date.

By Senator Ingoglia

11-01227B-24

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A bill to be entitled

An act relating to driving without a valid driver license; amending s. 322.03, F.S.; providing criminal penalties for the offense of driving without a valid driver license; requiring the court to sentence an offender to a specified minimum jail sentence upon a third or subsequent conviction for the offense; providing applicability; making technical changes; amending ss. 322.15 and 322.291, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 322.03, Florida Statutes, is amended to read:

322.03 Drivers must be licensed; penalties.—

(1) (a) Except as otherwise authorized in this chapter, a person may not drive any motor vehicle upon a highway in this state unless such person has a valid driver license issued under this chapter.

(b) A person who violates paragraph (a) commits:

1. For the first offense, a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. For the second offense, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

3. For a third or subsequent offense, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and the court shall order the person to serve a minimum period of 10 days in jail.

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30

The penalties provided in paragraph (b) do not apply to violations of s. 316.212.

(2) (a) A person who drives a commercial motor vehicle may not receive a driver license unless and until he or she surrenders to the department all driver licenses in his or her possession issued to him or her by any other jurisdiction or makes an affidavit that he or she does not possess a driver license. Any such person who fails to surrender such licenses commits a noncriminal infraction, punishable as a moving violation as set forth in chapter 318. Any such person who makes a false affidavit concerning such licenses commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) All surrendered licenses may be returned by the department to the issuing jurisdiction together with information that the licensee is now licensed in a new jurisdiction or may be destroyed by the department, which shall notify the issuing jurisdiction of such destruction. A person may not have more than one valid driver license at any time.

(3) ~~(2)~~ Prior to issuing a driver license, the department shall require any person who has been convicted two or more times of a violation of s. 316.193 or of a substantially similar alcohol-related or drug-related offense outside this state within the preceding 5 years, or who has been convicted of three or more such offenses within the preceding 10 years, to present proof of successful completion of or enrollment in a department-approved substance abuse education course. If the person fails to complete such education course within 90 days after issuance,

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59 the department shall cancel the license. Further, prior to  
60 issuing the driver license the department shall require such  
61 person to present proof of financial responsibility as provided  
62 in s. 324.031. For the purposes of this paragraph, a previous  
63 conviction for violation of former s. 316.028, former s.  
64 316.1931, or former s. 860.01 shall be considered a previous  
65 conviction for violation of s. 316.193.

66 (4) (a) (3) (a) The department may not issue a commercial  
67 driver license to any person who is not a resident of this  
68 state.

69 (b) A resident of this state who is required by the laws of  
70 this state to possess a commercial driver license may not  
71 operate a commercial motor vehicle in this state unless he or  
72 she possesses a valid commercial driver license issued by this  
73 state. Except as provided in paragraph (c), any person who  
74 violates this paragraph commits ~~is guilty of~~ a misdemeanor of  
75 the first degree, punishable as provided in s. 775.082 or s.  
76 775.083.

77 (c) Any person whose commercial driver license has been  
78 expired for a period of 30 days or less and who drives a  
79 commercial motor vehicle within this state commits ~~is guilty of~~  
80 a nonmoving violation, punishable as provided in s. 318.18.

81 (5) (4) A person may not operate a motorcycle unless he or  
82 she holds a driver license that authorizes such operation,  
83 subject to the appropriate restrictions and endorsements. A  
84 person may operate an autocycle, as defined in s. 316.003,  
85 without a motorcycle endorsement.

86 (6) (5) It is a violation of this section for any person  
87 whose driver license has been expired for more than 6 months to

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11-01227B-24

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88 operate a motor vehicle on the highways of this state.

89 (7) (6) A person who is charged with a violation of this  
90 section, other than a violation of ~~paragraph (a)~~ of subsection  
91 (2) (1), may not be convicted if, prior to or at the time of his  
92 or her court or hearing appearance, the person produces in court  
93 or to the clerk of the court in which the charge is pending a  
94 driver license issued to him or her and valid at the time of his  
95 or her arrest. The clerk of the court is authorized to dismiss  
96 such case at any time prior to the defendant's appearance in  
97 court. The clerk of the court may assess a fee of \$5 for  
98 dismissing the case under this subsection.

99 Section 2. Subsection (3) of section 322.15, Florida  
100 Statutes, is amended to read:

101 322.15 License to be carried and exhibited on demand;  
102 fingerprint to be imprinted upon a citation.-

103 (3) In relation to violations of subsection (1) or s.  
104 322.03(6) ~~s. 322.03(5)~~, persons who cannot supply proof of a  
105 valid driver license for the reason that the license was  
106 suspended for failure to comply with that citation shall be  
107 issued a suspension clearance by the clerk of the court for that  
108 citation upon payment of the applicable penalty and fee for that  
109 citation. If proof of a valid driver license is not provided to  
110 the clerk of the court within 30 days, the person's driver  
111 license shall again be suspended for failure to comply.

112 Section 3. Section 322.291, Florida Statutes, is amended to  
113 read:

114 322.291 Driver improvement schools or DUI programs;  
115 required in certain suspension and revocation cases.-Except as  
116 provided in s. 322.03(3) ~~s. 322.03(2)~~, any person:

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117 (1) Whose driving privilege has been revoked:  
 118 (a) Upon conviction for:  
 119 1. Driving, or being in actual physical control of, any  
 120 vehicle while under the influence of alcoholic beverages, any  
 121 chemical substance set forth in s. 877.111, or any substance  
 122 controlled under chapter 893, in violation of s. 316.193;  
 123 2. Driving with an unlawful blood- or breath-alcohol level;  
 124 3. Manslaughter resulting from the operation of a motor  
 125 vehicle;  
 126 4. Failure to stop and render aid as required under the  
 127 laws of this state in the event of a motor vehicle crash  
 128 resulting in the death or personal injury of another;  
 129 5. Reckless driving; or  
 130 (b) As a habitual offender;  
 131 (c) Upon direction of the court, if the court feels that  
 132 the seriousness of the offense and the circumstances surrounding  
 133 the conviction warrant the revocation of the licensee's driving  
 134 privilege; or  
 135 (2) Whose license was suspended under the point system, was  
 136 suspended for driving with an unlawful blood-alcohol level of  
 137 0.10 percent or higher before January 1, 1994, was suspended for  
 138 driving with an unlawful blood-alcohol level of 0.08 percent or  
 139 higher after December 31, 1993, was suspended for a violation of  
 140 s. 316.193(1), or was suspended for refusing to submit to a  
 141 lawful breath, blood, or urine test as provided in s. 322.2615  
 142  
 143 shall, before the driving privilege may be reinstated, present  
 144 to the department proof of enrollment in a department-approved  
 145 advanced driver improvement course operating pursuant to s.

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11-01227B-24

20241324\_\_

146 318.1451 or a substance abuse education course conducted by a  
 147 DUI program licensed pursuant to s. 322.292, which shall include  
 148 a psychosocial evaluation and treatment, if referred.  
 149 Additionally, for a third or subsequent violation of  
 150 requirements for installation of an ignition interlock device, a  
 151 person must complete treatment as determined by a licensed  
 152 treatment agency following a referral by a DUI program and have  
 153 the duration of the ignition interlock device requirement  
 154 extended by at least 1 month up to the time period required to  
 155 complete treatment. If the person fails to complete such course  
 156 or evaluation within 90 days after reinstatement, or  
 157 subsequently fails to complete treatment, if referred, the DUI  
 158 program shall notify the department of the failure. Upon receipt  
 159 of the notice, the department shall cancel the offender's  
 160 driving privilege, notwithstanding the expiration of the  
 161 suspension or revocation of the driving privilege. The  
 162 department may temporarily reinstate the driving privilege upon  
 163 verification from the DUI program that the offender has  
 164 completed the education course and evaluation requirement and  
 165 has reentered and is currently participating in treatment. If  
 166 the DUI program notifies the department of the second failure to  
 167 complete treatment, the department shall reinstate the driving  
 168 privilege only after notice of completion of treatment from the  
 169 DUI program.  
 170 Section 4. This act shall take effect July 1, 2024.

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

---

BILL: SB 1324

INTRODUCER: Senator Ingoglia

SUBJECT: Driving Without a Valid Driver License

DATE: February 12, 2024

REVISED: 2/14/24

---

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Shutes</u>	<u>Vickers</u>	<u>TR</u>	<b>Favorable</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

---

**I. Summary:**

SB 1324 establishes revised penalties related to the offense of driving without a valid driver license. Specifically, any person who drives any motor vehicle upon a highway in this state without a valid driver license commits:

- For a first offense, a misdemeanor of the second degree.
- For a second offense, a misdemeanor of the first degree.
- For a third or subsequent offense, a misdemeanor of the first degree and is subject to a minimum of 10 days in jail as ordered by the court.

This bill stipulates that the foregoing penalties do not apply to violations of s. 316.212, F.S., related to the operation of golf carts on roadways.

The bill takes effect July 1, 2024.

**II. Present Situation:**

**Requirement to Be Licensed**

Section 322.03, F.S., provides that a person may not operate a motor vehicle in the state without being licensed pursuant to ch. 322, F.S. However, the following individuals are exempt from obtaining a Florida driver license:

- Any employee of the United States Government, while operating a noncommercial motor vehicle owned by or leased to the United States Government and being operated on official business.
- Any person while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway.
- A nonresident who is at least 16 years of age and who has in his or her immediate possession a valid noncommercial driver license issued to the nonresident in his or her home state or

country operating a motor vehicle of the type for which a Class E driver license is required in this state, if the nonresident's license is not invalid under s. 322.033, F.S., relating to proof of the licensee's lawful presence in the United States.

- A nonresident who is at least 18 years of age and who has in his or her immediate possession a valid noncommercial driver license issued to the nonresident in his or her home state or country operating a motor vehicle, other than a commercial motor vehicle, in this state, if the nonresident's license is not invalid under s. 322.033, F.S., relating to proof of the licensee's lawful presence in the United States.
- A person 18 years of age or older operating a golf cart, which is operated in accordance with s. 316.212, F.S.

Section 322.29, F.S., provides that any violation of ch. 322 F.S., unless otherwise specified is punishable as a misdemeanor of the second degree. However, a person charged under s. 322.03, F.S., may not be convicted if, prior to or at a court or hearing appearance, the person is able to produce a driver license valid at the time of arrest.<sup>1</sup>

### **Driving While License Suspended, Revoked, Cancelled or Disqualified**

Except as provided in s. 322.34(2), F.S., any person whose driver license or driving privilege has been canceled, suspended, or revoked, except a "habitual traffic offender", who drives a vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked is guilty of a moving violation, punishable as provided in ch. 318, F.S.<sup>2</sup>

Section 322.34(2), F.S., sets out penalties for driving while a driver license is suspended, revoked, canceled or disqualified, or who does not have a driver license but is under suspension or revocation status as defined in s. 322.01(42), F.S., who, *knowing* of such cancellation, suspension, revocation, or suspension or revocation equivalent status, drives a motor vehicle in the state.<sup>3</sup> These penalties include:

- A second degree misdemeanor, upon a first conviction;
- A first degree misdemeanor, upon a second or subsequent conviction, except as provided below, and, for a third or subsequent conviction, a minimum of 10 days in jail;
- A third degree felony, upon a third or subsequent conviction if the current violation or the most recent prior violation is related to driving while license canceled, suspended, revoke, or suspension or revocation equivalent status resulting from a violation of: driving under the influence, refusal to submit to a urine, breath-alcohol, or blood alcohol test, a traffic offense causing death or serious bodily injury, or fleeing or eluding.

The element of knowledge is satisfied if the person has been previously cited as provided in s. 322.34(1), F.S.; or the person admits to knowledge of the cancellation, suspension, or revocation, or suspension or revocation equivalent status; or the person received notice as provided in s. 322.34(4), F.S. There is a rebuttable presumption that the knowledge requirement is satisfied if a

<sup>1</sup> Section 320.03(6), F.S.

<sup>2</sup> Section 322.34(1), F.S.

<sup>3</sup> "Suspension or revocation equivalent status" is a designation for a person who does not have a driver license or driving privilege but would qualify for suspension or revocation of his or her driver license or driving privilege if licensed. The Department of Highway Safety and Motor Vehicles may designate a person as having suspension or revocation equivalent status in the same manner as it is authorized to suspend or revoke a driver license or driving privilege by law.

judgment or order as provided in s. 322.23(4), F.S., appears in the department's records for any case except for one involving a suspension by the department for failure to pay a traffic fine or for a financial responsibility violation.<sup>4</sup>

Any judgment or order rendered by a court or adjudicatory body or any uniform traffic citation that cancels, suspends, or revokes a person's driver license or places a person under suspension or revocation equivalent status must contain a provision notifying the person that his or her driver license has been canceled, suspended, or revoked, or of such suspension or revocation equivalent status.<sup>5</sup>

### **Driver License Requirements - Operation of Golf Carts**

As previously noted, persons 18 years of age or older operating a golf cart in accordance with s. 316.212, F.S., are exempt from the requirement to obtain a driver license.<sup>6</sup> Section 316.212, F.S., sets out various operational and equipment requirements that are applicable to golf carts. In terms of driver licensing, this section provides that a golf cart may not be operated on public roads or streets by a person:

- Who is under 18 years of age unless he or she possesses a valid learner's driver license or valid driver license, or
- Who is 18 years of age or older unless he or she possesses a valid form of government-issued photographic identification.

### **III. Effect of Proposed Changes:**

This bill amends s. 322.03, F.S., to provide, that if any person operates any motor vehicle upon a highway, without a valid driver license, a person commits: for the first offense, a misdemeanor of the second degree; for the second offense, a misdemeanor of the first degree; and for a third or subsequent offense, a misdemeanor of the first degree, and is subject to a minimum of 10 days in jail as ordered by the court.

The bill provides that the penalties established in the bill do not apply to violations of s. 316.212, F.S., related to the operation of golf carts on certain roads.

The bill includes various conforming and technical provisions.

The bill takes effect July 1, 2024.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>4</sup> Section 322.34(2), F.S.

<sup>5</sup> Section 322.34(4), F.S.

<sup>6</sup> Section 320.04(1)(e), F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Individuals operating motor vehicles in Florida without the required driver's license will be subject to enhanced penalties.

**C. Government Sector Impact:**

The bill creates new misdemeanor offenses which may have a positive indeterminate county jail bed impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 322.03, 322.15, and 322.291.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/13/2024	.	
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	.	
	.	

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The Appropriations Committee on Criminal and Civil Justice  
(Martin) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraphs (e), (f), and (g) of subsection (3)  
of section 921.0022, Florida Statutes, are amended to read:  
921.0022 Criminal Punishment Code; offense severity ranking  
chart.—

(3) OFFENSE SEVERITY RANKING CHART

(e) LEVEL 5





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11  
12  
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16  
17

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply,



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aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

18

379.367(4) 3rd

Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

19

379.407(5)(b)3. 3rd

Possession of 100 or more undersized spiny lobsters.

20

381.0041(11)(b) 3rd

Donate blood, plasma, or organs knowing HIV positive.

21

440.10(1)(g) 2nd

Failure to obtain workers' compensation coverage.

22

440.105(5) 2nd

Unlawful solicitation for the purpose of making workers' compensation claims.

23



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24	440.381 (2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
25	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
26	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
27	790.01 (3)	3rd	Unlawful carrying of a concealed firearm.
28	790.162	2nd	Threat to throw or discharge destructive device.
29	790.163 (1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
30	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
	790.23	2nd	Felons in possession of



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31

firearms, ammunition, or  
electronic weapons or devices.

796.05(1) 2nd

Live on earnings of a  
prostitute; 1st offense.

32

800.04(6)(c) 3rd

Lewd or lascivious conduct;  
offender less than 18 years of  
age.

33

800.04(7)(b) 2nd

Lewd or lascivious exhibition;  
offender 18 years of age or  
older.

34

806.111(1) 3rd

Possess, manufacture, or  
dispense fire bomb with intent  
to damage any structure or  
property.

35

812.0145(2)(b) 2nd

Theft from person 65 years of  
age or older; \$10,000 or more  
but less than \$50,000.

36

812.015 3rd  
(8)(a) & (c)-  
(e)

Retail theft; property stolen  
is valued at \$750 or more and  
one or more specified acts.

37

812.015(8)(f) 3rd

Retail theft; multiple thefts  
within specified period.



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38	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
39	812.081 (3)	2nd	Trafficking in trade secrets.
40	812.131 (2) (b)	3rd	Robbery by sudden snatching.
41	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
42	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
43	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
44	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
45	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or



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			amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.
46	817.611 (2) (a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
47	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
48	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
49	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.
50	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.
51			



52	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
53	836.14(4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
54	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
55	843.01(1)	3rd	Resist officer with violence to person; resist arrest with violence.
56	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
57	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
	847.0138	3rd	Transmission of material



58	(2) & (3)		harmful to minors to a minor by electronic device or equipment.
59	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
60	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
61	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 5. drugs).
61	893.13 (1) (c) 2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or





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62

community center.

893.13(1)(d)1. 1st Sell, manufacture, or deliver  
cocaine (or other s.  
893.03(1)(a), (1)(b), (1)(d),  
(2)(a), (2)(b), or (2)(c)5.  
drugs) within 1,000 feet of  
university.

63

893.13(1)(e)2. 2nd Sell, manufacture, or deliver  
cannabis or other drug  
prohibited under s.  
893.03(1)(c), (2)(c)1.,  
(2)(c)2., (2)(c)3., (2)(c)6.,  
(2)(c)7., (2)(c)8., (2)(c)9.,  
(2)(c)10., (3), or (4) within  
1,000 feet of property used for  
religious services or a  
specified business site.

64

893.13(1)(f)1. 1st Sell, manufacture, or deliver  
cocaine (or other s.  
893.03(1)(a), (1)(b), (1)(d),  
or (2)(a), (2)(b), or (2)(c)5.  
drugs) within 1,000 feet of  
public housing facility.

65

893.13(4)(b) 2nd Use or hire of minor; deliver  
to minor other controlled



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substance.

66

893.1351(1)            3rd            Ownership, lease, or rental for  
trafficking in or manufacturing  
of controlled substance.

67

68

69

70 (f) LEVEL 6

71

Florida Statute	Felony Degree	Description
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72

316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
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73

316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
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74

400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
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75

499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
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76



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77	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
78	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
79	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
80	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
81	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
82	784.041	3rd	Felony battery; domestic battery by strangulation.
83	784.048 (3)	3rd	Aggravated stalking; credible threat.
84	784.048 (5)	3rd	Aggravated stalking of person under 16.
85	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.



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86	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
87	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
88	784.081 (2)	2nd	Aggravated assault on specified official or employee.
89	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
90	784.083 (2)	2nd	Aggravated assault on code inspector.
91	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
92	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
93	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.



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94	790.164 (1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
95	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
96	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
97	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
98	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
99	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any



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other person.

100

810.02 (3) (c) 2nd Burglary of occupied structure;  
unarmed; no assault or battery.

101

810.145 (8) (b) 2nd Video voyeurism; certain minor  
victims; 2nd or subsequent  
offense.

102

812.014 (2) (b) 1. 2nd Property stolen \$20,000 or  
more, but less than \$100,000,  
grand theft in 2nd degree.

103

812.014 (2) (c) 5. 3rd Grand theft; third degree;  
firearm.

104

812.014 (6) 2nd Theft; property stolen \$3,000  
or more; coordination of  
others.

105

812.015 (9) (a) 2nd Retail theft; property stolen  
\$750 or more; second or  
subsequent conviction.

106

812.015 (9) (b) 2nd Retail theft; aggregated  
property stolen within 30 days  
is \$3,000 or more; coordination  
of others.

107



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108	812.015 (9) (d)	2nd	Retail theft; multiple thefts within specified period.
109	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
110	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
111	817.49 (2) (b) 2.	2nd	Willful making of a false report of a crime resulting in death.
112	817.505 (4) (b)	2nd	Patient brokering; 10 or more patients.
113	817.5695 (3) (b)	2nd	Exploitation of person 65 years of age or older, value \$10,000 or more, but less than \$50,000.
114	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
115	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or



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disabled adult.

116

825.103(3)(c) 3rd Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.

117

827.03(2)(c) 3rd Abuse of a child.

118

827.03(2)(d) 3rd Neglect of a child.

119

827.071(2) & (3) 2nd Use or induce a child in a sexual performance, or promote or direct such performance.

120

827.071(5) 3rd Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.

121

828.126(3) 3rd Sexual activities involving animals.

122

836.05 2nd Threats; extortion.

123

836.10 2nd Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.





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124	843.12	3rd	Aids or assists person to escape.
125	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
126	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
127	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
128	893.131	2nd	Distribution of controlled substances resulting in overdose or serious bodily injury.
129	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
130	918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.



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131	944.35 (3) (a) 2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
132	944.40	2nd	Escapes.
133	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
134	944.47 (1) (a) 5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
135	951.22 (1) (i)	3rd	Firearm or weapon introduced into county detention facility.
136			
137			
138			
139	(g) LEVEL 7		
140			
	Florida Statute	Felony Degree	Description
141	316.027 (2) (c)	1st	Accident involving death, failure to stop; leaving scene.



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142	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
143	316.1935 (3) (b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
144	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
145	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
146	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
147	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
148			



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149	456.065 (2)	3rd	Practicing a health care profession without a license.
150	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
151	458.327 (1)	3rd	Practicing medicine without a license.
152	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
153	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
154	461.012 (1)	3rd	Practicing podiatric medicine without a license.
155	462.17	3rd	Practicing naturopathy without a license.
156	463.015 (1)	3rd	Practicing optometry without a license.
157	464.016 (1)	3rd	Practicing nursing without a license.



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158	465.015 (2)	3rd	Practicing pharmacy without a license.
159	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
160	467.201	3rd	Practicing midwifery without a license.
161	468.366	3rd	Delivering respiratory care services without a license.
162	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
163	483.901 (7)	3rd	Practicing medical physics without a license.
164	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
165	484.053	3rd	Dispensing hearing aids without a license.
	494.0018 (2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and



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there were five or more  
victims.

166

560.123(8)(b)1. 3rd Failure to report currency or  
payment instruments exceeding  
\$300 but less than \$20,000 by a  
money services business.

167

560.125(5)(a) 3rd Money services business by  
unauthorized person, currency  
or payment instruments  
exceeding \$300 but less than  
\$20,000.

168

655.50(10)(b)1. 3rd Failure to report financial  
transactions exceeding \$300 but  
less than \$20,000 by financial  
institution.

169

775.21(10)(a) 3rd Sexual predator; failure to  
register; failure to renew  
driver license or  
identification card; other  
registration violations.

170

775.21(10)(b) 3rd Sexual predator working where  
children regularly congregate.

171

775.21(10)(g) 3rd Failure to report or providing



false information about a  
sexual predator; harbor or  
conceal a sexual predator.

172

782.051(3)            2nd            Attempted felony murder of a  
person by a person other than  
the perpetrator or the  
perpetrator of an attempted  
felony.

173

782.07(1)            2nd            Killing of a human being by the  
act, procurement, or culpable  
negligence of another  
(manslaughter).

174

782.071              2nd            Killing of a human being or  
unborn child by the operation  
of a motor vehicle in a  
reckless manner (vehicular  
homicide).

175

782.072              2nd            Killing of a human being by the  
operation of a vessel in a  
reckless manner (vessel  
homicide).

176

784.045(1)(a)1.    2nd            Aggravated battery;  
intentionally causing great  
bodily harm or disfigurement.



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177	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
178	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
179	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
180	784.048 (7)	3rd	Aggravated stalking; violation of court order.
181	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
182	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
183	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
184	784.081 (1)	1st	Aggravated battery on specified official or employee.
185	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.





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186	784.083(1)	1st	Aggravated battery on code inspector.
187	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
188	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
189	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
190	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
191	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
192	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.



193	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
194	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
195	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
196	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
197	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
198	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
199			



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200	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
201	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
202	800.04 (5) (e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
203	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
204	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
205	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
	810.02 (3) (d)	2nd	Burglary of occupied



conveyance; unarmed; no assault  
or battery.

206

810.02 (3) (e) 2nd Burglary of authorized  
emergency vehicle.

207

812.014 (2) (a) 1. 1st Property stolen, valued at  
\$100,000 or more or a  
semitrailer deployed by a law  
enforcement officer; property  
stolen while causing other  
property damage; 1st degree  
grand theft.

208

812.014 (2) (b) 2. 2nd Property stolen, cargo valued  
at less than \$50,000, grand  
theft in 2nd degree.

209

812.014 (2) (b) 3. 2nd Property stolen, emergency  
medical equipment; 2nd degree  
grand theft.

210

812.014 (2) (b) 4. 2nd Property stolen, law  
enforcement equipment from  
authorized emergency vehicle.

211

812.014 (2) (f) 2nd Grand theft; second degree;  
firearm with previous  
conviction of s.



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812.014(2)(c)5.

212

812.0145(2)(a) 1st Theft from person 65 years of age or older; \$50,000 or more.

213

812.019(2) 1st Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

214

812.131(2)(a) 2nd Robbery by sudden snatching.

215

812.133(2)(b) 1st Carjacking; no firearm, deadly weapon, or other weapon.

216

817.034(4)(a)1. 1st Communications fraud, value greater than \$50,000.

217

817.234(8)(a) 2nd Solicitation of motor vehicle accident victims with intent to defraud.

218

817.234(9) 2nd Organizing, planning, or participating in an intentional motor vehicle collision.

219

817.234(11)(c) 1st Insurance fraud; property value \$100,000 or more.

220



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221	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
222	817.418 (2) (a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
223	817.504 (1) (a)	3rd	Offering or advertising a vaccine with intent to defraud.
224	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
225	817.611 (2) (b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
226	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
	825.103 (3) (b)	2nd	Exploiting an elderly person or



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disabled adult and property is  
valued at \$10,000 or more, but  
less than \$50,000.

227

827.03(2)(b)            2nd            Neglect of a child causing  
great bodily harm, disability,  
or disfigurement.

228

827.04(3)              3rd            Impregnation of a child under  
16 years of age by person 21  
years of age or older.

229

827.071(2) & (3)      2nd            Use or induce a child in a  
sexual performance, or promote  
or direct such performance.

230

827.071(4)            2nd            Possess with intent to promote  
any photographic material,  
motion picture, etc., which  
includes child pornography.

231

837.05(2)              3rd            Giving false information about  
alleged capital felony to a law  
enforcement officer.

232

838.015                2nd            Bribery.

233

838.016                2nd            Unlawful compensation or reward  
for official behavior.



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234	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
235	838.22	2nd	Bid tampering.
236	843.0855 (2)	3rd	Impersonation of a public officer or employee.
237	843.0855 (3)	3rd	Unlawful simulation of legal process.
238	843.0855 (4)	3rd	Intimidation of a public officer or employee.
239	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
240	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
241	872.06	2nd	Abuse of a dead human body.
242	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
243			





244	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
245	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
246	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5., within 1,000 feet of property used for religious services or a specified business site.
	893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.



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247	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
248	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
249	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
250	893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
251	893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
252	893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
253	893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
254			



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255	893.135 (1) (c) 4.b. (I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
256	893.135 (1) (d) 1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
257	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
258	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
259	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
260	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
261	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.



262	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
263	893.135 (1) (m) 2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
264	893.135 (1) (m) 2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
265	893.135 (1) (n) 2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
266	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
267	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.



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268	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
269	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
270	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
271	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
272	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
273	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.



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274	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
275	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
276	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
277	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
278	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
279	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false



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registration information.

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Section 2. This act shall take effect October 1, 2024.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to child exploitation offenses;  
amending s. 921.0022, F.S.; revising the ranking of  
specified child exploitation offenses for purposes of  
the offense severity ranking chart of the Criminal  
Punishment Code; providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

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The Appropriations Committee on Criminal and Civil Justice  
(Martin) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraphs (e), (f), and (g) of subsection (3)  
of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking  
chart.—

(3) OFFENSE SEVERITY RANKING CHART

(e) LEVEL 5





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11

Florida Statute	Felony Degree	Description
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12

316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
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13

316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
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14

316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
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15

322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
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16

327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
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17

379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply,
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aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

18

379.367(4) 3rd Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.

19

379.407(5)(b)3. 3rd Possession of 100 or more undersized spiny lobsters.

20

381.0041(11)(b) 3rd Donate blood, plasma, or organs knowing HIV positive.

21

440.10(1)(g) 2nd Failure to obtain workers' compensation coverage.

22

440.105(5) 2nd Unlawful solicitation for the purpose of making workers' compensation claims.

23



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24	440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
25	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
26	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
27	790.01(3)	3rd	Unlawful carrying of a concealed firearm.
28	790.162	2nd	Threat to throw or discharge destructive device.
29	790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
30	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
	790.23	2nd	Felons in possession of



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31

firearms, ammunition, or  
electronic weapons or devices.

796.05(1)

2nd

Live on earnings of a  
prostitute; 1st offense.

32

800.04(6)(c)

3rd

Lewd or lascivious conduct;  
offender less than 18 years of  
age.

33

800.04(7)(b)

2nd

Lewd or lascivious exhibition;  
offender 18 years of age or  
older.

34

806.111(1)

3rd

Possess, manufacture, or  
dispense fire bomb with intent  
to damage any structure or  
property.

35

812.0145(2)(b)

2nd

Theft from person 65 years of  
age or older; \$10,000 or more  
but less than \$50,000.

36

812.015  
(8)(a) & (c) -  
(e)

3rd

Retail theft; property stolen  
is valued at \$750 or more and  
one or more specified acts.

37

812.015(8)(f)

3rd

Retail theft; multiple thefts  
within specified period.



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38	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
39	812.081 (3)	2nd	Trafficking in trade secrets.
40	812.131 (2) (b)	3rd	Robbery by sudden snatching.
41	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
42	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
43	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
44	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
45	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or



amount of injury or fraud,  
\$5,000 or more or use of  
personal identification  
information of 10 or more  
persons.

46

817.611(2)(a)            2nd    Traffic in or possess 5 to 14  
counterfeit credit cards or  
related documents.

47

817.625(2)(b)           2nd    Second or subsequent fraudulent  
use of scanning device,  
skimming device, or reencoder.

48

825.1025(4)            3rd    Lewd or lascivious exhibition  
in the presence of an elderly  
person or disabled adult.

49

~~827.071(4)            2nd    Possess with intent to promote  
any photographic material,  
motion picture, etc., which  
includes child pornography.~~

50

~~827.071(5)            3rd    Possess, control, or  
intentionally view any  
photographic material, motion  
picture, etc., which includes  
child pornography.~~

51



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52	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
53	836.14(4)	2nd	Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.
54	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
55	843.01(1)	3rd	Resist officer with violence to person; resist arrest with violence.
56	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
57	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
	847.0138	3rd	Transmission of material



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58 (2) & (3) harmful to minors to a minor by  
electronic device or equipment.

874.05 (1) (b) 2nd Encouraging or recruiting  
another to join a criminal  
gang; second or subsequent  
offense.

59 874.05 (2) (a) 2nd Encouraging or recruiting  
person under 13 years of age to  
join a criminal gang.

60 893.13 (1) (a) 1. 2nd Sell, manufacture, or deliver  
cocaine (or other s.  
893.03 (1) (a), (1) (b), (1) (d),  
(2) (a), (2) (b), or (2) (c) 5.  
drugs).

61 893.13 (1) (c) 2. 2nd Sell, manufacture, or deliver  
cannabis (or other s.  
893.03 (1) (c), (2) (c) 1.,  
(2) (c) 2., (2) (c) 3., (2) (c) 6.,  
(2) (c) 7., (2) (c) 8., (2) (c) 9.,  
(2) (c) 10., (3), or (4) drugs)  
within 1,000 feet of a child  
care facility, school, or  
state, county, or municipal  
park or publicly owned  
recreational facility or









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77	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
78	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
79	775.0875 (1)	3rd	Taking firearm from law enforcement officer.
80	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
81	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
82	784.041	3rd	Felony battery; domestic battery by strangulation.
83	784.048 (3)	3rd	Aggravated stalking; credible threat.
84	784.048 (5)	3rd	Aggravated stalking of person under 16.
85	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.



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- 86 784.074 (1) (b) 2nd Aggravated assault on sexually  
violent predators facility  
staff.
- 87 784.08 (2) (b) 2nd Aggravated assault on a person  
65 years of age or older.
- 88 784.081 (2) 2nd Aggravated assault on specified  
official or employee.
- 89 784.082 (2) 2nd Aggravated assault by detained  
person on visitor or other  
detainee.
- 90 784.083 (2) 2nd Aggravated assault on code  
inspector.
- 91 787.02 (2) 3rd False imprisonment; restraining  
with purpose other than those  
in s. 787.01.
- 92 790.115 (2) (d) 2nd Discharging firearm or weapon  
on school property.
- 93 790.161 (2) 2nd Make, possess, or throw  
destructive device with intent  
to do bodily harm or damage  
property.



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- 94 790.164 (1) 2nd False report concerning bomb,  
explosive, weapon of mass  
destruction, act of arson or  
violence to state property, or  
use of firearms in violent  
manner.
- 95 790.19 2nd Shooting or throwing deadly  
missiles into dwellings,  
vessels, or vehicles.
- 96 794.011 (8) (a) 3rd Solicitation of minor to  
participate in sexual activity  
by custodial adult.
- 97 794.05 (1) 2nd Unlawful sexual activity with  
specified minor.
- 98 800.04 (5) (d) 3rd Lewd or lascivious molestation;  
victim 12 years of age or older  
but less than 16 years of age;  
offender less than 18 years.
- 99 800.04 (6) (b) 2nd Lewd or lascivious conduct;  
offender 18 years of age or  
older.
- 806.031 (2) 2nd Arson resulting in great bodily  
harm to firefighter or any



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other person.

100

810.02 (3) (c)            2nd    Burglary of occupied structure;  
unarmed; no assault or battery.

101

810.145 (8) (b)        2nd    Video voyeurism; certain minor  
victims; 2nd or subsequent  
offense.

102

812.014 (2) (b) 1.     2nd    Property stolen \$20,000 or  
more, but less than \$100,000,  
grand theft in 2nd degree.

103

812.014 (2) (c) 5.     3rd    Grand theft; third degree;  
firearm.

104

812.014 (6)            2nd    Theft; property stolen \$3,000  
or more; coordination of  
others.

105

812.015 (9) (a)        2nd    Retail theft; property stolen  
\$750 or more; second or  
subsequent conviction.

106

812.015 (9) (b)        2nd    Retail theft; aggregated  
property stolen within 30 days  
is \$3,000 or more; coordination  
of others.

107



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108	812.015 (9) (d)	2nd	Retail theft; multiple thefts within specified period.
109	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
110	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
111	817.49 (2) (b) 2.	2nd	Willful making of a false report of a crime resulting in death.
112	817.505 (4) (b)	2nd	Patient brokering; 10 or more patients.
113	817.5695 (3) (b)	2nd	Exploitation of person 65 years of age or older, value \$10,000 or more, but less than \$50,000.
114	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
115	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or



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disabled adult.

116

825.103(3)(c) 3rd Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.

117

827.03(2)(c) 3rd Abuse of a child.

118

827.03(2)(d) 3rd Neglect of a child.

119

~~827.071(2) & (3)~~ 2nd ~~Use or induce a child in a sexual performance, or promote or direct such performance.~~

120

827.071(5) 3rd Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.

121

828.126(3) 3rd Sexual activities involving animals.

122

836.05 2nd Threats; extortion.

123

836.10 2nd Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.





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124	843.12	3rd	Aids or assists person to escape.
125	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
126	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
127	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
128	893.131	2nd	Distribution of controlled substances resulting in overdose or serious bodily injury.
129	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
130	918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.





142	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
143	316.1935 (3) (b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
144	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
145	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
146	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
147	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
148			



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149	456.065 (2)	3rd	Practicing a health care profession without a license.
150	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
151	458.327 (1)	3rd	Practicing medicine without a license.
152	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
153	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
154	461.012 (1)	3rd	Practicing podiatric medicine without a license.
155	462.17	3rd	Practicing naturopathy without a license.
156	463.015 (1)	3rd	Practicing optometry without a license.
157	464.016 (1)	3rd	Practicing nursing without a license.



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158	465.015 (2)	3rd	Practicing pharmacy without a license.
159	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
160	467.201	3rd	Practicing midwifery without a license.
161	468.366	3rd	Delivering respiratory care services without a license.
162	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
163	483.901 (7)	3rd	Practicing medical physics without a license.
164	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
165	484.053	3rd	Dispensing hearing aids without a license.
	494.0018 (2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and



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there were five or more  
victims.

166

560.123(8)(b)1.           3rd    Failure to report currency or  
payment instruments exceeding  
\$300 but less than \$20,000 by a  
money services business.

167

560.125(5)(a)           3rd    Money services business by  
unauthorized person, currency  
or payment instruments  
exceeding \$300 but less than  
\$20,000.

168

655.50(10)(b)1.       3rd    Failure to report financial  
transactions exceeding \$300 but  
less than \$20,000 by financial  
institution.

169

775.21(10)(a)         3rd    Sexual predator; failure to  
register; failure to renew  
driver license or  
identification card; other  
registration violations.

170

775.21(10)(b)         3rd    Sexual predator working where  
children regularly congregate.

171

775.21(10)(g)         3rd    Failure to report or providing



false information about a  
sexual predator; harbor or  
conceal a sexual predator.

172

782.051(3)                      2nd      Attempted felony murder of a  
person by a person other than  
the perpetrator or the  
perpetrator of an attempted  
felony.

173

782.07(1)                      2nd      Killing of a human being by the  
act, procurement, or culpable  
negligence of another  
(manslaughter).

174

782.071                        2nd      Killing of a human being or  
unborn child by the operation  
of a motor vehicle in a  
reckless manner (vehicular  
homicide).

175

782.072                        2nd      Killing of a human being by the  
operation of a vessel in a  
reckless manner (vessel  
homicide).

176

784.045(1)(a)1.              2nd      Aggravated battery;  
intentionally causing great  
bodily harm or disfigurement.



177	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
178	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
179	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
180	784.048 (7)	3rd	Aggravated stalking; violation of court order.
181	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
182	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
183	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
184	784.081 (1)	1st	Aggravated battery on specified official or employee.
185	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.





186	784.083(1)	1st	Aggravated battery on code inspector.
187	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
188	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
189	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
190	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
191	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
192	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.



193	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
194	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
195	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
196	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
197	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
198	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
199			



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200	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
201	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
202	800.04 (5) (e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
203	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
204	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
205	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
	810.02 (3) (d)	2nd	Burglary of occupied



conveyance; unarmed; no assault  
or battery.

206

810.02 (3) (e)            2nd    Burglary of authorized  
emergency vehicle.

207

812.014 (2) (a) 1.       1st    Property stolen, valued at  
\$100,000 or more or a  
semitrailer deployed by a law  
enforcement officer; property  
stolen while causing other  
property damage; 1st degree  
grand theft.

208

812.014 (2) (b) 2.       2nd    Property stolen, cargo valued  
at less than \$50,000, grand  
theft in 2nd degree.

209

812.014 (2) (b) 3.       2nd    Property stolen, emergency  
medical equipment; 2nd degree  
grand theft.

210

812.014 (2) (b) 4.       2nd    Property stolen, law  
enforcement equipment from  
authorized emergency vehicle.

211

812.014 (2) (f)           2nd    Grand theft; second degree;  
firearm with previous  
conviction of s.



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812.014(2)(c)5.

212

812.0145(2)(a) 1st Theft from person 65 years of age or older; \$50,000 or more.

213

812.019(2) 1st Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

214

812.131(2)(a) 2nd Robbery by sudden snatching.

215

812.133(2)(b) 1st Carjacking; no firearm, deadly weapon, or other weapon.

216

817.034(4)(a)1. 1st Communications fraud, value greater than \$50,000.

217

817.234(8)(a) 2nd Solicitation of motor vehicle accident victims with intent to defraud.

218

817.234(9) 2nd Organizing, planning, or participating in an intentional motor vehicle collision.

219

817.234(11)(c) 1st Insurance fraud; property value \$100,000 or more.

220



221	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
222	817.418 (2) (a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
223	817.504 (1) (a)	3rd	Offering or advertising a vaccine with intent to defraud.
224	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
225	817.611 (2) (b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
226	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
	825.103 (3) (b)	2nd	Exploiting an elderly person or



disabled adult and property is  
valued at \$10,000 or more, but  
less than \$50,000.

227

827.03(2)(b)                      2nd      Neglect of a child causing  
great bodily harm, disability,  
or disfigurement.

228

827.04(3)                          3rd      Impregnation of a child under  
16 years of age by person 21  
years of age or older.

229

827.071(2) & (3)                      2nd      Use or induce a child in a  
sexual performance, or promote  
or direct such performance.

230

827.071(4)                          2nd      Possess with intent to promote  
any photographic material,  
motion picture, etc., which  
includes child pornography.

231

837.05(2)                          3rd      Giving false information about  
alleged capital felony to a law  
enforcement officer.

232

838.015                              2nd      Bribery.

233

838.016                              2nd      Unlawful compensation or reward  
for official behavior.



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234	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
235	838.22	2nd	Bid tampering.
236	843.0855 (2)	3rd	Impersonation of a public officer or employee.
237	843.0855 (3)	3rd	Unlawful simulation of legal process.
238	843.0855 (4)	3rd	Intimidation of a public officer or employee.
239	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
240	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
241	872.06	2nd	Abuse of a dead human body.
242	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
243			





874.10 1st,PBL Knowingly initiates, organizes,  
plans, finances, directs,  
manages, or supervises criminal  
gang-related activity.

244

893.13(1)(c)1. 1st Sell, manufacture, or deliver  
cocaine (or other drug  
prohibited under s.  
893.03(1)(a), (1)(b), (1)(d),  
(2)(a), (2)(b), or (2)(c)5.)  
within 1,000 feet of a child  
care facility, school, or  
state, county, or municipal  
park or publicly owned  
recreational facility or  
community center.

245

893.13(1)(e)1. 1st Sell, manufacture, or deliver  
cocaine or other drug  
prohibited under s.  
893.03(1)(a), (1)(b), (1)(d),  
(2)(a), (2)(b), or (2)(c)5.,  
within 1,000 feet of property  
used for religious services or  
a specified business site.

246

893.13(4)(a) 1st Use or hire of minor; deliver  
to minor other controlled  
substance.



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247	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
248	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
249	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
250	893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
251	893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
252	893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
253	893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
254			



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255	893.135 (1) (c) 4.b. (I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
256	893.135 (1) (d) 1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
257	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
258	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
259	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
260	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
261	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.



262	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
263	893.135 (1) (m) 2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
264	893.135 (1) (m) 2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
265	893.135 (1) (n) 2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
266	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
267	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.



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268	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
269	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
270	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
271	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
272	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
273	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.



274	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
275	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
276	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
277	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
278	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
279	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false



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registration information.

280

281

282

283

Section 2. This act shall take effect October 1, 2024.

284

285

===== T I T L E A M E N D M E N T =====

286

And the title is amended as follows:

287

Delete everything before the enacting clause

288

and insert:

289

A bill to be entitled

290

An act relating to child exploitation offenses;

291

amending s. 921.0022, F.S.; revising the ranking of

292

specified child exploitation offenses for purposes of

293

the offense severity ranking chart of the Criminal

294

Punishment Code; providing an effective date.

By Senator Martin

33-01421-24

20241656\_\_

1 A bill to be entitled  
 2 An act relating to child exploitation offenses;  
 3 amending ss. 847.0135 and 847.0137, F.S.; revising  
 4 penalties for specified offenses involving children;  
 5 amending s. 921.0022, F.S.; ranking offenses and  
 6 revising offense ranking levels for purposes of the  
 7 offense severity ranking chart of the Criminal  
 8 Punishment Code; conforming provisions to changes made  
 9 by the act; providing an effective date.

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

11 Section 1. Subsections (2) and (3) of section 847.0135,  
 12 Florida Statutes, are amended to read:  
 13 847.0135 Computer pornography; prohibited computer usage;  
 14 traveling to meet minor; penalties.—  
 15 (2) COMPUTER PORNOGRAPHY.—A person who:  
 16 (a) Knowingly compiles, enters into, or transmits by use of  
 17 computer;  
 18 (b) Makes, prints, publishes, or reproduces by other  
 19 computerized means;  
 20 (c) Knowingly causes or allows to be entered into or  
 21 transmitted by use of computer; or  
 22 (d) Buys, sells, receives, exchanges, or disseminates,  
 23 any notice, statement, or advertisement of any minor's name,  
 24 telephone number, place of residence, physical characteristics,  
 25 or other descriptive or identifying information for purposes of  
 26 facilitating, encouraging, offering, or soliciting sexual  
 27  
 28  
 29

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30 conduct of or with any minor, or the visual depiction of such  
 31 conduct, commits a felony of the second ~~third~~ degree, punishable  
 32 as provided in s. 775.082, s. 775.083, ~~or s. 775.084~~, or s.  
 33 775.0847. The fact that an undercover operative or law  
 34 enforcement officer was involved in the detection and  
 35 investigation of an offense under this section shall not  
 36 constitute a defense to a prosecution under this section.

37 (3) CERTAIN USES OF COMPUTER SERVICES OR DEVICES  
 38 PROHIBITED.—Any person who knowingly uses a computer online  
 39 service, Internet service, local bulletin board service, or any  
 40 other device capable of electronic data storage or transmission  
 41 to:  
 42 (a) Seduce, solicit, lure, or entice, or attempt to seduce,  
 43 solicit, lure, or entice, a child or another person believed by  
 44 the person to be a child, to commit any illegal act described in  
 45 chapter 794, chapter 800, or chapter 827, or to otherwise engage  
 46 in any unlawful sexual conduct with a child or with another  
 47 person believed by the person to be a child; or  
 48 (b) Solicit, lure, or entice, or attempt to solicit, lure,  
 49 or entice a parent, legal guardian, or custodian of a child or a  
 50 person believed to be a parent, legal guardian, or custodian of  
 51 a child to consent to the participation of such child in any act  
 52 described in chapter 794, chapter 800, or chapter 827, or to  
 53 otherwise engage in any sexual conduct,  
 54  
 55 commits a felony of the second ~~third~~ degree, punishable as  
 56 provided in s. 775.082, s. 775.083, or s. 775.084, or s.  
 57 775.0847. Any person who, in violating this subsection,  
 58 misrepresents his or her age, commits a felony of the second

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59 degree, punishable as provided in s. 775.082, s. 775.083, ~~or~~ s.  
 60 775.084, or s. 775.0847. Each separate use of a computer online  
 61 service, Internet service, local bulletin board service, or any  
 62 other device capable of electronic data storage or transmission  
 63 wherein an offense described in this section is committed may be  
 64 charged as a separate offense.

65 Section 2. Subsections (2) and (3) of section 847.0137,  
 66 Florida Statutes, are amended to read:

67 847.0137 Transmission of pornography by electronic device  
 68 or equipment prohibited; penalties.—

69 (2) Notwithstanding ss. 847.012 and 847.0133, any person in  
 70 this state who knew or reasonably should have known that he or  
 71 she was transmitting child pornography, as defined in s.  
 72 847.001, to another person in this state or in another  
 73 jurisdiction commits a felony of the second ~~third~~ degree,  
 74 punishable as provided in s. 775.082, s. 775.083, ~~or~~ s. 775.084,  
 75 or s. 775.0847.

76 (3) Notwithstanding ss. 847.012 and 847.0133, any person in  
 77 any jurisdiction other than this state who knew or reasonably  
 78 should have known that he or she was transmitting child  
 79 pornography, as defined in s. 847.001, to any person in this  
 80 state commits a felony of the second ~~third~~ degree, punishable as  
 81 provided in s. 775.082, s. 775.083, ~~or~~ s. 775.084, or s.  
 82 775.0847.

83

84 The provisions of this section do not apply to subscription-  
 85 based transmissions such as list servers.

86 Section 3. Paragraphs (d), (e), (f), and (g) of subsection  
 87 (3) of section 921.0022, Florida Statutes, are amended to read:

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88 921.0022 Criminal Punishment Code; offense severity ranking  
 89 chart.—

90 (3) OFFENSE SEVERITY RANKING CHART

91 (d) LEVEL 4

92

Florida Statute	Felony Degree	Description
316.1935(3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
517.07(1)	3rd	Failure to register securities.
517.12(1)	3rd	Failure of dealer or associated person of a dealer of securities to register.

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98 784.031 3rd Battery by strangulation.

99 784.07(2) (b) 3rd Battery of law enforcement  
officer, firefighter, etc.

100 784.074(1) (c) 3rd Battery of sexually violent  
predators facility staff.

101 784.075 3rd Battery on detention or  
commitment facility staff.

102 784.078 3rd Battery of facility employee by  
throwing, tossing, or expelling  
certain fluids or materials.

103 784.08(2) (c) 3rd Battery on a person 65 years of  
age or older.

104 784.081(3) 3rd Battery on specified official  
or employee.

105 784.082(3) 3rd Battery by detained person on  
visitor or other detainee.

106 784.083(3) 3rd Battery on code inspector.

107 784.085 3rd Battery of child by throwing,  
tossing, projecting, or

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108 expelling certain fluids or  
materials.

787.03(1) 3rd Interference with custody;  
wrongly takes minor from  
appointed guardian.

109 787.04(2) 3rd Take, entice, or remove child  
beyond state limits with  
criminal intent pending custody  
proceedings.

110 787.04(3) 3rd Carrying child beyond state  
lines with criminal intent to  
avoid producing child at  
custody hearing or delivering  
to designated person.

111 787.07 3rd Human smuggling.

112 790.115(1) 3rd Exhibiting firearm or weapon  
within 1,000 feet of a school.

113 790.115(2) (b) 3rd Possessing electric weapon or  
device, destructive device, or  
other weapon on school  
property.

114 790.115(2) (c) 3rd Possessing firearm on school

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property.

115 794.051(1) 3rd Indecent, lewd, or lascivious touching of certain minors.

116 800.04(7)(c) 3rd Lewd or lascivious exhibition; offender less than 18 years.

117 806.135 2nd Destroying or demolishing a memorial or historic property.

118 810.02(4)(a) 3rd Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

119 810.02(4)(b) 3rd Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

120 810.06 3rd Burglary; possession of tools.

121 810.08(2)(c) 3rd Trespass on property, armed with firearm or dangerous weapon.

122 812.014(2)(c)3. 3rd Grand theft, 3rd degree \$10,000 or more but less than \$20,000.

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123 812.014 3rd Grand theft, 3rd degree; (2)(c)4. & specified items. 6.-10.

124 812.0195(2) 3rd Dealing in stolen property by use of the Internet; property stolen \$300 or more.

125 817.505(4)(a) 3rd Patient brokering.

126 817.563(1) 3rd Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.

127 817.568(2)(a) 3rd Fraudulent use of personal identification information.

128 817.5695(3)(c) 3rd Exploitation of person 65 years of age or older, value less than \$10,000.

129 817.625(2)(a) 3rd Fraudulent use of scanning device, skimming device, or reencoder.

130 817.625(2)(c) 3rd Possess, sell, or deliver skimming device.

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131	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
132	836.14(2)	3rd	Person who commits theft of a sexually explicit image with intent to promote it.
133	836.14(3)	3rd	Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.
134	837.02(1)	3rd	Perjury in official proceedings.
135	837.021(1)	3rd	Make contradictory statements in official proceedings.
136	838.022	3rd	Official misconduct.
137	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
138	839.13(2)(c)	3rd	Falsifying records of the Department of Children and

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			Families.
139	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
140	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
141	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreatment or bond jumping).
142	843.19(2)	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
143	<del>847.0135(5)(e)</del>	<del>3rd</del>	<del>Lewd or lascivious exhibition using computer; offender less than 18 years.</del>
144	870.01(3)	2nd	Aggravated rioting.
145	870.01(5)	2nd	Aggravated inciting a riot.
146	874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal

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147 gang.

148 893.13(2)(a)1. 2nd Purchase of cocaine (or other

149 s. 893.03(1)(a), (b), or (d),

150 (2)(a), (2)(b), or (2)(c)5.

151 drugs).

152 914.14(2) 3rd Witnesses accepting bribes.

153 914.22(1) 3rd Force, threaten, etc., witness,

154 victim, or informant.

155 914.23(2) 3rd Retaliation against a witness,

156 victim, or informant, no bodily

157 injury.

158 916.1085 3rd Introduction of specified

159 (2)(c)1. contraband into certain DCF

160 facilities.

161 918.12 3rd Tampering with jurors.

162 934.215 3rd Use of two-way communications

163 device to facilitate commission

of a crime.

944.47(1)(a)6. 3rd Introduction of contraband

(cellular telephone or other

portable communication device)

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155 into correctional institution.

156 951.22(1)(h), 3rd Intoxicating drug,

157 (j) & (k) instrumentality or other device

158 to aid escape, or cellular

159 telephone or other portable

160 communication device introduced

161 into county detention facility.

162 (e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.

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164	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
	379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
165	379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
166	379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
167			

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168	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
169	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
170	440.381(2)	3rd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
171	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
172	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
173	790.01(3)	3rd	Unlawful carrying of a concealed firearm.
174	790.162	2nd	Threat to throw or discharge destructive device.

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175	790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.	
176	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.	
177	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.	
178	796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.	
179	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.	
180	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.	
181	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.	
182				

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	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.	
183	812.015 (8)(a) & (c)- (e)	3rd	Retail theft; property stolen is valued at \$750 or more and one or more specified acts.	
184	812.015(8)(f)	3rd	Retail theft; multiple thefts within specified period.	
185	812.019(1)	2nd	Stolen property; dealing in or trafficking in.	
186	812.081(3)	2nd	Trafficking in trade secrets.	
187	812.131(2)(b)	3rd	Robbery by sudden snatching.	
188	812.16(2)	3rd	Owning, operating, or conducting a chop shop.	
189	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.	
190	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.	
191	817.2341(1),	3rd	Filing false financial	

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192 (2) (a) & (3) (a) statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.

193 817.568(2) (b) 2nd Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.

194 817.611(2) (a) 2nd Traffic in or possess 5 to 14 counterfeit credit cards or related documents.

195 817.625(2) (b) 2nd Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.

196 825.1025(4) 3rd Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

827.071(4) 2nd ~~Possess with intent to promote~~

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197 ~~any photographic material, motion picture, etc., which includes child pornography.~~

827.071(5) 3rd Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.

198 828.12(2) 3rd Tortures any animal with intent to inflict intense pain, serious physical injury, or death.

199 836.14(4) 2nd Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.

200 839.13(2) (b) 2nd Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

201 843.01(1) 3rd Resist officer with violence to person; resist arrest with



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202 violence.

203 ~~847.0135(5)(b)~~ 2nd ~~Lewd or lascivious exhibition~~  
~~using computer, offender 18~~  
~~years or older.~~

204 ~~847.0137~~ 3rd ~~Transmission of pornography by~~  
~~(2) & (3)~~ ~~electronic device or equipment.~~

205 ~~847.0138~~ 3rd ~~Transmission of material~~  
~~(2) & (3)~~ ~~harmful to minors to a minor by~~  
~~electronic device or equipment.~~

206 874.05(1)(b) 2nd Encouraging or recruiting  
another to join a criminal  
gang; second or subsequent  
offense.

207 874.05(2)(a) 2nd Encouraging or recruiting  
person under 13 years of age to  
join a criminal gang.

208 893.13(1)(a)1. 2nd Sell, manufacture, or deliver  
cocaine (or other s.  
893.03(1)(a), (1)(b), (1)(d),  
(2)(a), (2)(b), or (2)(c)5.  
drugs).

893.13(1)(c)2. 2nd Sell, manufacture, or deliver

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209 cannabis (or other s.  
893.03(1)(c), (2)(c)1.,  
(2)(c)2., (2)(c)3., (2)(c)6.,  
(2)(c)7., (2)(c)8., (2)(c)9.,  
(2)(c)10., (3), or (4) drugs)  
within 1,000 feet of a child  
care facility, school, or  
state, county, or municipal  
park or publicly owned  
recreational facility or  
community center.

210 893.13(1)(d)1. 1st Sell, manufacture, or deliver  
cocaine (or other s.  
893.03(1)(a), (1)(b), (1)(d),  
(2)(a), (2)(b), or (2)(c)5.  
drugs) within 1,000 feet of  
university.

893.13(1)(e)2. 2nd Sell, manufacture, or deliver  
cannabis or other drug  
prohibited under s.  
893.03(1)(c), (2)(c)1.,  
(2)(c)2., (2)(c)3., (2)(c)6.,  
(2)(c)7., (2)(c)8., (2)(c)9.,  
(2)(c)10., (3), or (4) within  
1,000 feet of property used for  
religious services or a  
specified business site.

211	33-01421-24	20241656__	
	893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.
212	893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
213	893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
214			
215	(f) LEVEL 6		
216	Florida Statute	Felony Degree	Description
217	316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
218	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
219	400.9935(4)(c)	2nd	Operating a clinic, or offering

220	33-01421-24	20241656__	services requiring licensure, without a license.
	499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
221	499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
222	499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
223	775.0875(1)	3rd	Taking firearm from law enforcement officer.
224	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
225	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
226	784.041	3rd	Felony battery; domestic battery by strangulation.
227	784.048(3)	3rd	Aggravated stalking; credible

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			threat.	
228	784.048(5)	3rd	Aggravated stalking of person under 16.	
229	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.	
230	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.	
231	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.	
232	784.081(2)	2nd	Aggravated assault on specified official or employee.	
233	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.	
234	784.083(2)	2nd	Aggravated assault on code inspector.	
235	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.	
236				

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	33-01421-24		20241656__	
	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.	
237	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.	
238	790.164(1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.	
239	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.	
240	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.	
241	794.05(1)	2nd	Unlawful sexual activity with specified minor.	
242	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age;	

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	33-01421-24		20241656__	
				offender less than 18 years.
243	800.04(6)(b)	2nd		Lewd or lascivious conduct; offender 18 years of age or older.
244	806.031(2)	2nd		Arson resulting in great bodily harm to firefighter or any other person.
245	810.02(3)(c)	2nd		Burglary of occupied structure; unarmed; no assault or battery.
246	810.145(8)(b)	2nd		Video voyeurism; certain minor victims; 2nd or subsequent offense.
247	812.014(2)(b)1.	2nd		Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
248	812.014(2)(c)5.	3rd		Grand theft; third degree; firearm.
249	812.014(6)	2nd		Theft; property stolen \$3,000 or more; coordination of others.
250	812.015(9)(a)	2nd		Retail theft; property stolen

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				\$750 or more; second or subsequent conviction.
251	812.015(9)(b)	2nd		Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others.
252	812.015(9)(d)	2nd		Retail theft; multiple thefts within specified period.
253	812.13(2)(c)	2nd		Robbery, no firearm or other weapon (strong-arm robbery).
254	817.4821(5)	2nd		Possess cloning paraphernalia with intent to create cloned cellular telephones.
255	817.49(2)(b)2.	2nd		Willful making of a false report of a crime resulting in death.
256	817.505(4)(b)	2nd		Patient brokering; 10 or more patients.
257	817.5695(3)(b)	2nd		Exploitation of person 65 years of age or older, value \$10,000 or more, but less than \$50,000.
258				

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	33-01421-24		20241656__
	825.102(1)	3rd	Abuse of an elderly person or disabled adult.
259			
	825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
260			
	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
261			
	825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
262			
	827.03(2)(c)	3rd	Abuse of a child.
263			
	827.03(2)(d)	3rd	Neglect of a child.
264			
	<del>827.071(2) &amp; (3)</del>	<del>2nd</del>	<del>Use or induce a child in a sexual performance, or promote or direct such performance.</del>
265			
	828.126(3)	3rd	Sexual activities involving animals.
266			
	836.05	2nd	Threats; extortion.
267			
	836.10	2nd	Written or electronic threats to kill, do bodily injury, or

	33-01421-24		20241656__
			conduct a mass shooting or an act of terrorism.
268			
	843.12	3rd	Aids or assists person to escape.
269			
	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
270			
	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
271			
	<del>847.0135(2)</del>	<del>3rd</del>	<del>Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.</del>
272			
	<u>847.0135(5)(b)</u>	<u>2nd</u>	<u>Lewd or lascivious exhibition using computer; offender 18 years or older.</u>
273			
	<u>847.0137(2) &amp; (3)</u>	<u>2nd</u>	<u>Transmission of child pornography.</u>
274			
	893.131	2nd	Distribution of controlled substances resulting in overdose or serious bodily

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injury.

275 914.23 2nd Retaliation against a witness,  
victim, or informant, with  
bodily injury.

276 918.13(2)(b) 2nd Tampering with or fabricating  
physical evidence relating to a  
capital felony.

277 944.35(3)(a)2. 3rd Committing malicious battery  
upon or inflicting cruel or  
inhuman treatment on an inmate  
or offender on community  
supervision, resulting in great  
bodily harm.

278 944.40 2nd Escapes.

279 944.46 3rd Harboring, concealing, aiding  
escaped prisoners.

280 944.47(1)(a)5. 2nd Introduction of contraband  
(firearm, weapon, or explosive)  
into correctional facility.

281 951.22(1)(i) 3rd Firearm or weapon introduced  
into county detention facility.

282

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283 (g) LEVEL 7

284 Florida Felony Description  
Statute Degree

285 316.027(2)(c) 1st Accident involving death,  
failure to stop; leaving scene.

286 316.193(3)(c)2. 3rd DUI resulting in serious bodily  
injury.

287 316.1935(3)(b) 1st Causing serious bodily injury  
or death to another person;  
driving at high speed or with  
wanton disregard for safety  
while fleeing or attempting to  
elude law enforcement officer  
who is in a patrol vehicle with  
siren and lights activated.

288 327.35(3)(c)2. 3rd Vessel BUI resulting in serious  
bodily injury.

289 402.319(2) 2nd Misrepresentation and  
negligence or intentional act  
resulting in great bodily harm,  
permanent disfiguration,  
permanent disability, or death.

290

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	409.920	3rd	Medicaid provider fraud;
	(2) (b) 1.a.		\$10,000 or less.
291			
	409.920	2nd	Medicaid provider fraud; more
	(2) (b) 1.b.		than \$10,000, but less than
			\$50,000.
292			
	456.065(2)	3rd	Practicing a health care
			profession without a license.
293			
	456.065(2)	2nd	Practicing a health care
			profession without a license
			which results in serious bodily
			injury.
294			
	458.327(1)	3rd	Practicing medicine without a
			license.
295			
	459.013(1)	3rd	Practicing osteopathic medicine
			without a license.
296			
	460.411(1)	3rd	Practicing chiropractic
			medicine without a license.
297			
	461.012(1)	3rd	Practicing podiatric medicine
			without a license.
298			
	462.17	3rd	Practicing naturopathy without
			a license.

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299			
	463.015(1)	3rd	Practicing optometry without a
			license.
300			
	464.016(1)	3rd	Practicing nursing without a
			license.
301			
	465.015(2)	3rd	Practicing pharmacy without a
			license.
302			
	466.026(1)	3rd	Practicing dentistry or dental
			hygiene without a license.
303			
	467.201	3rd	Practicing midwifery without a
			license.
304			
	468.366	3rd	Delivering respiratory care
			services without a license.
305			
	483.828(1)	3rd	Practicing as clinical
			laboratory personnel without a
			license.
306			
	483.901(7)	3rd	Practicing medical physics
			without a license.
307			
	484.013(1) (c)	3rd	Preparing or dispensing optical
			devices without a prescription.
308			

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309	484.053	3rd	Dispensing hearing aids without a license.
	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
310	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
311	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
312	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
313	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or

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			identification card; other registration violations.
314	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
315	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
316	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
317	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
318	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
319	782.072	2nd	Killing of a human being by the

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operation of a vessel in a reckless manner (vessel homicide).

320 784.045(1)(a)1. 2nd Aggravated battery; intentionally causing great bodily harm or disfigurement.

321 784.045(1)(a)2. 2nd Aggravated battery; using deadly weapon.

322 784.045(1)(b) 2nd Aggravated battery; perpetrator aware victim pregnant.

323 784.048(4) 3rd Aggravated stalking; violation of injunction or court order.

324 784.048(7) 3rd Aggravated stalking; violation of court order.

325 784.07(2)(d) 1st Aggravated battery on law enforcement officer.

326 784.074(1)(a) 1st Aggravated battery on sexually violent predators facility staff.

327 784.08(2)(a) 1st Aggravated battery on a person 65 years of age or older.

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328 784.081(1) 1st Aggravated battery on specified official or employee.

329 784.082(1) 1st Aggravated battery by detained person on visitor or other detainee.

330 784.083(1) 1st Aggravated battery on code inspector.

331 787.06(3)(a)2. 1st Human trafficking using coercion for labor and services of an adult.

332 787.06(3)(e)2. 1st Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.

333 790.07(4) 1st Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).

334 790.16(1) 1st Discharge of a machine gun under specified circumstances.

335

	33-01421-24		20241656__
336	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
337	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
338	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
339	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
340	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
341			

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	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
342	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
343	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
344	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
345	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
346	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
347	810.02(3)(a)	2nd	Burglary of occupied dwelling;

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 unarmed; no assault or battery.  
 348 810.02(3)(b) 2nd Burglary of unoccupied  
 dwelling; unarmed; no assault  
 or battery.  
 349 810.02(3)(d) 2nd Burglary of occupied  
 conveyance; unarmed; no assault  
 or battery.  
 350 810.02(3)(e) 2nd Burglary of authorized  
 emergency vehicle.  
 351 812.014(2)(a)1. 1st Property stolen, valued at  
 \$100,000 or more or a  
 semitrailer deployed by a law  
 enforcement officer; property  
 stolen while causing other  
 property damage; 1st degree  
 grand theft.  
 352 812.014(2)(b)2. 2nd Property stolen, cargo valued  
 at less than \$50,000, grand  
 theft in 2nd degree.  
 353 812.014(2)(b)3. 2nd Property stolen, emergency  
 medical equipment; 2nd degree  
 grand theft.  
 354

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 812.014(2)(b)4. 2nd Property stolen, law  
 enforcement equipment from  
 authorized emergency vehicle.  
 355 812.014(2)(f) 2nd Grand theft; second degree;  
 firearm with previous  
 conviction of s.  
 812.014(2)(c)5.  
 356 812.0145(2)(a) 1st Theft from person 65 years of  
 age or older; \$50,000 or more.  
 357 812.019(2) 1st Stolen property; initiates,  
 organizes, plans, etc., the  
 theft of property and traffics  
 in stolen property.  
 358 812.131(2)(a) 2nd Robbery by sudden snatching.  
 359 812.133(2)(b) 1st Carjacking; no firearm, deadly  
 weapon, or other weapon.  
 360 817.034(4)(a)1. 1st Communications fraud, value  
 greater than \$50,000.  
 361 817.234(8)(a) 2nd Solicitation of motor vehicle  
 accident victims with intent to  
 defraud.  
 362

	33-01421-24		20241656__
	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
363			
	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
364			
	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
365			
	817.418(2)(a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
366			
	817.504(1)(a)	3rd	Offering or advertising a vaccine with intent to defraud.
367			
	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
368			
	817.611(2)(b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.

	33-01421-24		20241656__
369	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
370			
	825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
371			
	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
372			
	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
373			
	<u>827.071(2) &amp; (3)</u>	<u>2nd</u>	<u>Use or induce a child in a sexual performance, or promote or direct such performance.</u>
374			
	<u>827.071(4)</u>	<u>2nd</u>	<u>Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.</u>
375			
	837.05(2)	3rd	Giving false information about

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 alleged capital felony to a law enforcement officer.  
 376 838.015 2nd Bribery.  
 377 838.016 2nd Unlawful compensation or reward for official behavior.  
 378 838.021(3)(a) 2nd Unlawful harm to a public servant.  
 379 838.22 2nd Bid tampering.  
 380 843.0855(2) 3rd Impersonation of a public officer or employee.  
 381 843.0855(3) 3rd Unlawful simulation of legal process.  
 382 843.0855(4) 3rd Intimidation of a public officer or employee.  
 383 847.0135(2) 2nd Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.  
 384 847.0135(3) 2nd ~~3rd~~ Solicitation of a child, via a computer service, to commit an unlawful sex act.

33-01421-24 20241656\_\_  
 385 847.0135(4) 2nd Traveling to meet a minor to commit an unlawful sex act.  
 386 847.0138(2) & (3) 3rd Transmission of material harmful to minors to a minor by electronic device or equipment.  
 387 872.06 2nd Abuse of a dead human body.  
 388 874.05(2)(b) 1st Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.  
 389 874.10 1st,PBL Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.  
 390 893.13(1)(c)1. 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned

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recreational facility or  
community center.

391 893.13(1)(e)1. 1st Sell, manufacture, or deliver  
cocaine or other drug  
prohibited under s.  
893.03(1)(a), (1)(b), (1)(d),  
(2)(a), (2)(b), or (2)(c)5.,  
within 1,000 feet of property  
used for religious services or  
a specified business site.

392 893.13(4)(a) 1st Use or hire of minor; deliver  
to minor other controlled  
substance.

393 893.135(1)(a)1. 1st Trafficking in cannabis, more  
than 25 lbs., less than 2,000  
lbs.

394 893.135 (1)(b)1.a. 1st Trafficking in cocaine, more  
than 28 grams, less than 200  
grams.

395 893.135 (1)(c)1.a. 1st Trafficking in illegal drugs,  
more than 4 grams, less than 14  
grams.

396 893.135 1st Trafficking in hydrocodone, 28

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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(1)(c)2.a. grams or more, less than 50  
grams.

397 893.135 (1)(c)2.b. 1st Trafficking in hydrocodone, 50  
grams or more, less than 100  
grams.

398 893.135 (1)(c)3.a. 1st Trafficking in oxycodone, 7  
grams or more, less than 14  
grams.

399 893.135 (1)(c)3.b. 1st Trafficking in oxycodone, 14  
grams or more, less than 25  
grams.

400 893.135 (1)(c)4.b.(I) 1st Trafficking in fentanyl, 4  
grams or more, less than 14  
grams.

401 893.135 (1)(d)1.a. 1st Trafficking in phencyclidine,  
28 grams or more, less than 200  
grams.

402 893.135(1)(e)1. 1st Trafficking in methaqualone,  
200 grams or more, less than 5  
kilograms.

403 893.135(1)(f)1. 1st Trafficking in amphetamine, 14  
grams or more, less than 28

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grams.

404 893.135 1st Trafficking in flunitrazepam, 4  
(1) (g) 1.a. grams or more, less than 14  
grams.

405 893.135 1st Trafficking in gamma-  
(1) (h) 1.a. hydroxybutyric acid (GHB), 1  
kilogram or more, less than 5  
kilograms.

406 893.135 1st Trafficking in 1,4-Butanediol,  
(1) (j) 1.a. 1 kilogram or more, less than 5  
kilograms.

407 893.135 1st Trafficking in Phenethylamines,  
(1) (k) 2.a. 10 grams or more, less than 200  
grams.

408 893.135 1st Trafficking in synthetic  
(1) (m) 2.a. cannabinoids, 280 grams or  
more, less than 500 grams.

409 893.135 1st Trafficking in synthetic  
(1) (m) 2.b. cannabinoids, 500 grams or  
more, less than 1,000 grams.

410 893.135 1st Trafficking in n-benzyl  
(1) (n) 2.a. phenethylamines, 14 grams or

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more, less than 100 grams.

411 893.1351(2) 2nd Possession of place for  
trafficking in or manufacturing  
of controlled substance.

412 896.101(5) (a) 3rd Money laundering, financial  
transactions exceeding \$300 but  
less than \$20,000.

413 896.104(4) (a) 1. 3rd Structuring transactions to  
evade reporting or registration  
requirements, financial  
transactions exceeding \$300 but  
less than \$20,000.

414 943.0435(4) (c) 2nd Sexual offender vacating  
permanent residence; failure to  
comply with reporting  
requirements.

415 943.0435(8) 2nd Sexual offender; remains in  
state after indicating intent  
to leave; failure to comply  
with reporting requirements.

416 943.0435(9) (a) 3rd Sexual offender; failure to  
comply with reporting  
requirements.

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417 943.0435(13) 3rd Failure to report or providing  
false information about a  
sexual offender; harbor or  
conceal a sexual offender.

418 943.0435(14) 3rd Sexual offender; failure to  
report and reregister; failure  
to respond to address  
verification; providing false  
registration information.

419 944.607(9) 3rd Sexual offender; failure to  
comply with reporting  
requirements.

420 944.607(10)(a) 3rd Sexual offender; failure to  
submit to the taking of a  
digitized photograph.

421 944.607(12) 3rd Failure to report or providing  
false information about a  
sexual offender; harbor or  
conceal a sexual offender.

422 944.607(13) 3rd Sexual offender; failure to  
report and reregister; failure  
to respond to address  
verification; providing false

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423 registration information.

985.4815(10) 3rd Sexual offender; failure to  
submit to the taking of a  
digitized photograph.

424 985.4815(12) 3rd Failure to report or providing  
false information about a  
sexual offender; harbor or  
conceal a sexual offender.

425 985.4815(13) 3rd Sexual offender; failure to  
report and reregister; failure  
to respond to address  
verification; providing false  
registration information.

426

427 Section 4. This act shall take effect October 1, 2024.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: CS/SB 1656

INTRODUCER: Appropriations Committee on Criminal Justice and Senator Martin

SUBJECT: Child Exploitation Offenses

DATE: February 15, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

---

**I. Summary:**

CS/SB 1656 amends s. 921.0022, F.S., increasing ranking levels of specified child exploitation offenses on the offense severity ranking chart (OSRC) of the Criminal Punishment Code.

This bill may have a positive insignificant prison bed impact (increase of 10 or fewer beds). See Section V., Fiscal Impact Statement.

The bill is effective October 1, 2024.

**II. Present Situation:**

**Child Exploitation Offense**

*Using a Child in Sexual Performance*

Section 827.071(2), F.S., prohibits a person from, knowing the character and content thereof, employing, authorizing, or inducing a child to engage in a sexual performance; or being a parent, legal guardian, or custodian of such child, consenting to the participation by such child in a sexual performance. A violation for using a child in a sexual performance is a second degree felony<sup>1</sup> and the offense is ranked as a Level 6 offense on the OSRC.

*Promoting a Sexual Performance by a Child*

Under s. 827.071(3), F.S., a person commits a second degree felony if, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child. The offense is ranked as a Level 6 offense on the OSRC.

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<sup>1</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082, 775.083, or 775.084, F.S

***Possessing Child Pornography with Intent to Promote***

Under s. 827.071(4), F.S., a person commits a second degree felony if he or she possesses with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes child pornography. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote. The offense is ranked as a Level 5 offense on the OSRC.

***Possessing or Intentionally Viewing Child Pornography***

Section 827.071(5), F.S., prohibits a person from knowingly possessing, controlling, or intentionally viewing a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include child pornography. A violation of the prohibition is a third degree felony and the offense is ranked as a Level 5 offense on the OSRC.

Additionally, s. 827.071(5), F.S., specifies that the possession, control, or intentional viewing of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense, and if such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation includes child pornography depicting more than one child, then each such child in each such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that is knowingly possessed, controlled, or intentionally viewed is a separate offense.<sup>2</sup>

Section 827.071, F.S., defines the following relevant terms:

- “Child pornography” means any image depicting a minor engaged in sexual conduct, or any image that has been created, altered, adapted, or modified by electronic, mechanical, or other means, to portray an identifiable minor engaged in sexual conduct.<sup>3</sup>
- “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.<sup>4</sup>
- “Sexual performance” means any performance or part thereof which includes sexual conduct by a child.<sup>5</sup>

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<sup>2</sup> This does not apply to any material possessed, controlled, or intentionally viewed as part of a law enforcement investigation. Section 827.071(5)(b), F.S.

<sup>3</sup> Section 827.071(1)(b), F.S.

<sup>4</sup> A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.” Section 827.071(1)(l), F.S.

<sup>5</sup> “Performance” means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience. Section 827.071(1)(m) and (g), F.S.

**Criminal Punishment Code and Offense Severity Ranking**

- The Criminal Punishment Code<sup>6</sup> is Florida’s primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10). Points are assigned and accrue based upon the severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates.
- Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S. Currently, a felony of the third degree is ranked as a level 1 offense, and a second degree felony is ranked as a level 4 offense.<sup>7</sup>

***Reclassification of Specified Child Exploitation Offenses***

Under s. 775.0847, F.S., a violation of s. 827.071, F.S., must be reclassified to the next higher degree if the offender possesses 10 or more images of any form of child pornography regardless of content, and the content of at least one image contains one or more of the following:

- A child who is younger than the age of five;
- Sadomasochistic abuse involving a child;
- Sexual battery involving a child;
- Sexual bestiality involving a child; or
- Any motion picture, film, video, or computer-generated motion picture, film, or video involving a child, regardless of length and regardless of whether the motion picture, film, video, or computer-generated motion picture, film, or video contains sound.

**III. Effect of Proposed Changes:**

The bill amends s. 921.0022, F.S., to increase the OSRC rankings for specified child exploitation offenses as follows:<sup>8</sup>

<b>Violation</b>	<b>Current OSRC Ranking</b>	<b>New OSRC Ranking</b>
Using a child in or promoting a child sexual performance under s. 827.071(2) or (3), F.S.	Level 6	Level 7
Possessing child pornography with intent to promote under s. 827.071(4), F.S.	Level 5	Level 7
Possessing or intentionally viewing child pornography under s. 827.071(5), F.S.	Level 5	Level 6

By increasing the offense severity ranking of specified child exploitation offenses, the bill may increase the minimum sentence to which a person convicted of such an offense may be sentenced and may increase a term of incarceration required to be imposed as part of that sentence.

<sup>6</sup> Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>7</sup> Section 921.0023(1) and (2), F.S.

<sup>8</sup> The bill retains the current felony levels for ss. 827.071(2), (3), (4), and (5), F.S.

The bill is effective October 1, 2024.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined the bill has a positive insignificant impact (increase of 10 or fewer beds) on prison beds.<sup>9</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>9</sup> Office of Economic and Demographic Research *SB 1656*,  
<http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/SB1656.pdf>

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 921.0022.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

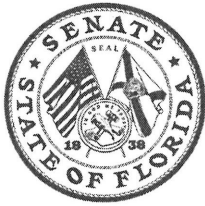
**CS by Appropriations Committee on Criminal and Civil Justice on February 13, 2024:**

The committee substitute:

- Removes the penalty enhancements for specific crimes relating to the exploitation of children in ss. 847.1035 and 847.0137, F.S.
- Removes several increased OSRC rankings for specified child exploitation offenses.
- Increases the OSRC ranking for possessing or intentionally viewing child pornography under s. 827.071(5) from a level 5 to a level 6.

**B. Amendments:**

None.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice

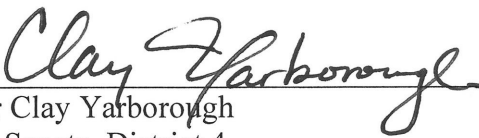
**Subject:** Committee Agenda Request

**Date:** January 30, 2024

---

I respectfully request that **Senate Bill #1690**, relating to Human Trafficking, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

  
\_\_\_\_\_  
Senator Clay Yarborough  
Florida Senate, District 4

The Florida Senate

APPEARANCE RECORD

SB 1690

2/13/24

Meeting Date

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Approp. Criminal & Civil Justice  
Committee

Amendment Barcode (if applicable)

Name Aaron DiPietro

Phone 904-608-4471

Address P.O. Box 530103  
Street

Email aaron.d@flfamily.org

Orlando  
City

FL  
State

32853  
Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Family Policy Council

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022JointRules.pdf)

This form is part of the public record for this meeting.

S-001 (08/10/2021)

2/13/24

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB 1690

Bill Number or Topic

Appropriations Cmte on Criminal & Civil Justice  
Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name John Labriola

Phone 954-515-2084

Address PO Box 650216  
Street

Email John.Labriola@cfcfloida.net

Miami  
City

FL  
State

33265  
Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Christian Family Coalition Florida

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

This form is part of the public record for this meeting.

S-001 (08/10/2021)





297278

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

---

The Appropriations Committee on Criminal and Civil Justice  
(Yarborough) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 562.13, Florida Statutes, is amended to  
read:

562.13 Employment of minors or certain other persons by  
certain vendors prohibited; exceptions.—

(1) Unless otherwise provided in this section, it is  
unlawful for any vendor licensed under the Beverage Law to



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11 employ any person under 18 years of age.

12 (2) This section shall not apply to:

13 (a) Professional entertainers 17 years of age who are not  
14 in school.

15 (b) Minors employed in the entertainment industry, as  
16 defined by s. 450.012(5), who have either been granted a waiver  
17 under s. 450.095 or employed under the terms of s. 450.132 or  
18 under rules adopted pursuant to either of these sections.

19 (c) Persons under the age of 18 years who are employed in  
20 drugstores, grocery stores, department stores, florists,  
21 specialty gift shops, or automobile service stations which have  
22 obtained licenses to sell beer or beer and wine, when such sales  
23 are made for consumption off the premises.

24 (d) Persons 17 years of age or over or any person  
25 furnishing evidence that he or she is a senior high school  
26 student with written permission of the principal of said senior  
27 high school or that he or she is a senior high school graduate,  
28 or any high school graduate, employed by a bona fide food  
29 service establishment where alcoholic beverages are sold,  
30 provided such persons do not participate in the sale,  
31 preparation, or service of the beverages and that their duties  
32 are of such nature as to provide them with training and  
33 knowledge as might lead to further advancement in food service  
34 establishments.

35 (e) Persons under the age of 18 years employed as bellhops,  
36 elevator operators, and others in hotels when such employees are  
37 engaged in work apart from the portion of the hotel property  
38 where alcoholic beverages are offered for sale for consumption  
39 on the premises.



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40 (f) Persons under the age of 18 years employed in bowling  
41 alleys in which alcoholic beverages are sold or consumed, so  
42 long as such minors do not participate in the sale, preparation,  
43 or service of such beverages.

44 (g) Persons under the age of 18 years employed by a bona  
45 fide dinner theater as defined in this paragraph, as long as  
46 their employment is limited to the services of an actor,  
47 actress, or musician. For the purposes of this paragraph, a  
48 dinner theater means a theater presenting consecutive  
49 productions playing no less than 3 weeks each in conjunction  
50 with dinner service on a regular basis. In addition, both events  
51 must occur in the same room, and the only advertised price of  
52 admission must include both the cost of the meal and the  
53 attendance at the performance.

54 (h) Persons under the age of 18 years who are employed in  
55 places of business licensed under s. 565.02(6), provided such  
56 persons do not participate in the sale, preparation, or service  
57 of alcoholic beverages.

58  
59 However, a minor who qualifies for one of the exceptions in this  
60 subsection to whom this subsection otherwise applies may not be  
61 employed as or perform if the employment, whether as a  
62 professional entertainer or otherwise if such employment,  
63 involves nudity, as defined in s. 847.001, on the part of the  
64 minor and such nudity is intended as a form of adult  
65 entertainment, or be employed by an adult entertainment  
66 establishment, as defined in s. 847.001.

67 (3) (a) It is unlawful for any vendor licensed under the  
68 beverage law to employ as a manager or person in charge or as a



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69 bartender any person:

70 1. Who has been convicted within the last past 5 years of  
71 any offense against the beverage laws of this state, the United  
72 States, or any other state.

73 2. Who has been convicted within the last past 5 years in  
74 this state or any other state or the United States of soliciting  
75 for prostitution, pandering, letting premises for prostitution,  
76 keeping a disorderly place, or any felony violation of chapter  
77 893 or the controlled substances act of any other state or the  
78 Federal Government.

79 3. Who has, in the last past 5 years, been convicted of any  
80 felony in this state, any other state, or the United States.

81  
82 The term "conviction" shall include an adjudication of guilt on  
83 a plea of guilty or nolo contendere or forfeiture of a bond when  
84 such person is charged with a crime.

85 (b) This subsection shall not apply to any vendor licensed  
86 under the provisions of s. 563.02(1)(a) or s. 564.02(1)(a).

87 Section 2. Section 787.30, Florida Statutes, is created to  
88 read:

89 787.30 Employing persons under the age of 21 years in adult  
90 entertainment establishments prohibited.—

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

92 (a) "Adult entertainment establishment" has the same  
93 meaning as in s. 847.001.

94 (b) "Nude" means the showing of the human male or female  
95 genitals, pubic area, or buttock with less than a fully opaque  
96 covering; or the showing of the female breast with less than a  
97 fully opaque covering of any portion thereof below the top of



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98 the nipple; or the depiction of covered male genitals in a  
99 discernibly turgid state. A mother's breastfeeding of her baby  
100 does not under any circumstance constitute nudity, regardless of  
101 whether the nipple is covered during or incidental to feeding.

102 (2) (a) Except as provided in paragraph (b), an owner, a  
103 manager, an employee, or a contractor of an adult entertainment  
104 establishment who knowingly employs, contracts with, contracts  
105 with another person to employ, or otherwise permits a person  
106 younger than 21 years of age to perform or work in an adult  
107 entertainment establishment commits a misdemeanor of the first  
108 degree, punishable as provided in s. 775.082 or s. 775.083.

109 (b) An owner, a manager, an employee, or a contractor of an  
110 adult entertainment establishment who knowingly employs,  
111 contracts with, contracts with another person to employ, or  
112 otherwise permits a person younger than 21 years of age to  
113 perform or work while nude in an adult entertainment  
114 establishment commits a felony of the second degree, punishable  
115 as provided in s. 775.082, s. 775.083, or s. 775.084.

116 (3) An owner, a manager, an employee, or a contractor of an  
117 adult entertainment establishment who permits a person to  
118 perform as an entertainer or work in any capacity for the  
119 establishment shall carefully check the person's driver license  
120 or identification card issued by this state or another state of  
121 the United States, a passport, or a United States Uniformed  
122 Services identification card presented by the person and act in  
123 good faith and in reliance upon the representation and  
124 appearance of the person in the belief that the person is 21  
125 years of age or older.

126 Section 3. This act shall take effect July 1, 2024.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to human trafficking; amending s.  
562.13, F.S.; revising applicability; creating s.  
787.30, F.S.; providing definitions; prohibiting the  
employment of persons younger than 21 years of age in  
adult entertainment establishments; providing criminal  
penalties; requiring adult entertainment  
establishments to check identification of  
entertainers; specifying forms of identification that  
may be used; providing an effective date.

WHEREAS, Florida is ranked third nationally for reported  
cases of human trafficking abuses, many of which involved sex  
trafficking, and

WHEREAS, adult entertainment establishments are widely  
recognized as being a significant part of the sex trafficking  
network used by traffickers to coerce and facilitate men, women,  
and children into performing sexual acts, which places the  
employees of these establishments in direct and frequent contact  
with the victims of human trafficking, and

WHEREAS, victims of sex trafficking are frequently  
recruited to work as performers or employees in adult  
entertainment establishments, and

WHEREAS, researchers have found that sex trafficking



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156 victims are more likely to be trafficked by someone from within  
157 her or his own community, and

158 WHEREAS, persons younger than 21 years of age are more  
159 likely to still remain within and dependent on the community in  
160 which they were raised, and

161 WHEREAS, research studies have identified the average age  
162 at which a person in the United States enters the sex trade for  
163 the first time is age 17, and

164 WHEREAS, sex trade at adult entertainment establishments is  
165 a common occurrence in Florida, thereby subjecting performers at  
166 these establishments to frequent propositions and enticements to  
167 engage in sex trade actions and sex trafficking from customers,  
168 as well as strip club employees, managers, and owners, and

169 WHEREAS, an understanding of history and human nature  
170 reveals that there are sex criminals of various kinds who will  
171 prey on the young and vulnerable, and

172 WHEREAS, restricting the employment of persons younger than  
173 21 years of age at adult entertainment establishments furthers  
174 an important state interest of protecting those vulnerable  
175 individuals from sex trafficking, drug abuse, and other harm,  
176 and

177 WHEREAS, many court opinions recognize that, while  
178 expressive activities are entitled to some First Amendment  
179 protections at adult entertainment establishments, content-  
180 neutral restrictions or regulations intended to minimize the  
181 secondary harmful effects of those businesses tend to be upheld,  
182 and

183 WHEREAS, on November 16, 2018, the federal Fifth Circuit  
184 Court of Appeals, in the case of *Jane Doe I v. Landry*, 909 F.3d



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185 99 (5th Cir. 2018), upheld a Louisiana law that prohibited  
186 establishments licensed to serve alcohol from employing nearly  
187 nude entertainers younger than 21 years of age on the grounds  
188 that the law furthered the state's interests in curbing human  
189 trafficking and prostitution, and

190 WHEREAS, the federal district court in *Valadez v. Paxton*,  
191 553 F.Supp.3d 387 (W.D. Tex. 2021), denied a motion for a  
192 preliminary injunction against the enforcement of Texas Senate  
193 Bill 315 prohibiting "all working relationships between 18-20-  
194 year-olds and sexually-oriented businesses" because the  
195 plaintiffs failed to show that the age restrictions were not  
196 rationally related to the state's interest in curbing human  
197 trafficking, and

198 WHEREAS, the federal district court in *DC Operating, LLC v.*  
199 *Paxton*, 586 F.Supp.3d 554 (W.D. Tex. 2022), denied a motion for  
200 a preliminary injunction against Texas Senate Bill 315, at least  
201 in part, because of the state's evidence of the correlation  
202 between raising the minimum employment age and reducing human  
203 trafficking, and

204 WHEREAS, the federal district court in *Wacko's Too, Inc.,*  
205 *v. City of Jacksonville*, 658 F.Supp.3d 1086 (M.D. Fla. 2023),  
206 upheld age restrictions in a City of Jacksonville ordinance  
207 requiring performers at adult entertainment establishments to be  
208 at least 21 years of age based, at least in part, on evidence  
209 that there was a reasonable basis to believe that the age  
210 restrictions would further the city's interest in preventing  
211 human and sex trafficking, NOW, THEREFORE,





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/13/2024	.	
	.	
	.	
	.	

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The Appropriations Committee on Criminal and Civil Justice  
(Yarborough) recommended the following:

1           **Senate Amendment to Amendment (297278) (with title**  
2 **amendment)**

3  
4           Between lines 125 and 126  
5 insert:

6           (4) For purposes of this section, a person's ignorance of  
7 another person's age or a person's misrepresentation of his or  
8 her age may not be raised as a defense in a prosecution for a  
9 violation of this section.

10



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11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13       Delete line 141

14 and insert:

15       may be used; prohibiting the raising of specified  
16       arguments as a defense in a prosecution for certain  
17       violations; providing an effective date.

By the Committee on Criminal Justice; and Senators Yarborough  
and Perry

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1                           A bill to be entitled  
2       An act relating to human trafficking; amending s.  
3       562.13, F.S.; revising applicability; creating s.  
4       787.30, F.S.; prohibiting the employment of persons  
5       younger than 21 years of age in adult entertainment  
6       establishments; providing criminal penalties;  
7       providing an effective date.  
8  
9       WHEREAS, Florida is ranked third nationally for reported  
10      cases of human trafficking abuses, many of which involved sex  
11      trafficking, and  
12      WHEREAS, adult entertainment establishments are widely  
13      recognized as being a significant part of the sex trafficking  
14      network used by traffickers to coerce and facilitate men, women,  
15      and children into performing sexual acts, which places the  
16      employees of these establishments in direct and frequent contact  
17      with the victims of human trafficking, and  
18      WHEREAS, victims of sex trafficking are frequently  
19      recruited to work as performers or employees in adult  
20      entertainment establishments, and  
21      WHEREAS, researchers have found that sex trafficking  
22      victims are more likely to be trafficked by someone from within  
23      her or his own community, and  
24      WHEREAS, persons younger than 21 years are more likely to  
25      still remain within and dependent on the community in which they  
26      were raised, and  
27      WHEREAS, research studies have identified the average age  
28      at which a person in the United States enters the sex trade for  
29      the first time is age 17, and

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30                           WHEREAS, sex trade at adult entertainment establishments is  
31      a common occurrence in Florida, thereby subjecting performers at  
32      these establishments to frequent propositions and enticements to  
33      engage in sex trade actions and sex trafficking from customers,  
34      as well as strip club employees, managers, and owners, and  
35      WHEREAS, an understanding of history and human nature  
36      reveals that there are sex criminals of various kinds who will  
37      prey on the young and vulnerable, and  
38      WHEREAS, restricting the employment of persons younger than  
39      21 years of age at adult entertainment establishments furthers  
40      an important state interest of protecting those vulnerable  
41      individuals from sex trafficking, drug abuse, and other harm,  
42      and  
43      WHEREAS, many court opinions recognize that while  
44      expressive activities are entitled to some First Amendment  
45      protections at adult entertainment establishments, content  
46      neutral restrictions or regulations intended to minimize the  
47      secondary harmful effects of those businesses tend to be upheld,  
48      and  
49      WHEREAS, on November 16, 2018, the federal Fifth Circuit  
50      Court of Appeals, in the case of *Jane Doe I v. Landry*, 909 F.3d  
51      99 (5th Cir. 2018), upheld a Louisiana law that prohibited  
52      establishments licensed to serve alcohol from employing nearly  
53      nude entertainers younger than 21 years of age on the grounds  
54      that the law furthered the state's interests in curbing human  
55      trafficking and prostitution, and  
56      WHEREAS, the federal district court in *Valadez v. Paxton*,  
57      553 F.Supp.3d 387 (W.D. Tex. 2021), denied a motion for a  
58      preliminary injunction against the enforcement of Texas Senate

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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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59 Bill 315 prohibiting "all working relationships between 18-20-  
60 year-olds and sexually-oriented businesses" because the  
61 plaintiffs failed to show that the age restrictions were not  
62 rationally related to the state's interest in curbing human  
63 trafficking, and

64 WHEREAS, the federal district court in *DC Operating, LLC v.*  
65 *Paxton*, 586 F.Supp.3d 554 (W.D. Tex. 2022), denied a motion for  
66 a preliminary injunction against Texas Senate Bill 315, at least  
67 in part, because of the state's evidence of the correlation  
68 between raising the minimum employment age and reducing human  
69 trafficking, and

70 WHEREAS, the federal district court in *Wacko's Too, Inc.,*  
71 *v. City of Jacksonville*, 658 F.Supp.3d 1086 (M.D. Fla. 2023),  
72 upheld age restrictions in a City of Jacksonville ordinance  
73 requiring performers at adult entertainment establishments to be  
74 at least 21 years of age based, at least in part, on evidence  
75 that there was a reasonable basis to believe that the age  
76 restrictions would further the city's interest in preventing  
77 human and sex trafficking, NOW, THEREFORE,

78  
79 Be It Enacted by the Legislature of the State of Florida:

80  
81 Section 1. Section 562.13, Florida Statutes, is amended to  
82 read:

83 562.13 Employment of minors or certain other persons by  
84 certain vendors prohibited; exceptions.—

85 (1) Unless otherwise provided in this section, it is  
86 unlawful for any vendor licensed under the Beverage Law to  
87 employ any person under 18 years of age.

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88 (2) This section shall not apply to:

89 (a) Professional entertainers 17 years of age who are not  
90 in school.

91 (b) Minors employed in the entertainment industry, as  
92 defined by s. 450.012(5), who have either been granted a waiver  
93 under s. 450.095 or employed under the terms of s. 450.132 or  
94 under rules adopted pursuant to either of these sections.

95 (c) Persons under the age of 18 years who are employed in  
96 drugstores, grocery stores, department stores, florists,  
97 specialty gift shops, or automobile service stations which have  
98 obtained licenses to sell beer or beer and wine, when such sales  
99 are made for consumption off the premises.

100 (d) Persons 17 years of age or over or any person  
101 furnishing evidence that he or she is a senior high school  
102 student with written permission of the principal of said senior  
103 high school or that he or she is a senior high school graduate,  
104 or any high school graduate, employed by a bona fide food  
105 service establishment where alcoholic beverages are sold,  
106 provided such persons do not participate in the sale,  
107 preparation, or service of the beverages and that their duties  
108 are of such nature as to provide them with training and  
109 knowledge as might lead to further advancement in food service  
110 establishments.

111 (e) Persons under the age of 18 years employed as bellhops,  
112 elevator operators, and others in hotels when such employees are  
113 engaged in work apart from the portion of the hotel property  
114 where alcoholic beverages are offered for sale for consumption  
115 on the premises.

116 (f) Persons under the age of 18 years employed in bowling

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117 alleys in which alcoholic beverages are sold or consumed, so  
118 long as such minors do not participate in the sale, preparation,  
119 or service of such beverages.

120 (g) Persons under the age of 18 years employed by a bona  
121 fide dinner theater as defined in this paragraph, as long as  
122 their employment is limited to the services of an actor,  
123 actress, or musician. For the purposes of this paragraph, a  
124 dinner theater means a theater presenting consecutive  
125 productions playing no less than 3 weeks each in conjunction  
126 with dinner service on a regular basis. In addition, both events  
127 must occur in the same room, and the only advertised price of  
128 admission must include both the cost of the meal and the  
129 attendance at the performance.

130 (h) Persons under the age of 18 years who are employed in  
131 places of business licensed under s. 565.02(6), provided such  
132 persons do not participate in the sale, preparation, or service  
133 of alcoholic beverages.

134 ~~However, a minor to whom this subsection otherwise applies may~~  
135 ~~not be employed if the employment, whether as a professional~~  
136 ~~entertainer or otherwise, involves nudity, as defined in s.~~  
137 ~~847.001, on the part of the minor and such nudity is intended as~~  
138 ~~a form of adult entertainment.~~

140 (3) (a) It is unlawful for any vendor licensed under the  
141 beverage law to employ as a manager or person in charge or as a  
142 bartender any person:

143 1. Who has been convicted within the last past 5 years of  
144 any offense against the beverage laws of this state, the United  
145 States, or any other state.

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146 2. Who has been convicted within the last past 5 years in  
147 this state or any other state or the United States of soliciting  
148 for prostitution, pandering, letting premises for prostitution,  
149 keeping a disorderly place, or any felony violation of chapter  
150 893 or the controlled substances act of any other state or the  
151 Federal Government.

152 3. Who has, in the last past 5 years, been convicted of any  
153 felony in this state, any other state, or the United States.

154  
155 The term "conviction" shall include an adjudication of guilt on  
156 a plea of guilty or nolo contendere or forfeiture of a bond when  
157 such person is charged with a crime.

158 (b) This subsection shall not apply to any vendor licensed  
159 under the provisions of s. 563.02(1) (a) or s. 564.02(1) (a).

160 Section 2. Section 787.30, Florida Statutes, is created to  
161 read:

162 787.30 Employing persons under the age of 21 years in adult  
163 entertainment establishments prohibited.-

164 (1) (a) Except as provided in paragraph (b), an owner, a  
165 manager, an employee, or a contractor of an adult entertainment  
166 establishment who knowingly employs, contracts with, contracts  
167 with another person to employ, or otherwise permits a person  
168 younger than 21 years of age to perform or work in an adult  
169 entertainment establishment commits a misdemeanor of the first  
170 degree, punishable as provided in s. 775.082 or s. 775.083.

171 (b) An owner, a manager, an employee, or a contractor of an  
172 adult entertainment establishment who knowingly employs,  
173 contracts with, contracts with another person to employ, or  
174 otherwise permits a person younger than 21 years of age to

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175 perform or work nude in an adult entertainment establishment  
176 commits a felony of the second degree, punishable as provided in  
177 s. 775.082, s. 775.083, or s. 775.084.

178 (2) An owner, a manager, an employee, or a contractor of an  
179 adult entertainment establishment who permits a person to  
180 perform as an entertainer or work in any capacity for the  
181 establishment shall carefully check the person's driver license  
182 or identification card issued by this state or another state of  
183 the United States, a passport, or a United States Uniformed  
184 Services identification card presented by the person and act in  
185 good faith and in reliance upon the representation and  
186 appearance of the person in the belief that the person is 21  
187 years of age or older.

188 (3) As used in this section, the term:

189 (a) "Adult entertainment establishment" has the same  
190 meaning as in s. 847.001.

191 (b) "Nude" means the showing of the human male or female  
192 genitals, pubic area, or buttock with less than a fully opaque  
193 covering; or the showing of the female breast with less than a  
194 fully opaque covering of any portion thereof below the top of  
195 the nipple; or the depiction of covered male genitals in a  
196 discernibly turgid state. A mother's breastfeeding of her baby  
197 does not under any circumstance constitute nudity, irrespective  
198 of whether or not the nipple is covered during or incidental to  
199 feeding.

200 Section 3. This act shall take effect July 1, 2024.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

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BILL: CS/CS/SB 1690

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Yarborough and others

SUBJECT: Human Trafficking

DATE: February 15, 2024

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1690 creates s. 787.30, F.S., which provides that an owner, manager, employee, or contractor of an adult entertainment establishment who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work in an adult entertainment establishment, commits a first degree misdemeanor.<sup>1</sup> An owner, manager, employee or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work nude in an adult entertainment establishment, commits a second degree felony.<sup>2</sup>

The bill amends current law by providing that a minor who may qualify for one of the employment exceptions under s. 562.13, F.S., may not be employed as, or perform as, a professional entertainer or otherwise if such employment involves nudity, or be employed by an adult entertainment establishment.

The bill provides that an owner, manager, employee, or contractor of an adult entertainment establishment, that permits a person to perform as an entertainer or work in any capacity shall

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<sup>1</sup> A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year, as provided in s. 775.082 or s. 775.083, F.S.

<sup>2</sup> A second degree felony is punishable by a term of imprisonment of fifteen years, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

carefully check the person's driver license or an identification card issued by this state or another state of the United States, a passport, or a United States Uniformed Services Identification Card presented by the person and act in good faith and in reliance upon the representation and appearance of the person in the belief that the person is 21 years of age or older.

The bill provides that a person's ignorance of a person's age or a person's misrepresentation of his or her age cannot be used a defense in a prosecution for certain violations.

This bill may have a positive indeterminate impact on prison beds. See Section V., Fiscal Impact Statement.

The bill is effective July 1, 2024.

## II. Present Situation:

Victims of sex trafficking are frequently recruited to work in strip clubs across the United States. Such persons may be recruited to work in strip clubs as hostesses, servers or dancers, but are then required to perform sex acts with customers. Such strip clubs may be designed to provide the space and environment in which buyers may purchase commercial sex.<sup>3</sup>

### Commercial Sexual Activity

Strip clubs are considered adult entertainment establishments under Florida law. Section 847.001, F.S., defines "adult entertainment establishment," to include adult bookstores, adult theaters, special cabaret, and unlicensed massage establishments.

- An adult bookstore is any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock book, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.
- Adult theaters are enclosed buildings or enclosed spaces within a building used for presenting either film, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults, or any business that features a person who engages in specific sexual activities for observation by a patron, and which restricts or purports to restrict admission to only adults.
- Special cabaret is any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.
- An unlicensed massage establishment is any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by

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<sup>3</sup> National Human Trafficking Hotline, *Hostess/Strip Club-Based*, available at, <https://humantraffickinghotline.org/en/sex-trafficking-venuesindustries/hostessstrip-club-based> (last visited January 31, 2024).



hand or by any electrical or mechanical device, on or off the premises. This term does not include an establishment licensed under s. 480.043, F.S.

Several states have enacted laws prohibiting persons under 21 years of age from working or performing in certain adult entertainment establishments. These laws have been challenged, and courts have found that the state has a compelling interest in protecting victims from human trafficking, and that there is often a link between human trafficking and certain adult entertainment establishments. In *Jane Doe I v. Landry*, the United States Court of Appeals, Fifth Circuit upheld a Louisiana law that prohibited establishments licensed to serve alcohol from employing nearly nude entertainers younger than 21 years of age on the grounds that the law furthered the state's interests in curbing human trafficking and prostitution.<sup>4</sup>

The Court found that the State of Louisiana sufficiently demonstrated its reasonable belief that there was a link between Louisiana statutes that prohibited women aged 18 to 21 years old from nude erotic dancing in establishments that served alcohol and curbing the secondary effects of human trafficking and prostitution such that the statutes furthered substantial governmental interest, as required for statutes to survive intermediate scrutiny on erotic dancers' First Amendment free speech challenge.<sup>5</sup>

In *Valadez v. Paxton*, the United States District Court, W.D. Texas, Austin Division held that the State of Texas sufficiently demonstrated that it held reasonable belief that the law prohibiting all working relationships between persons between the ages of 18 and 20 years old and sexually-oriented businesses would serve to curb harmful secondary effects of sexually-oriented businesses, including trafficking and sexual exploitation.<sup>6</sup>

The United States District Court denied a motion for a preliminary injunction against the enforcement of the Texas bill prohibiting "all working relationships between 18-20 year olds and sexually-oriented businesses" because the plaintiff's failed to show that the age restrictions were not rationally related to the state's interest in curbing human trafficking.<sup>7</sup>

In *DC Operating, LLC v. Paxton*, the United States District Court, W.D. Texas, Austin Division, denied a motion for a preliminary injunction in part, finding that the state's recently enacted bill relating to restrictions on the age of person employed by or allowed on the premises of a sexually oriented business is rationally related to the state's interest in curbing human trafficking.<sup>8</sup> The Court ruled that the plaintiff's failed to establish a likelihood of success on the merits of their claims under the First Amendment, Fourteenth Amendment Due Process and Equal Protection Clauses of the United States Constitution, and Texas Constitution's equivalent provisions.<sup>9</sup>

In *Wacko's Too, Inc. v. City of Jacksonville*, the United States District Court, M.D. Florida upheld age restrictions in a City of Jacksonville ordinance requiring performers at adult entertainment establishments to be at least 21 years of age based, at least in part, on evidence that

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<sup>4</sup> *Doe I v. Landry*, 909 F.3d 99, 109 (5th Cir. 2018).

<sup>5</sup> *Id.*

<sup>6</sup> *Valadez v. Paxton*, 553 F. Supp.3d 387 (W.D. Tex. 2021).

<sup>7</sup> *Id.*

<sup>8</sup> *Dc Operating, LLC v. Paxton*, 586 F.Supp.3d 554, 572 (W.D. Tex. 2022).

<sup>9</sup> *Id.*

there was a reasonable basis to believe that the age restrictions would further the City's interest in preventing human and sex trafficking.<sup>10</sup> The city ordinance provisions forbid anyone under age 21 from receiving the requisite license to perform at adult entertainment establishments in the city. The Eleventh Circuit upheld the requirement that adult entertainment establishments maintain rosters as a "permissible way to keep track of licensed performers, secondary to combating human trafficking."<sup>11</sup> The performer disclosure requirement under the ordinance also relates to preventing human trafficking by allowing law enforcement to keep track of performers.

### ***Human Trafficking***

The Florida Legislature recognizes human trafficking as a form of modern-day slavery whose victims include young children, teenagers, and adults who may be citizens that are trafficked domestically within the borders of the United States or smuggled across international borders worldwide.<sup>12</sup> While victims of human trafficking are forced to work in prostitution or sexual entertainment, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, factory work, and agricultural work.<sup>13</sup>

Florida law defines "human trafficking" as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining,<sup>14</sup> purchasing, patronizing, procuring, or obtaining<sup>15</sup> another person for the purpose of exploitation of that person.<sup>16</sup>

Human trafficking includes two types of exploitation: commercial sexual exploitation (CSE) and forced labor.<sup>17</sup> In 2022, according to the Department of Children and Families, 354 youth were verified as victims of commercial sexual exploitation (CSE) in Florida. The number has decreased from 2021, when 379 youth were verified.<sup>18</sup>

### ***Soliciting or Purchasing Prostitution***

Section 796.07, F.S., defines prostitution as the giving or receiving of the body for sexual activity for hire.<sup>19</sup>

Under s. 796.07(2)(a)-(e) and (g)-(i), F.S., it is a second-degree misdemeanor.<sup>20</sup>

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<sup>10</sup> *Wacko's Too Inc. v. City of Jacksonville*, 658 F.Supp.3d 1086 (11th Cir. 2023).

<sup>11</sup> *Id.* at 1127.

<sup>12</sup> Section 787.06, F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Section 787.06(2)(f), F.S., provides "maintain" means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines "services" as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.

<sup>15</sup> Section 787.06(2)(g), F.S., provides "obtain" means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides "labor" means work of economic or financial value.

<sup>16</sup> Section 787.06(2)(d), F.S.

<sup>17</sup> Section 787.06, F.S.

<sup>18</sup> Office of Program Policy Analysis & Government Accountability, *Annual Report on Commercial Sexual Exploitation of Children in Florida, 2023*, available at <https://oppaga.fl.gov/Documents/Reports/23-08.pdf> (last visited December 13, 2023).

<sup>19</sup> This definition excludes sexual activity between spouses. s. 796.07(1)(b), F.S.

<sup>20</sup> A second-degree misdemeanor is punishable by up to 60 days in county jail and a fine not exceeding \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness,<sup>21</sup> assignation,<sup>22</sup> or prostitution;
- To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act;
- To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose;
- To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation;
- For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation;
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation;
- To aid, abet, or participate in any of the acts or things listed above; or
- To purchase the services of any person engaged in prostitution.<sup>23</sup>

Additionally, under s. 796.07(2)(f), F.S., a person who solicits, induces, entices, or procures another person to commit prostitution, lewdness, or assignation commits a first-degree misdemeanor for a first violation, a third-degree felony for a second violation, and a second-degree felony for a third or subsequent violation.<sup>24</sup> An offender convicted for soliciting another person to commit prostitution is also subject to additional penalties including:

- One hundred hours of community service;<sup>25</sup>
- Being required to pay for and attend an educational program about the negative effects of prostitution and human trafficking, such as a sexual violence prevention education program, including such programs offered by faith-based providers, if such a program is offered in the circuit in which the offender is sentenced;<sup>26</sup>
- A 10-day mandatory minimum jail sentence for a second or subsequent violation;<sup>27</sup>
- Vehicle impoundment up to 60 days if the offender used a car to commit the violation;<sup>28</sup>
- Inclusion of the offender's name on the Soliciting for Prostitution Public Database in certain situations;<sup>29</sup> and
- A \$5,000 civil fine.<sup>30</sup>

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<sup>21</sup> "Lewdness" means any indecent or obscene act. Section 796.07(1)(c), F.S.

<sup>22</sup> "Assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(d), F.S.

<sup>23</sup> Section 796.07(2), F.S.

<sup>24</sup> Section 796.07(2)(f) and (5)(a), F.S.

<sup>25</sup> Section 796.07(5)(b)1., F.S.

<sup>26</sup> Section 796.07(5)(b)2., F.S.

<sup>27</sup> Section 796.07(5)(c), F.S.

<sup>28</sup> Section 796.07(5)(d), F.S.

<sup>29</sup> Section 796.07(5)(e), F.S.

<sup>30</sup> Section 796.07(6), F.S.

### III. Effect of Proposed Changes:

The bill amends s. 562.13, F.S., providing that a minor who may qualify for one of the exceptions may not be employed as or perform as a professional entertainer or otherwise if such employment involves nudity, or be employed by an adult entertainment establishment. Section 563.13, F.S., provides a list of exceptions that allows a minor to be employed by alcohol venders.

The bill creates s. 787.30, F.S., to prohibit a person under the age of 21 from working in an adult entertainment establishment.<sup>31</sup> Under the bill, adult entertainment establishments include adult bookstores, adult theaters, special cabarets, and unlicensed massage establishments as defined by statute. Specifically, the bill provides that an owner, manager, employee, or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work in an adult entertainment establishment, commits a first degree misdemeanor.<sup>32</sup>

Furthermore, the bill provides that an owner, manager, employee or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work nude in an adult entertainment establishment, commits a second degree felony.<sup>33</sup> The bill defines the term “nude” to mean the showing of the human male or female genitals, pubic area, or buttock with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother’s breastfeeding of her baby does not under any circumstance constitute nudity, irrespective of whether or not the nipple is covered during or incidental to feeding.

The bill requires an owner, manager, employee, or contractor of an adult entertainment establishment that permits a person to perform as an entertainer or work in any capacity shall carefully check the person’s driver license or an identification card issued by this state or another

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<sup>31</sup> The bill defines “adult entertainment establishment” to have the same meaning as provided in s. 847.001.” Section 847.001, F.S., defines the term to mean any of the following terms as defined: “(a) “adult bookstore” means any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock books, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material; (b) “adult theater” means an enclosed building or an enclosed space within a building used for presenting either films, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults, or any business that features a person who engages in specific sexual activities for observation by a patron, and which restricts or purports to restrict admission to only adults; (c) “special cabaret” means any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults; and (d) “Unlicensed massage establishment” means any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. The term “unlicensed massage establishment” does not include an establishment licensed under s. 480.043 which routinely provides medical services by state-licensed health care practitioners and massage therapists licensed under s. 480.041.”

<sup>32</sup> A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year, as provided in s. 775.082 or s. 775.083, F.S.

<sup>33</sup> A second degree felony is punishable by a term of imprisonment of fifteen years, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

state of the United States, a passport, or a United States Uniformed Services identification card presented by the person and act in good faith and in reliance upon the representation and appearance of the person in the belief that the person is 21 years of age or older.

The bill provides that for purposes of this section, a person's ignorance of a person's age or a person's misrepresentation of his or her age may not be raised as a defense in a prosecution for a violation of this section.

The bill is effective July 1, 2024.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The First Amendment of the U.S. Constitution prevents the government from creating laws that restrict the speech of citizens.<sup>34</sup> "Congress shall make no law ... abridging the freedom of speech." The rights guaranteed by the First Amendment apply with equal force to state governments through the due process clause of the Fourteenth Amendment.

The state has a compelling interest in safeguarding the community and children from trafficking and sexual exploitation. A statute regulating conduct with incidental effects on speech can be a reasonable restriction if, among other things, it is narrowly tailored to serve substantial government interests.<sup>35</sup>

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

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<sup>34</sup> U.S. Const., amend I.

<sup>35</sup> *Id.*

**B. Private Sector Impact:**

The bill may have an indeterminate impact on private businesses by excluding individuals under the age of 21 from working in all adult establishments including adult bookstores.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined the bill may have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) due to the unranked, 2<sup>nd</sup> degree felony (level 4 default) created in the bill. In FY 22-23, the incarceration rate for a Level 4, 2<sup>nd</sup> degree felony was 27.6%.<sup>36</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 562.13 and 787.30.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Appropriations Committee on Criminal and Civil Justice on February 13, 2024:**

The committee substitute:

- Restores language in s. 562.13, F.S., prohibiting a minor who may otherwise qualify for an exemption to work for an alcohol vendor from being employed in a position that involves nudity on the part of the minor for purpose of adult entertainment, and that such a minor is also prohibited from being employed by an adult entertainment establishment, as defined in s. 847.001, F.S.
- Provides that a person's ignorance of a person's age or a person's misrepresentation of his or her age cannot be used as a defense in a prosecution for certain violations.

**CS by Criminal Justice on January 30, 2024:**

The committee substitute:

- Provides that an owner, manager, employee, or contractor of an adult entertainment establishment who knowingly employs or contracts to employ a person younger than

<sup>36</sup> *SB 1690-Human Trafficking*, Office of Economic and Demographic Research  
<http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB1690.pdf>

21 years of age to perform or work in an adult entertainment establishment in any capacity commits a first degree misdemeanor.

- Provides that an owner, manager, employee, or contractor of an adult entertainment establishment who knowingly employs or contracts to employ a person younger than 21 years of age to perform nude in an adult entertainment establishment commits a second degree felony.
- Requires an owner, manager, employee, or contractor to carefully check the identification card or driver's license of a person hired to perform as an entertainer or work in any capacity in an adult entertainment establishment.
- Defines the term "nude."

B. Amendments:

None.

# CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Appropriations Committee on Criminal and Civil Justice

Judge:

Started: 2/13/2024 8:31:57 AM

Ends: 2/13/2024 10:03:03 AM

Length: 01:31:07

8:31:58 AM	Sen. Bradley (Chair)
8:32:38 AM	S 1222
8:32:46 AM	Sen. Trumbull
8:33:43 AM	Sen. Powell
8:34:01 AM	Sen. Trumbull
8:34:11 AM	Angela Bonds, Florida Retail Federation
8:34:16 AM	Jonathan Webber, Southern Poverty Law Center (SPLC) Action Fund
8:35:23 AM	Sen. Pizzo
8:35:42 AM	J. Webber
8:35:48 AM	Sen. Pizzo
8:36:08 AM	J. Webber
8:36:39 AM	Sen. Pizzo
8:36:53 AM	J. Webber
8:37:06 AM	Sen. Rouson
8:37:18 AM	J. Webber
8:37:31 AM	Sen. Martin
8:37:40 AM	J. Webber
8:37:44 AM	Sen. Martin
8:38:04 AM	J. Webber
8:38:25 AM	Libby Guzzo, Attorney General's Office (waives in support)
8:38:40 AM	Sen. Trumbull
8:40:09 AM	S 1036
8:40:16 AM	Sen. Ingoglia
8:41:15 AM	Sen. Pizzo
8:41:32 AM	Sen. Ingoglia
8:41:55 AM	Sen. Pizzo
8:42:34 AM	Sen. Ingoglia
8:42:45 AM	Sen. Pizzo
8:43:00 AM	Sen. Ingoglia
8:43:03 AM	Sen. Torres
8:43:14 AM	Sen. Ingoglia
8:43:44 AM	Sen. Torres
8:43:53 AM	Sen. Ingoglia
8:44:11 AM	Jonathan Webber, SPLC Action Fund (waives against)
8:44:58 AM	S 1324
8:45:07 AM	Sen. Ingoglia
8:45:28 AM	Sen. Pizzo
8:45:35 AM	Sen. Ingoglia
8:45:50 AM	Sen. Pizzo
8:46:18 AM	Sen. Ingoglia
8:46:25 AM	Sen. Pizzo
8:46:45 AM	Sen. Ingoglia
8:47:10 AM	Sen. Pizzo
8:47:22 AM	Sen. Ingoglia
8:47:39 AM	Sen. Pizzo
8:47:57 AM	Sen. Ingoglia
8:48:14 AM	Sen. Pizzo
8:48:31 AM	Sen. Ingoglia
8:48:35 AM	Sen. Pizzo
8:48:51 AM	Sen. Ingoglia
8:49:12 AM	Sen. Pizzo
8:49:19 AM	Sen. Hooper



8:49:42 AM Sen. Ingoglia  
8:50:06 AM Sen. Bradley  
8:50:19 AM Sen. Ingoglia  
8:50:23 AM Sen. Powell  
8:50:38 AM Sen. Ingoglia  
8:50:51 AM Sen. Powell  
8:51:20 AM Sen. Ingoglia  
8:52:11 AM Sen. Powell  
8:52:38 AM Sen. Ingoglia  
8:53:10 AM Sen. Bradley  
8:53:22 AM Sen. Martin  
8:54:33 AM Sen. Ingoglia  
8:54:39 AM Sen. Pizzo  
8:55:10 AM Sen. Ingoglia  
8:55:15 AM Am. 386322  
8:55:24 AM Sen. Rouson  
8:59:07 AM S 1324 (cont.)  
8:59:17 AM Sen. Pizzo  
8:59:54 AM Sen. Ingoglia  
8:59:57 AM Sen. Pizzo  
9:00:12 AM Sen. Ingoglia  
9:00:54 AM Sen. Pizzo  
9:01:36 AM Sen. Ingoglia  
9:01:46 AM Sen. Hooper  
9:02:13 AM Sen. Ingoglia  
9:02:17 AM Sen. Powell  
9:03:02 AM Sen. Ingoglia  
9:03:38 AM Sen. Powell  
9:04:49 AM Sen. Ingoglia  
9:05:11 AM Sen. Powell  
9:05:22 AM Sen. Ingoglia  
9:05:32 AM NR Hines, American Civil Liberties Union (ACLU) of Florida  
9:07:16 AM Jonathan Webber, SPLC Action Fund (waives against)  
9:07:24 AM Sen. Hooper  
9:08:13 AM Sen. Pizzo  
9:09:15 AM Sen. Powell  
9:10:43 AM Sen. Pizzo  
9:11:08 AM Sen. Martin  
9:12:33 AM Sen. Ingoglia  
9:13:31 AM S 1154  
9:13:42 AM Sen. Simon  
9:14:43 AM Katie Bohnett, Alliance for Safety & Justice (waives in support)  
9:14:48 AM Michele Combs, Christian Coalition of FL (waives in support)  
9:14:54 AM Frank Russo, Conservative Political Action Coalition (CPAC)  
9:16:24 AM S 1220  
9:16:38 AM Sen. Martin  
9:16:59 AM Nick Mayor, AARP Florida  
9:17:40 AM S 1284  
9:17:48 AM Sen. Martin  
9:18:38 AM Laurette Philipson, Florida Cares Charity (waives in support)  
9:18:42 AM Jake Felder, FL Dept. of Corrections (waives in support)  
9:18:48 AM Natalie Kelly, Florida Assn. of Managing Entities (waives in support)  
9:18:56 AM Sen. Pizzo  
9:19:41 AM Sen. Martin  
9:20:24 AM S 1656  
9:20:37 AM Am. 910398  
9:20:51 AM Sen. Martin  
9:22:32 AM Recording Paused  
9:24:20 AM Recording Resumed  
9:24:24 AM Sen. Powell (Chair)  
9:24:28 AM S 718  
9:24:32 AM Sen. Collins

9:25:32 AM Am. 720072  
9:25:40 AM Sen. Collins  
9:26:50 AM S 718 (cont.)  
9:26:54 AM Sen. Rouson  
9:27:04 AM Sen. Collins  
9:27:50 AM Sen. Rouson  
9:28:16 AM Sen. Collins  
9:28:59 AM Sen. Rouson  
9:29:22 AM Sen. Collins  
9:30:11 AM Sen. Pizzo  
9:30:33 AM Sen. Collins  
9:31:52 AM Sen. Pizzo  
9:32:04 AM Sen. Collins  
9:33:06 AM Sen. Pizzo  
9:33:18 AM Sen. Collins  
9:33:39 AM Sen. Powell  
9:34:50 AM Sen. Collins  
9:37:15 AM Steven Slade, FL Police Benevolent Assn.  
9:37:23 AM Wayne "Bernie" Bernoska, FL Professional Firefighters (waives in support)  
9:37:32 AM Libby Guzzo, Attorney General's Office  
9:37:34 AM Jonathan Webber, SPLC Action Fund  
9:38:40 AM Corporal Robert Palmer, Collier County Sheriff's Office  
9:43:50 AM Sen. Pizzo  
9:44:53 AM Sen. Baxley  
9:46:34 AM Sen. Torres  
9:47:50 AM Sen. Collins  
9:49:44 AM S 468  
9:49:56 AM Sen. Bradley  
9:50:14 AM Sen. Torres  
9:50:23 AM Sen. Bradley  
9:50:53 AM Katie Cunningham, Deputy State Courts Administrator, State Courts System  
9:51:39 AM S 678  
9:51:52 AM Sen. Bradley  
9:52:57 AM Leigh Clark, FL Dept. of Law Enforcement  
9:53:56 AM David Mittleman  
9:54:50 AM Sen. Bradley  
9:55:44 AM S 1690  
9:56:04 AM Sen. Bradley  
9:57:01 AM Am. 297278  
9:57:08 AM Sen. Bradley  
9:58:23 AM Am. 606878  
9:58:26 AM Sen. Bradley  
10:00:54 AM Am. 606878  
10:01:07 AM S 1690 (cont.)  
10:02:01 AM Sen. Bradley (Chair)  
10:02:14 AM Sen. Hooper  
10:02:21 AM Sen. Burgess  
10:02:27 AM Sen. Torres  
10:02:31 AM Sen. Pizzo



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Judiciary, *Chair*  
Appropriations Committee on Criminal  
and Civil Justice  
Appropriations Committee on Transportation,  
Tourism, and Economic Development  
Criminal Justice  
Education Postsecondary  
Education Pre-K -12  
Fiscal Policy  
Rules

### JOINT COMMITTEES:

Joint Committee on Public Counsel Oversight

**SENATOR CLAY YARBOROUGH**  
4th District

February 13, 2024

Chair Jennifer Bradley  
408 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Chair Bradley,

I would like to request an excusal from today's Appropriations Committee on Criminal and Civil Justice meeting.

Thank you for your consideration of this request.

Regards,

A handwritten signature in blue ink that reads "Clay Yarborough".

Clay Yarborough

#### REPLY TO:

- 1615 Huffingham Road, Suite 1, Jacksonville, Florida 32216 (904) 723-2034
- 308 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore